Between Determination and Pragmatism: Justification for, and odds against, a Kurdish State in Northern Iraq

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Abstract

The aim of this thesis is to examine the arguments in support of the Kurdistan Regional Government (KRG) to become an internationally recognised nation state. The thesis argues the case for the KRG becoming a nation state in two areas. First it argues that the Kurds constitute a distinct nation. This argument is made on the basis of a Kurdish ethnic identity stretching back millennia and inextricably linked to the territory in Northern Iraq currently under the administration of the Kurdistan Regional Government. The repression and rights violations suffered by Kurds at the hands of past Iraqi regimes are also evaluated in their effects on Kurdish people's perception of themselves as perennial victims of the Iraqi state as a political project. The emancipatory significance of Kurdish nationalism is thus seen to derive from their experience as victims of a repressive state and the injustice Kurds suffered in the immediate aftermath of the collapse of the Ottoman Empire. The Kurds, having been promised autonomy after the First World War, were then denied it and found themselves spread across a number of nation-states in the Middle East (Turkey, Syria, Iraq and Iran) in which they were consistently persecuted. This strengthened Kurdish self-identity and culture, and their desire to have a nation state of their own. The second argument is made that on the basis of international law the Kurds and the KRG have a case for becoming internationally recognised state. This is made on two bases: the KRG is a fully functioning *de facto* state, with an administration, an armed forces and security. The KRG thus satisfies the criterion of Statehood provided in the Montevideo Convention. The KRG has also proved with its political and economic structures and institutions that it is internally capable of functioning as a viable state within the international political system. The other legal argument for a Kurdish independent state is made on the basis of Kurdish people's past genocidal experience and the possibility of the Iraqi state responding with violence to a future Kurdish unilateral declaration of independence. These, it is argued, may enable the KRG to plead for recognition as a state on a sui generis basis. The thesis, however, acknowledges the odds against a future Kurdish state. This issue is discussed with reference to the dominant role of realpolitik in the recognition of states , and also with regard to how an independent Kurdish state may affect the interests of some powerful states in the international political system.

Acknowledgements

Researching and writing this thesis has been a challenge, but also a rewarding experience. My prior understanding of international law, although adequate, has benefited immensely from the focused study of international law and international regional politics this work entailed. My enthusiasm to gain knowledge in this area was borne out of a lifetime's experience of observing oppression and living in a country deeply ravaged by many decades of internal conflict and state repression. It is my hope that this work contributes to the search for a peaceful resolution of the various issues underlying the violent political history of Iraq, especially as it relates to the Kurdistan Regional Government.

I would like to take this opportunity to express my gratitude to everyone who supported me throughout my doctoral studies, especially those who had to endure me in my restless search for materials and information for my thesis. I shall forever be thankful to Dr Jon Moran, my supervisor, for the inspiring guidance, invaluable, constructive criticism and friendly advice during the researching of the work. I am sincerely grateful to the politicians, journalists and ordinary folk in Kurdistan for sharing with me their hopes and illuminating views with regard to the issues I interviewed them on, and which stand at the heart of this project.

Declaration

This work or any part thereof has not previously been presented in any form to the University or to any other body, whether for the purposes of assessment, publication or for any other purpose (unless otherwise indicated). Save for any expressed acknowledgements, references and/or bibliographies cited in the work.

CONTENTS

Abbreviations

AKP	Justice and Development Party
CERD	Convention on the Elimination of all Forms of Racial Discrimination
CICC	Commission for the International Criminal Court
CSCE	Commission on Security and Cooperation in Europe
ECHR	European Convention on Human Rights
GDP	Grosse Domestic Product
GNI	General National Income
ISIS	Islamic State of Iraq and Syria
ICCPR	International Covenant on Civil and Political Rights
ICPPCG	International Convention on the Prevention and Punishment of the Crime of Genocide
KDP	Kurdistan Democratic Party
KLA	Kosovo Liberation Army
KRG	Kurdistan Regional Government
NGO	Non-governmental Organisations
OSCE	Organisation for Security and Cooperation in Europe
PKK	Kurdistan Workers' Party
PUK	Patriotic Union of Kurdistan
SFRY	Socialist Federal Republic of Yugoslavia
UDT	Uniao Democratica Timorese
UNDRPBNERLM	United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNIAMK	United Nations Interim Administration Mission in Kosov
UNMET	United Nations Mission in East Timor
UNIAMK	United Nations Interim Administration Mission in Kosovo
UNTAES	United Nations Transitional Administration in East Timor
USSR	Union of Soviet Socialist Republics

CHAPTER ONE: INTRODUCTION

Introduction

In the overwhelming majority of publications on the Kurdish people, the most highlighted facts tend to be their status as the "largest ethnic group in the world without a state", and their history of being serially persecuted, marginalised and oppressed.[1] This thesis examines these facts and their political and legal implications, especially as they pertain to Iraqi Kurds' quest for statehood. The central argument is that Iraqi Kurds have attained the right to form a nation-state that deserves recognition under international law. But the thesis also probes the issue of whether Kurds will realise their statehood ambitions. Substantial aspects of the thesis thus focus on the politics of state recognition and the facts and issues that may make the United States and some powerful states in the Middle East react negatively or positively to Iraqi Kurdish aspirations for statehood under different circumstances.

The general discussions in the thesis are conducted within the frameworks of international law, international relations and international politics. The overarching argument is that the history of the Iraqi Kurds, with an emphasis on their identity, and, importantly, their history of oppression by the Iraqi state show that they are a distinct community of people with a claim to statehood as legitimate as that of Kosovo[2] and other recently created states – South Sudan included.[3]

General outline

I shall begin by discussing the issues and arguments in the thesis in two thematic parts: (i) the justifications for a Kurdish nation-state (ii) and the feasibility of a Kurdish nation-state in the Gulf region.

In the first part of the thesis, I argue that there are historical, political and legal arguments supporting the creation of a Kurdish nation-state in present day Kurdistan Regional Government (KRG) or Northern Iraq. The arguments for the creation of a Kurdish nation-state are built on the distinctiveness of the identity of the Iraqi Kurds and how that fact has, over the

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[1] David McDowall (2009). *A Modern History of the Kurds.* 3rd edition. New York: I.B. Tauris.
[2] UN Mission in Kosovo (UNMIK) http://www.un.org/en/peacekeeping/missions/unmik/background.shtml
[3] UN Mission in South Sudan (UNMISS) http://www.un.org/en/peacekeeping/missions/unmiss/

years, made the Kurds the target and victims of state repression. A chronic lack of unity among the Kurds is also mentioned as a contributory factor to the failure on their part to achieve their aspiration of an independent state. The ability of Kurdish political leaders to speak with one voice at critical moments in the fight for statehood is also highlighted as offering Kurds the opportunity to overcome their internal political challenges. The discussion concludes with the argument that the Iraqi Kurds would be best protected through the recognition of the Kurdistan Regional Government as a state (KRG).

Chapter Two, in the first part of the discussion, focuses thus on the nature, origins and formation of the ethnic identity of the people in the Middle East and other parts of Eurasia commonly identified as Kurds. The discussions probe in this manner the history, culture and language of the Kurdish people from the early periods of their independent existence as a people in the lands generically referred to as 'Kurdistan'. In the process, the discussion sheds light on how the Kurds lost their autonomous existence and how they came to constitute parts of the modern states of Iraq, Iran, Syria and Turkey. As is often the case with most nations, there is an internal diversity to Kurdish identity. Notwithstanding that, it is still possible to distinguish the Kurds as an ethnic group from the other major ethnic groups (Jews, Arabs, Turks, and Persians) in the Middle East.

There is also a physical or geographical dimension to the distinctive Kurdish national identity. As McDowall points out, the Kurds "inhabit a marginal zone between the power centres of the Mesopotamian plain and the Iranian and Anatolian plateaux" … and also that "they remain marginalised geographically politically and economically".[4]

However, the Kurds have, in the course of their modern history, come to be defined by the victimhood of their resolve to never surrender to the exclusionary politics of the dominant ethnic populations in their host countries in the Middle East. Chapter Three of the thesis is, therefore, dedicated to a discussion on the origins, character and aspirations of self-determination that define Kurdish nationalism. One of the salient facts about Kurdish nationalism will, thus, be how the Kurds interweave a supposedly primordial Kurdish identity with exclusive claims to Kurdistan as an ancestral heirloom in the pursuit of external self-determination. The repression and persecution arising from the Kurdish struggle for self-determination has, ironically, been the major sustaining force underlying Kurdish strivings for independence from Iraq. For close to a century, geography, ethnic historical origins, a strong

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[4] David McDowall (2009). *A Modern History of the Kurds.* 3rd edition. New York: I.B. Tauris

sense of collective identity and the politics of class-based religious and political affiliations have shaped and defined the strategies and types of political autonomy the Iraqi Kurds have been striving for. Generally, however, Kurdish nationalist politics can be described as a response to the dynamics of regional and international politics. The discussion on Kurdish nationalism is, thus, situated in the context of the collapse of the Ottoman Empire and the new state system that arose in the Middle East in the 20th century.

Chapter Four, on the other hand, evaluates the various legal doctrines and instruments in international law that Kurds can access in their assertion of the right to external self-determination. The most notable among these instruments include the Montevideo Convention and the Friendly Relations Declaration 1970. The doctrine of the remedial right to external self-determination and the case law on the subject are also briefly explored in this part of the discussion. It is conceded, however, that the Kurdish argument for remedial external self-determination would succeed only under extremely unlikely circumstances. Mainly, however, the work seeks to establish whether Iraqi Kurds have satisfied the criteria for statehood under the Montevideo Convention and what they can reasonably expect to achieve under the various provisions and legalisation on statehood within the context of international law.[5]

The discussion on the justification and argument for a Kurdish nation-state is concluded with a thorough analysis of the internal capabilities of the Kurdistan Regional Government (KRG). The analysis is conducted with a focus on the development and structure of the KRG economy and the problems it has been encountering as a result of the instability in world crude oil prices. The second part of the discussion on the KRG's internal capabilities, on the other hand, dwells on the evolution of the KRG as a multi-party democracy and the development of its governance and military and judicial institutions. The various problems confronting the KRG's political system and its effect on the KRG's pursuit of independence are also discussed in detail.

The second part of the thesis, on the other hand, examines arguments that may weigh in favour but also against the international recognition of a Kurdish nation-state created from Iraq. This necessarily directs the discussion into the issues of the laws and politics of state recognition and the evolution of attitudes to Iraqi Kurds' self-determination aspirations among some influential states in the Middle East and some major powers in the international political

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[5] The treaty was signed at the International Conference of American States in Montevideo, Uruguay, on 26 December 1933, and came into force on 26 December 1934. The treaty discusses the definition and the rights and duties of states. http://avalon.law.yale.edu/20th_century/intam03.asp

system. Chapter Six is thus dedicated to a thorough analysis of Iraq's and the KRG's significance to the geopolitical and economic interests of Iran and Turkey, and how the two states have, over the years, been relating to Iraqi Kurdish independence aspirations. The creation of the KRG, it is argued, has significantly affected the dynamics of politics in the Gulf region and may positively influence the reactions of Turkey and Iran to a future KRG state. The possible reaction of the KRG's neighbouring states and the USA to an independent Kurdish state is also discussed in detail.

The discussion in the second part of the thesis is rounded off with a comparative analysis of the arguments of statehood for the KRG with the cases of Kosovo and East Timor. The analysis is conducted from both political and legal perspectives.

Statement of the research problems:

The research problems in this thesis are framed around two separate discussions. The first of the two discussions address two questions (i) why should Iraqi Kurds have their own state recognised in international law? (ii) If Kurds achieve independence, would they have the capability to run viable economic and political systems to avoid the possibility of an independent KRG ending up as a failed state? Essentially thus, the first question enquires into the legal and political arguments supporting the creation of an independent Kurdish state in Northern Iraq, while the second focuses on the soundness or otherwise of the economy and politics of the KRG .

The second discussion on the other hand, is about the potential reaction of some powerful states in the international political system to the emergence of an independent Kurdish state in Northern Iraq.

In the argument for an independence state in Northern Iraq, I draw attention to the status of Iraqi Kurds as a recognisable national minority with their own culture, language, history and territory and that they have acquired an even more recognisable identity by the oppression to which they have been subjected in the 20th century by the Iraqi state. Ethnic, linguistic and religious minorities often fall victim to persecution, marginalisation, discrimination and mass killings at the hands of dominant groups in their countries.[6]. In support of a future viable,

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[6] See for instance 'Minorities At Risk Data'. http://www.cidcm.umd.edu/mar/assessments.asp?regionId=5 on the Minorities at Risk site, at the Center for International Development and Conflict Management, University of Maryland.

independent Kurdish state in Northern Iraq, I also discuss the internal capabilities of the KRG. The emphasis, in this instance, is on the Kurdistan Regional Government's economy and political institutions and democratic system. Attention is thereby drawn to the KRG's relatively substantial hydrocarbon (oil and gas) resources and arable land and water resources. These resources, while highlighting the KRG's potential to function as a viable economy also expose the underlying structural vulnerabilities of the region's economy. The region's political system and institutions are also discussed from the same perspective. The KRG's democracy, even though characterised by intense rivalry and rank corruption among the major political parties and the political class, is discussed as a positive distinction from the dysfunctional politics of the Iraqi state. The economic and political institutions of the KRG together are discussed as evidence of the KRG's potential of emerging as a viable state in the foreseeable future. The conclusion here is that the same political and economic institutions evidencing the KRG's bright prospects as a future state, also highlight the vulnerabilities the Region must overcome to functions as a viable state.

But the thesis also discusses the extent to which realpolitik interferes with the creation of states under international law. This issue is discussed with reference to the political, security and economic interests of Turkey, Iran, and the United States in the Gulf region, and how the creation of a Kurdish state might affect the identified interests. Given the immense significance of the identified interests to the three states, and more importantly, their powerful influence within the international political system, it is argued that an independent Kurdish state would emerge only with the permission of either all three states or at least , two of them. This fact thus highlights on the one hand the difficulties the KRG faces in the aspiration to achieve statehood, and on the other, how realpolitik bends international law to its will within the context of state creation.

Theoretical framework

Methodology

The arguments and conclusions in the thesis are based mainly on qualitative analysis, which is applied extensively within the contexts of international law and international politics.

The thesis also enquires into the definition of the concepts of 'nation' and 'nationalism' from both constructivist and primordial perspectives, and the evolution of 'nationalism' as a political ideology, especially as a tool for the achievement of self-determination. I apply the definitions and concepts to the experience of the Kurds. The literature on the concepts of 'the nation' and 'nationalism' is reviewed from broad political and historical perspectives. A historical analysis is then presented of the argument that the Kurds are a nation. I have also employed a qualitative method, through focused interviews, to inquire directly from people within some Kurdish communities whether they hold any aspirations to self-determination, and, if so, the type of autonomy or self-determination (e.g. statehood) they would like to have. I also interviewed some leading Kurdish politicians, academics and journalists on their views on a wide range of issues relating to KRG's economy, politics and independence aspirations. The interviews are used as references to support some of the arguments and analyses in this thesis.

The work offers a general critique of legal rules ('instruments') and provisions, case studies in law and relevant historical documents. I have gathered and analysed documents on legal theories, concepts, international charters, case law, institutions, conventions and policy frameworks relevant to state creation in public international law, and the types and scope of remedies and protections available to oppressed minorities in legal instruments, policy frameworks and conventions. The question to be addressed is whether, in light of the law on state recognition, Iraqi Kurds can assert the right to external self-determination.

CHAPTER TWO: Who are the Kurds?

Introduction

This chapter attempts to answer the question as to whether there is any ethnic group called Kurds and, if so, what, if any, their objective identity markers as a distinct group are. The discussion provides thereby insights into who qualifies as a Kurd. A major confounding fact in this context has been the politicisation of the identity of Kurds in the four Middle Eastern states (Iran, Iraq, Turkey and Syria) that count Kurds among their populations. Most of these states – Turkey, Iran and Syria – refuse to accept the existence of a distinct Kurdish ethnic among their populations.[1] The politicisation of Kurdish identity is often driven by the intention to nullify Kurds' claims to territorial and identity-based rights. The readiness of some presumed Kurdish tribes to accept themselves or others as Kurds also brings some complexities to bear on the distinctiveness of Kurdish ethnicity.[2]

This chapter takes a constructivist approach in the analysis of Kurdish ethnic identity, arguing that there is such a recognisable group as the Kurds. Kurdish ethnic identity is not primordial in the sense that it has been evolving and therefore undergoing modifications over many centuries. Kurds have over the centuries developed their own language, culture and religions (Yezidism is an example).

It was possible to talk about a distinct Kurdish identity by the 16th century. Among Kurds, however, the most notable factor in the crystallisation of a shared fate and identity is arguably the political oppression they experienced for much of the 20th century, beginning with their dispersion among the four Middle Eastern states of Syria, Iraq, Iran and Turkey after the fall of the Ottoman Empire. In Kurdish political history, the genocides Kurds are perceived to have experienced at the hands of the Turkish and Iraqi states in the 1980s stand out as watershed moments. The discrimination and various forms of rights denial to which Kurds have been subjected in Syria, Iraq, Turkey and Iran have also helped to forge a strong sense of solidarity among them as an oppressed people.

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[1] See, for example, the categorisation of Kurds as a sub-Farsi peoples in Younes Parsa-Benab, The Strident Voices of Pan-Iranism http://www.iran-bulletin.org/IBMEF_1_word%206%20files/parsa_banab_03.htm.

[2] As an example, the Lur and Bakhtiari people of Iran insist that they are not Kurds, even though they are officially recognised as such in the Islamic republic. See Michael Rubin (2003). 'Are Kurds a Pariah Minority?' Social Research, Vol. 70, No. pp. 295-330.

Defining Kurdish identity

As with any attempt to delineate the distinctive identity of any people, pinpointing the exact basis of Kurdish ethnic identity runs necessarily into some theoretical problems. The problems revolve mainly around the disagreement between 'primordialist' and constructivist theorists on the mode of identifying the distinctiveness of human communities. The primordialist view is of ethnicity being a culturally and historically continuous feature of a people that is fixed in some ancient facts and events.[3] On the other hand, constructionist theorists project 'ethnicity' as a constantly changing phenomenon subject to the influences of social, economic, political and technological developments. In arguing for the existence of Kurds as a distinctive ethnic group, this thesis rejects the primordialist theory of ethnicity, and instead opts for the constructivist view as a paradigm for the discussion of the nationalist politics of Kurds. In this manner, the Kurds emerge as an identifiable national group whose identity has been evolving over hundreds of years but whose ethnic identity has been marshalled as reason for their pursuit of a state of their own.

Whereas historians agree on the existence of a historical people called 'Kurds', there have been disagreements among them with regard to the tracing of their origins. That sometimes appears to be due to differences in the documentary evidence used in tracing Kurdish collective identity. Relying on one set of historical documents, McDowall has, for example, asserted that the identity of the Kurdish peoples attained a definite form around the same time as that of the Arabs and the Turks.[4] He explains further that in the case of the Kurds, however, the process was stunted by the fact they lacked a developed civic and literary culture of the type that drove the development of the Arab and Turkish ethnic identities.[5] This view is contradicted by evidence that the Kurdish people also have a well-developed literary culture that is ascertainable in works in Farsi, Turkish and Arabic by illustrious Kurdish writers.[6]

To reiterate the point, therefore, historical events and facts recorded in relation to numerous ancient tribes (numbering about 800 and including "the Guti, Kurti, Mede, Mard, Carduchi, Gordyene, Adianbene, Zila and Khaldi" subgroups[7]) can be marshalled for a constructionist

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[3] Jack David Eller (1997). Ethnicity, Culture and 'The Past', *Michigan Quarterly Review*.Volume XXXVI, Issue 4. http://hdl.handle.net/2027/spo.act2080.0036.411

[4] David McDowall (2009). *A Modern History of the Kurds.* Third Edition. I.B. Tauris. New York, p. 2.

[5] *Ibid.*

[6] Galia Golan and Walid Salem (eds.) (2013). *Non State Actors in the Middle East: Factors for Peace and Democracy: Factors for Peace and Democracy.* Routledge. Oxford/New York.

[7] C.J. Edmonds (1971). Kurdish Nationalism Separatism. *Journal of Contemporary History,* Vol. 6, No. 1,

argument to confirm the ethnicity of a modern people who identify themselves as Kurds. The existence of pastoral nomads referred to as 'Kurds' is mentioned in Mesopotamian records dating back to the seventh century.[8] At the time of the Arab conquest of Mesopotamia in the seventh century, the name 'Kurd' was used to describe these nomadic people who lived in this region.[9]

Kurds have also been linked to certain prehistoric kingdoms (e.g. the Mitanni, Kassites and Houritesin) that flourished in the mountain ranges between the Iranian plateau and the Euphrates.[10] One of the earliest mentions of a political area inhabited by a people called Kurds pertains to the 16th century province of 'Kurdistan' in present day Iran.[11] It is also known that some ethnic groups that later came to be classified as Kurdish were living in that region even before the arrival of the Medes there, and that there was cross-assimilation between those groups and the Medes.[12] Specifically, there was a level of culture and language exchange between the indigenous Kurdish tribes of the Zagros Mountains and the Median tribes that settled there. Thus, Kurds can reasonably claim to be among the family of the Medes.[13]

The people who came to be known as Kurds would later convert in large numbers to Islam in the seventh century.[14] But by then a Kurdish ethnic identity had emerged to enable a distinction to be made between Kurds and Arabs.[15] Also, McDowall argues that there is "little doubt that throughout history periodic invasions, clashes or trade with peoples of a foreign tongue impressed upon Kurdish consciousness that they were distinct from their neighbours".[16] Kurds have been holding fast to their identity and have, over the centuries, been asserting the resolve to maintain their different ethnic identity in relation to 'Persians', 'Arabs' and Turks.[17]

However, it was only in the sixteenth century that the name 'Kurdistan' came to be used as a

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Nationalism, p. 88.

[8] *Ibid.*

[9] Kerim Yildiz (2007). *The Kurds in Iraq, The Past, Present and Future.* Pluto Press, p. 1.

[10] Nezan Kendal (2014). *A Brief Survey of the History of the Kurds.*
http://www.institutkurde.org/en/institute/who_are_the_kurds.php.

[11] *Ibid.*

[12] C. J. Edmonds (1971). Kurdish Nationalism *: Journal of Contemporary History.* Vol. 6, No. 1, Nationalism and Separatism . pp. 87-97, 99-107.

[13] Jeffrey Q. Wagner (1992). *Ethnic Conflict: The Case of the Kurds.* Executive Research Project A29. Industrial College of the Armed Forces, p. 8.

[14] *Ibid.*

[15] *Ibid.*

[16] David McDowall (2009). *A Modern History of the Kurds.* Third Edition . I.B. Tauris . New York, p. 5.

[17] *Ibid.*

common reference to a distinct land and people and their different traditional political system (Kurdish fiefs).[18] Currently, however, it is in Iraq and Iran only that the term 'Kurdistan' is used in an official sense to denote specific geographical areas (a province in Iran and three governorates, Dohuk, Erbil and Sulaymaniya,[19] in Iraq). The idea of a 'greater Kurdistan', however, refers to the approximately 500,000 km2 of land reaching from the middle parts of Turkey through the southern Caucasus and southward along the Iran-Iraq border.

Overall, "the people that currently identify as Kurds are found mainly in the land mass stretching from the Mesopotamian plain and the Iranian and Anatolian plateaux".[20] Put differently, Kurds as a people live in their largest numbers in the territories currently forming part of Iraq, Iran, Syria and Turkey. But there are also substantial numbers of Kurdish people in Azerbaijan and Armenia,[21] Lebanon, Sweden, Germany, the Netherlands, the United Kingdom, Switzerland, Austria and the United States. However, the indicated four countries in the Middle East constitute the homeland of the Kurds. The areas with predominantly Kurdish populations are often cartographically designated as 'Kurdistan' or the 'state of Kurds'.[22]

The total number of Kurds around the world is difficult to calculate and thus tends to be inaccurately captured in many publications about the people. This is mainly explained in the unwillingness of the Gulf States to report accurate number of Kurds in their countries or even admit to the Kurdish origins and identity of some of their populations that claim ethnic affiliations with Kurdistan.[23] Thus, it is possible to estimate the number of people associated with, or who identify with, Kurds as a people in the Middle East to between 27 and 30 million.[24] This makes Kurds the fourth largest ethnic group (after the Arabs, Persians and Turks) in the Middle East.[25]

As citizens of the individual states of Iraq, Iran, Turkey, Iran and Syria, however, the Kurdish peoples are substantially lower in number relative to those of the populations of their host

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[18] Kerim Yildiz (2004). *The Kurds in Iraq, Past Present and the Future.* Pluto Press: London. pp. 7-10.
[19] *Ibid.*
[20] *Ibid.*
[21] C. J. Edmonds (1971). Kurdish Nationalism. *Journal of Contemporary History.* Vol. 6, No. 1, Nationalism and Separatism. pp. 87-97, 99-107.
[22] *Ibid.*
[23] See, for example, 'Kurds Reach Tentative Deal to End Boycott of Kirkuk Elections' UNPO (January 17 2005) http://unpo.org/article/1767
[24] Javaid Rehman, (2000). *The Weaknesses in the International Protection of Minority Rights.* Martinus Nijhoff Publishers, p. 4.
[25] Michael D. Palmer and Stanley M. Burgess (eds.) (2012). *The Wiley-Blackwell Companion to Religion and Social Justice.* Oxford: Wiley-Blackwell. p. 403.

countries. McDowall, as an example, has put the numbers of the Kurds in the four countries thus at:

Iraq: 6 million and, thus, 17-20% of the population;[26]

Turkey: 13 million and, hence, 19% of the population;

Iran: 7.1 million and, thus, 10% of the population;[27]

Syria: 2 million and thus constituting between 10% and 15% of the total population.[28]

The Kurdish peoples are substantial minorities in each of the four countries.

Religion, language and culture

A considerable number of works have been dedicated to the internal complexity of the societies that identify themselves as Kurdish. This manifests itself mostly in relation to the linguistic and religious cultures of the people. With regard to religion in particular, the Kurdish peoples have the most religious diversity among their ranks than any of the other four major ethnic groups in the Middle East. The so-called heretical nature of the Islamic faith as practised among the Kurdish peoples has been explained not only with reference to the connection between the culture of the Kurds and the ancient Zoroastrian faith,[29] but also in the perception among Kurds that Islam is largely the cultural heritage of one of their chief oppressors. The Kurdish communities in Israel and Russia bend more towards Judaism and atheism, respectively, a reflection of the religious influences of the host dominant ethnic groups (Jews and Russians) on their culture. A number of Kurds subscribe to some minority faiths (Yarsansim, Yazidism, Qadiriyyah and Naqshbandiyya, Ahle Haq, Christianity and Judaism).[30] Yazidism encompasses, to a large extent, all the religious influences – – traditional Kurdish fire worship, Zoroastrianism, Christianity, Judaism, Islam – which were picked up by the larger Kurdish ethnic group from their interactions with the dominant ethnic groups in the Middle East. Therefore Yezidis, even though relatively small in number, occupy a special place among the

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[26] Iraqi Kurdistan Profile. http://www.bbc.co.uk/news/world-middle-east-28147263

[27] David McDowall (2009) *A Modern History of the Kurds. Third Edition.* I.B. Tauris . New York, p. 3.

[28] Guide: Syria's diverse minorities. BBC News. http://www.bbc.co.uk/news/world-middle-east-16108755. (December 9/2011)

[29] Quil Lawrence (2009), *Invisible Nation: How the Kurds' Quest for Statehood Is Shaping Iraq and the Middle East*. Walker & Co: New York, p. 11.

[30] Martin van Bruinessen, Religion in Kurdistan: http://www.hum.uu.nl/medewerkers/m.vanbruinessen/publications. Also, see Gerard Chaliand (1993). *A People Without A Country, The Kurds and Kurdistan*. London Zed, introduction.

Kurdish people.[31] There are also Kurds who are secular and socialist.

There is a linguistic element to the determination of who qualifies as a Kurd. From a primordialist perspective, the identity of a people as a distinct, objective ethnic group hinges on their possession of qualities, of which a common language is an important part. Distinct ethnic groups speak one language or a group of dialects that come under one standard language. Even though it is generally acknowledged that there is an Indo-European language called 'Kurdish', it is also a fact that Kurdish as a language lacks a standard form in the manner one could speak of Hoch Deutsch (standard German) or 'Oxford English'. Kurdish as a language is made up of a collection of dialects. McDowall explains this as being due to the fact that a literature in the Kurdish language was not created until the 1920s.[32]

The language commonly referred to as 'Kurdish' is subdivided into two major dialects, Kurmanji and Sorannis, and two minor ones, Gurani and Zaza. Kurmanji is spoken by Kurds in Turkey, Syria, the former USSR, and in the northern parts of Iran and Iraq' while Sorannis features in most parts of Kurdish Iran and Iraq.[33] There are two other dialects of Kurdish spoken in a minority of distinct group who reside in larger communities, Gurani and Zaza. Gurani is spoken in Southern Kurdistan and Zaza in North West Kurdistan. Both Gurani and Zaza are related languages and belong to the family of languages in north-western Iran, whereas Kurmanji and Sorannis appear to come from south-western Iran.[34]

But, as is the case with the religious professions of Kurdish people, their spoken dialects bear influences from their more dominant ethnic neighbours. Kurumanji thus bears very strong influences from the Turkish and Armenian languages, whereas Soraniis is heavily influenced by Arabic and Farsi. In recent times, Kurdish as spoken in Iraq has been chosen as the basis of standardising Sorannis. The standardisation of Kurmanji, even though yet to take a formal turn, has been happening principally in Europe among emigrant Kurmanji speakers from Turkey and Syria who have managed to develop a kind of Kurmanji that is understood by all.[35] The Kurdish peoples achieved a greater sense of cohesion with the standardisation of the major subdivisions of their languages. However, the Kurdish ethnicity group speaks interrelated

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[31] Nelida Fuccaro (1999). *The Other Kurds: Yazidis in Colonial Iraq.* I.B. Taurus & Co Ltd. London and New York, p. 9

[32] David McDowall (2009). *A Modern History of the Kurds .* Third Edition. New York. I.B. Tauris, p. 5.

[33] Kerim Yildiz: (2004). *Kurds in Iraq, Past Present and the Future.* London, Pluto Press , p. 8.

[34] David McDowall (2009). *A Modern History of the Kurds.* Third Edition. *I*.B. Tauris. New York, p. 10.

[35] Ernest McCarus (1997). Review of Amir Hassanpour, '*Nationalism and Language in Kurdistan*, *1918-1985'*. Middle East Journal, Vol. 51, No. 2, pp. 300-301.

dialects which are only basically related under a common language. Together with other cultural facts about Kurds (e.g. a sense of kinship, a traditional dress sense), they can be distinguished as an ethnic group, if a diversified one.

Geography

A yet distinctive fact about the Kurdish people is the extent to which their political identity is closely interconnected with their geographical environment. As already mentioned, the greater percentage of the Kurdish people live in plateaux and mountainous areas in the border regions of Iraq, Iran, Turkey and Syria. Kurds have had to live in isolation for long periods of their history, cut off from Baghdad (Iraq), Istanbul (Turkey) and Teheran (Iran). But for the Kurds themselves, the mountains are not a curse. Indeed, as Kurds are wont to say, they have 'no friends but the mountains.'[36] When Atatürk referred to the Kurds as 'mountain Turks' thus, he could not have imagined how the PKK's guerrilla fighters and the Kurdish peoples in Turkey in general would use the Kurdish mountains and the caves both as security and shelter to fight the oppressive state he Atatürk created. When the Yezidi communities in Iraq recently fled *en masse* to the mountains in Iraq to escape the genocidal intent of the Iraq and Syria (ISIS), they were falling back on the Kurdish collective memory of their mountainous surroundings as security.

But the Kurdish geographical environment is not only about mountains. Especially in Turkey, Iran and Iraq, the Kurdish provinces count among the most suitable lands for agriculture. In the northern part of Iraq, where Kurds are found in their majority, for instance, the rain-fed plains and mountain slopes make the soils suitable for wheat and fruit. The grasslands and the rivers across the Kurdish provinces have also helped to make Kurdistan a key player in the raising of livestock within these areas. Farming as an occupation has always been central to the Kurdish heritage. The importance of agriculture among Kurds is also linked to political tradition. The power wielded by traditional political leaders (tribal chieftains – Mirs or Begs) Shaikhs and Mullas have historically shaped Kurdish anti-statist, anti-centralist politics (such as Kurdish nationalism in Baathist Iraq). Kurdish peasant farmers played an important role in the Kurdish people's conflicts with the dominant ethnic groups in the Middle East.[37]

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[36] Harvey Morris (1992). *No Friends but the Mountains. The Tragic History of the Kurds.* Oxford University Press.

[37] For a detailed description of the political authority of shaiks and tribal chiefs, see Martin van Bruinessen (1992). *Agha, Shaikh and State.*Zed Books Ltd: London & New Jersey.

Since the dissolution of the Ottoman Empire (and the rise of Turkish politics), however, Kurdish intellectuals and middle class elites have played a dominant role in Kurdish politics. The 1950s and 1960s were the highpoint of the middle-class leadership of the Kurdish politics. Under the influence of Marxist-socialism, Kurdish intellectuals created and joined political parties and militant movements to fight Turkish and Arab repression. Mustafa's Barzani's KDP, as an example, was a beneficiary of the Kurdish middle class's ideology-driven politics. The development of the PKK, created and led for many decades by Abdulla Ocalan, a notable Kurdish intellectual, offered a stark reminder of the changing face of Kurdish nationalist politics, from its origins as a peasant-led struggle against assimilation to organised militarism against the four states that the Kurds found themselves in, and, ultimately, as a socialist political force after the 1920s. As will be argued later, this struggle is part of the constructed identity of the Kurds.[38]

Kurdish identity is also interwoven with global energy politics and the lack of water resources in the Middle East. As has been known for many decades, Kurdistan is rich in natural resources. Substantial quantities of oil and gas have been found in Kurdish Iraq and Syria.[39] In the state formation years in the Middle East (1920s), powerful international political and economic entities cut deals with the dominant ethnic groups in the Gulf Region to exploit and control the resources in the Kurdish provinces. But recently, and especially with regard to the KRG, the natural resources and minerals have proven to be a source of bright economic prospects for the Kurdish peoples which, if realised, could provide solid sustenance for the argument for the creation of a state in Kurdish Iraq.[40]

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[38] Amir Hassan Pour, '*The Kurdish Experience*', Middle East Research and Information Project. http://www.merip.org/mer/mer189/kurdish-experience

[39] Luay J. AL-Khatteeb (2013). *The Geopolitics of Natural Gas, Natural Gas in the Republic of Iraq Centre for Energy* Studies and Harvard University Belfer Center Report (November 2013) .http://belfercenter.ksg.harvard.edu/publication/22218/geopolitics_of_natural_gas.html

[40] Azam Ahmed and Clifford Krauss (2014). *Oil Gives Kurds a Path to Independence, and Conflict With Baghdad*. New York Times, (October 25/2014) https://www.nytimes.com/2014/10/26/world/oil-gives-kurds-a-path-to-independence-and-conflict-with-baghdad.html?

CHAPTER THREE: Kurdish Nationalism

Introduction

The second part of Chapter Two of the thesis discussed Kurdish nationalism. The temporal context is the immediate aftermath of the dissolution of the Ottoman Empire, the British colonial era and the emergence of the independent state of Iraq up to the creation of the Kurdistan Regional Government (KRG) after the collapse of the Baathist regime in 2003. The aim is to highlight the relevance of nationalism as an ideology for the Kurdish people's attempts to assert the right to external self-determination. Nationalism as a concept is first defined and discussed in its evolutionary phases, and, subsequently, in relation to the evolution of the concepts of the 'nation' and 'self-determination'. The discussion is rounded off with an examination of how Kurds in Iraq have been rallying around a perceived common national identity to drive their quest for independent statehood, and the extent to which their efforts are hindered by the lack of unity among them.

Nationalism: definition and doctrinal evolution

As will become obvious in the course of this discussion, the definition of nationalism is intertwined with that of the 'nation' as a concept. However, Hutchinson and Smith, among others, have noted the lack of consensus among experts on the 'subjective' and 'objective' factors around the definition of the 'nation', and about how nations and nationalism relate to ethnicity, on the one hand, and the 'state', on the other.[41] The essence of 'nationalism' as a concept, however, has been captured in some core definitions as a political principle, a movement and a sentiment,[42] and also as "…a theory of political legitimacy, which requires that ethnic boundaries should not cut across political ones".[43] Nationalism has also been defined as 'the self-identification of a community of people who see themselves as having a recognised sovereignty' or as "the identification of a political unit housing a culturally homogeneous group".[44] As suggested above, such self-identification can be either 'civic' or

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[41] John Hutchinson and Anthony D. Smith (1994) *Nationalism.* Oxford University Press, p. 15.
[42] Ernest Gellner (2006) *Nations and Nationalism,* 2nd ed. Blackwell Publishing, p. 1.
[43] *Ibid.,* p. 1.
[44] Margareta Mary Nikolas (1999). *False Opposites in Nationalism: An Examination of the Dichotomy of Civic Nationalism and Ethnic Nationalism in Modern Europe.* pp. 1-9.
http://www.nationalismproject.org/pdf/Nikolas.pdf.

'ethnic' in nature.

Theories of the nation and nationalism

Although the concepts of 'nationalism' and 'nation' can be discussed from several theoretical perspectives, this thesis analyses the two concepts from constructionist and primordialist ones. The choice of theories is influenced by the disparity between how Kurds perceive themselves as a nation and what they really are as a people. The most significant issue in this context is how 'nations' come into being and the type of ethnic ideology a people may adopt in defiance of certain facts about themselves to successfully drive their peculiar nationalist politics. Aspects of the theoretical analysis will involve attempts at understanding the concepts of the 'nation' and nationalism in their objective and subjective forms.

Primordialist theory of the nation/nationalism

The thesis has already defined the theories of primordialism and constructivism in broad terms. It can additionally be stated that Shils, one of the early proponents of primordialism, provided the tenets of what constitute primordial attachments (e.g. blood ties, speech and customs, dialect, language, and religious beliefs) which have 'overpowering, coerciveness in and of themselves', and thus define people's 'sense of family and larger social affiliations'.[45] Generally, primordialists conceptualise 'nationalism' in regard to the idea of the 'nation' as a 'natural' construct.[46] The 'nation' is argued, thus, as having ancient roots dating "to some distant point in history".[47] Membership of the nation is constituted in this sense as shared values, cultures and common histories preceding people being formed into social or political groupings. Invariably, primordial theories place 'ethnicity' at the heart of the nation and 'nationalism', and thus engender the notion of ethno-nationalism whereby the legitimacy of any form of nationalism is assessed with reference to the ethnic origins of the peoples constituting the nation involved, and also with emphasis on felt ties of kinship, common ancestry and a shared cultural heritage'.[48]

Hobsbawn notes that in 1925, the *Dictionary of the Spanish Academy* in its entry on 'the nation'

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[45] Umut Ozkririmli (2010). *The Theories of Nationalism, A Critical Introduction*. London: Palgrave Macmillan, pp.49-50

[46] *Ibid.,* p.49

[47] Michael M. Gunter (2013). *The Contemporary Roots of Kurdish Nationalism in Iraq*. Kufa Review, No. 2, Issue 1, Winter, p.29

[48] *Ibid.*

described the term as "the collectivity of persons who have the same ethnic origin and, in general, speak the same language and possess a common tradition".[49] Analysed from a primordialist prism thus, the legitimacy of Kurdish nationalist politics would have to be show to be pivoted on proven ancestral ties binding Kurds together as a people and underlying their peculiar ethnic identity. The existence of such ties would legitimise the right of Kurds to a nation state of their own – just like the Arab, Turkish and Persian-dominated states of Syria, Iraq, Turkey and Iran. This, however, would raise the question of whether there is indeed an unadulterated Kurdish ethnic identity deriving from ancestral ties maintained over centuries, and if not, whether that necessarily vitiates the legitimacy of contemporary Kurdish nationalism and its aims. The discussion on Kurdish nationalism below answers this question in the negative.

Constructivist theories of the nation and nationalism

In their turn, constructivist theorists emphasise 'sovereignty', 'citizenship', 'state' and 'subject relationship'[50] as the essence or basis of 'nationalism'. Constructivists, thus, have limited regard to the primacy of ethnic origins and linguistic or religious affiliations of national populations and their supposed link to the nation. In their classical forms, however, constructivist theories do not deny the relational connection of the nation to ethnicity; rather, they argue that the nation and nationalism should be understood in civic and fluid terms. 'Nationalism' from a constructivist prism thus emerges as a 'voluntary political association with the nation through citizenship, whereby shared territory, history, or religion may merely help to bond the citizens together.'[51]

Joseph Stalin and Max Weber bring additional perspectives to bear on the constructivist theory of the nation and nationalism. According to Stalin, the nation, even though a historically constituted community of people is "formed as a result of lengthy and systematic intercourse over many generations, has no racial or tribal essence, and could thus be racially or ethnically heterogeneous".[52] Stalin further saw a common language as useful, but certainly not an

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[49] E. J. Hobsbawm (1990). *Nations and Nationalism Since 1780.* 2nd ed., Cambridge University Press, p.15.

[50] Katherine Verdery, Whither (1993) *'Nation' and 'Nationalism'*? Daedalus. Vol. 122, No. 3 (reproduced by MIT press as 'Reconstructing Nations and States), p. 38.

[51] Murat Somer (2004) *'Turkey's Kurdish Conflict: Changing Context, and Domestic and Regional Implications.* Middle East Journal. Vol. 58, No. 2, pp. 235-253.

[52] Joseph Stalin, *The Nation,* reproduced in John Hutchinson and Anthony D. Smith (1994). *Nationalism,* Oxford University Press, p. 18.

indispensable, characteristic of a nation,[53] at least not in the same sense or degree one would think of a common territory as a feature of a nation.[54] Stalin further asserted that the nation's parts are welded together by an internal economic bond.[55] Stalin's nation and nationalism, thus, can be termed constructivist in essence.

Max Weber, in turn, argued that the concept of nationalism does not have an economic origin, but is rather based upon sentiments of prestige rich in historical attainment of power positions.[56] Weber referred to nationalism as an "emotional influence",[57] that is "… not identical with the "people" of a state … or even a community speaking the same language".[58] He argued that a common language does not in itself indicate the existence of a nation, the reason being that a nation can be made up of peoples of diverse linguistic backgrounds within a defined territory.

The constructivist and primordialist senses of 'nationalism', as will be discussed in this chapter, are to some extent true of aspects of Kurdish people's nationalist politics. Kurdish politics of self-determination is wrapped firmly around Kurdish people's perception of themselves as a people whose distinct identity reaches into the recesses of history. But Kurdish people also see themselves as a people generally oppressed and persecuted by others because of their resolve to hold on to their territory and enjoy the economic riches attached to their lands. Kurdish self-perception is thus marked by a felt injustice in their inability to participate fully in the politics and civic lives of their states. It can be inferred from Kurdish nationalist politics that Kurds consider the injustices they have been experiencing at the hands of the dominant ethnic groups in Iraq as an insurmountable stumbling block to any attempt to identify with the Arab-centric sense of nationhood upon which Iraq as a state is built, hence the need for a state of their own.

It is the contention of this essay that the accidents of biological attributes or primordial attachments do not impose a nation on human communities, but rather that human beings by conscious design and for purposes of self-preservation form nations and, thereafter, fill the 'nation' with emotional solidarity. Both the nation state and nationalism, therefore, can be viewed as artificial creations of man with nothing natural about them. The thrust of the

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[53] *Ibid.*
[54] *Ibid.*, p. 19.
[55] *Ibid.*, p. 20.
[56] Max Weber, (1994) *The Nation*, reproduced in John Hutchinson and Anthony D. Smith. *Nationalism*. Oxford University Press, 1994, p. 21
[57] *Ibid.*
[58] *Ibid.*, p. 22

discussion on the origins of Kurds as a people and their ethnic identity validates the constructivist notion of nationalism and thereby leads to a relatively more accurate description of Kurdish nationalism as an artificial construct.

The discussion of Kurdish nationalism in this part of the thesis continues with an examination of the nexus between the nation, the state and the emancipatory essence of nationalism. The salient issue in this context, thus, is whether a state equates to a nation or a nation equates to a state. It can be argued that whilst the former may not always be true, the latter can be said to represent an ideology capable of being adopted by nations of varied origins and descent, spread across different locations, and yet within a defined territory called a state in the modern sense. The fact, however, is that the inclusion of a *state* and *territory* in the definition of a nation represents a political concept rather than the usually espoused ideology of the concept in terms of origins based on common descent and ethnicity. Hobsbawn has argued that the nation (*nacion*)[59] was [prior to 1884] merely a polity, "…the aggregate of the inhabitants of a province, a country or a kingdom",[60] and was considered "a state or political body which recognises a supreme centre of common government" over a "territory constituted by the state and its individual inhabitants".[61] Gunter has also observed that until recently most people primarily owed their "ultimate allegiance to their religion or empire on the macro level or tribe, city, and local region on the micro level" as opposed to the nation.[62] That also is the position of Smith, who describes nationalism (a derivative of the 'nation') as "…a modern movement and ideology",[63] used in the 19th and in the 20th century as a tool by 'natives' to fight and overthrow colonial and imperial administrations.[64] It could be argued, however, that whilst native populations made up countries or states (colonial and post-colonial), their sense of the 'nation' predated their countries or states as political entities. Still, Breuilly situates nationalism within the sphere of political sovereignty in the description of nationalism as an "umbrella term for political movements seeking or exercising state power and justifying such action with nationalist arguments".[65] The 'nation' in the modern sense, thus, can be described as being embedded in the concept of the state.

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[59] The Spanish word for nation.

[60] E.J. Hobsbawm (1990). *Nations and Nationalism Since 1780.* 2nd ed., Cambridge: Cambridge University Press, p. 14.

[61] *Ibid.*

[62] Michael M. Gunter (2013). *The Contemporary Roots of Kurdish Nationalism in Iraq. KUFA Review,* No. 2, Issue 1, winter 2013, p. 29.

[63] Anthony D. Smith (1998). *Nationalism and Modernism*. US: Routledge. p. 1.

[64] *Ibid.*

[65] John Breuilly (2001). *Nationalism and the State.* 2nd ed., Manchester University Press, p. 2.

The concept of the nation-state has also been subject to change over time. National boundaries, for instance, do not stay static. National economies also tend over time to become inter-dependent. These facts are vividly captured in the economic unification of European states and the melting of their territories into insignificance. At some time in the future, thus, it may be possible to conclude that Europe will be a nation. And so, just as the 19th century definition of nationalism was different from those of the 18th century, it may well be that with the advancement of technological and increasingly integrated economies in the 20th and 21st centuries, the definition of nationalism may also take a more market-oriented and hence a less political-oriented turn.

The analysis brings some insights to attempts by Kurds to create a modern state out of a perception of themselves as a nation with linguistic and cultural features that have retained their distinctiveness over the course of Kurdish history. Kurdish identity has been evolving and will continue to evolve in line with many socioeconomic and political factors, including the technological and economic developments of this and future eras. That, however, should not weaken the basis or authenticity of their nationalist politics. The Kurdish sense of the nation and nationalism is based on constructed fictions, albeit useful ones that serve practical purposes within the context of the Kurds' pursuit of independent statehood.

The emancipatory essence of nationalism

It was asserted earlier in this discussion that colonised peoples used nationalism in the 19th and 20th century as a tool to fight and overthrow colonial and imperial administrations.[66] That assertion fully captures the emancipatory significance of nationalism as a political ideology.

As also asserted earlier and illustrated in the discussion on the evolution of the concept of nationalism, the 'nation' and nationalism' as concepts are closely connected with each other. People's peculiar sense of nationhood directly shape their brand of nationalism. The emancipatory import of nationalism offers more insights into this fact. This can be explored by the extent to which language and communication have bridged the space between the nation as a polity and nationalism as a political ideology employed mainly for emancipatory purposes.

Anderson has also traced the development of nationalism through the notion of 'cultural roots' and its diminishing effects on old civilisations,[67] specifically by highlighting the role of language and communication in the evolution of nationalism as an emancipatory mechanism. The classical great communities often assumed that their languages had a causal link to some super-terrestrial order of power and, thus, were superior to other peoples' languages. This belief became an element of colonial control over conquered territories and peoples. In addition to imposing their political systems upon conquered territories, most colonial powers looked down upon the cultures of colonised peoples and often disapproved of their ways of life. The French imposed on their colonies a policy of assimilation, just as Spain and England made Spanish and English, respectively, official languages in their colonies. Colonised people were sometimes forbidden from speaking their own languages.[68]. In the hands of the so-called 'classical communities', therefore, language became an instrument of control. This often manifested in religious beliefs and doctrines as well. For example, in Islamic traditions, Allah's truth was asserted to be accessible only through written Arabic'.[69] Christians, on the other hand, viewed Latin as the language of worship (Mass).[70] Not surprising, therefore, modern national consciousness often sought to overthrow the precepts of colonial antiquities.

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[66] Anthony D. Smith (1998). *Nationalism and Modernism.* US: Routledge, p. 1.

[67] B.R. Anderson (2006). *Imagined communities: Reflections on the origin and spread of nationalism*. London: Verso.

[68] Mohammad Khosravi Shakib (2011). '*The position of language in development of colonization'*, Journal of Languages and Culture, Vol. 2(7), p. 117.

[69] Anderson, B. R. (2006). *Imagined communities: Reflections on the origin and spread of nationalism*. London: Verso. p.14

[70] *Ibid.*

Nationalism became a rallying factor to limit the cultural and linguistic and even religious influences of colonial powers in the 19th and 20th centuries.[71] The resistance of Iraqi Kurds to the Arabisation policies of the Baathist regimes finds its rationale in this context.

These analyses about 'nation' and 'nationalism' as concepts are germane to the understanding of the origins and aims of Kurdish nationalism. Kurds, as already noted, share a common sense of nationhood predicated on some notion of Kurdayeti.[72] For well over a century, Kurds have been rallying around a sense of common destiny and shared political fate as a people to assert certain claims against peoples and powers that have been their oppressors.

Since the creation of the modern states of Iraq, Iran, Syria and Turkey, Kurdish agitation for political rights of various types have been more powerful and shaped by facts that are peculiar to individual Kurdish populations within the four states. It is argued in this thesis that what drives Iraqi Kurdish nationalism should in the end matter more than the type of nationalism (ethno or civic) they have been applying in seeking the fulfilment of nation-state political aspirations.

Durkheim stated: 'Every society feels the need to uphold and reaffirm at regular intervals their collective sentiments and the collective ideas that constitute the fulcrum or basis of its unity and personality'.[73] This has been particularly true of the Kurdish people: their history is full of struggles to claim their rights. These struggles actually reinforce their national identity. A feeling of oppression weighs heavily on Kurds.

But in spite of their own internal splits, the latest being the ones between the KDP and PUK parties, Iraqi Kurds seem to have developed a core nationalistic spirit, evidenced by a stubborn unwillingness to submit to the Iraqi Arab perception of them as mere parts of their state.[74] Kurdish nationalism is often articulated as a supposed link between their national identity and their territory. Thus, Kurds have always contemplated their independence through territorial secession, as opposed to mass migration from their current host states.

As subjects of oppressive states, Iraqi Kurds' political agitation thus demonstrates a perception

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[71] Anthony D. Smith (1998). *Nationalism and Modernism*. London: Routledge, p.1.

[72] Minoo Alinia (2004). '*Spaces of Diasporas. Kurdish Identity, Experiences of otherness and politics of belonging,*' Göteborg Studies in Sociology, No 22.
http://socav.gu.se/digitalAssets/1286/1286574_Minoo_Alinias_Avhandling.pdf

[73] Laura Desforth Edles and Scott Appleforth (eds.) (2010). *Sociological Theory in the Classical Era.* (California: Pine Forge Press) Emile Durkheim quoted on p. 94.

[74] C.J. Edmonds (1971). *Kurdish Nationalism,* Journal of Contemporary History. Vol. 6, No. 1. pp 87-107.

of nationalism as an ideological tool against injustice at the hands of Arab-dominated regimes, which have at various times aimed to ethnically cleanse them from their ancestral lands or to redefine their lands with Arab populations.[75]

The earliest manifestation of Kurdish nationalism is generally identified in a series of unsuccessful attempts by Kurds to militarily fight off the Islamicisation of their cultural identity and society by Arab invaders of Kurdistan in the seventh century.[76] As subjects of the Ottoman Empire, Kurds would exploit their influential roles in the arts and philosophy within the caliphate to establish autonomous Kurdish principalities, with Aklaht as their capital.[77] That did not lead to independence for Kurds as the new principalities (Botan, Hakkari, Badinan, Soran, Baban, Ardalan and Mukriyan) remained vassal parts of the Ottoman Caliphate.[78] As would be the case in many periods of Kurdish nationalist agitations, early Kurdish politics was diverted by Kurdish elites towards the pursuit of personal and narrow interests.[79]

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[75] J. Adam Brockwell, *Kurdish Conflict in Baathist Iraq*.
  http://www.oppression.org/middleeast/kurdish_history.html.
[76] C. J. Edmonds (1971). '*Kurdish Nationalism',* Journal of Contemporary History. Vol. 6, No. 1. Pp 87-107
[77] Nezan Kendal (2014). *A Brief Survey of the History of the Kurds.*
  http://www.institutkurde.org/en/institute/who_are_the_kurds.php.
[78] *Ibid.*
[79] Author's interview (2016) with Dr Mahmoud Ali Othman. Leading member of the Iraqi National Assembly.

Modern Kurdish nationalism

The beginnings of modern Kurdish nationalism can generally be traced to the 19th century when, under the rule of the Ottomans, Kurdish elites sought to renew their people's perception of their cultural distinctiveness after a full-blown and yet unsuccessful revolt against the Ottoman Sultanate.[80] For example, Haji Qadiri Koyi, a religious cleric and poet, attacked Kurdish elites for being indifferent to the suffering of their own people.[81] Koyi also advocated the use of publications in Kurdish as part of Kurdistan's social and political transformation.[82] Later. in the early parts of the 20th century, and also as a response to attempts by the founders of the new states in Turkey, Iraq and Iran to suppress the various Kurdish languages, Kurdish elites would similarly support a campaign of linguistic education among the people as a way of showing Kurds that they shared a common political fate tied to their ethnicity.[83] Kurdish literary nationalism was also evident in the creation of an internationally circulated Kurdish language newspaper in 1897,[84] the emergence of a Kurdistan literary club in Suleymania, and in the publication of several periodicals and volumes of poetry in Kurdish.[85]

The defining moment of modern Kurdish nationalism, however, was the dissolution of the Ottoman Empire. As members of the empire, the Kurdish peoples had largely been treated as equals among the majority Muslim members of the Sultanate. But as the empire crumbled, Kurds were forced to shift their political thought from acceptance in the generally tolerant empire to agitation for a sovereign Kurdish nation state as similarly demanded and eventually obtained by the Arab and Turkish populations in the Empire.[86] As well as competing demands among Turkish and Arab Nationalists, there was a scramble between France and Britain for mineral-rich territories within the failing empire. The Arabs made bargains with the European powers on the creation of future nation-states. The Kurds, on the other hand, somehow naively relied on the goodwill of the same powers (US, Britain, France and Italy) to achieve the dream

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[80] C.J. Edmonds (1971). Kurdish Nationalism Journal of Contemporary History. *Vol. 6, No. 1, Nationalism and Separatism*, pp. 87-97, 99-107.

[81] Amir Hassanpour (1993). '*The Pen and the Sword: Literacy, Education and the Revolution in Kurdistan' in Anthony Welch and Peter Freebody (eds.), Knowledge, Culture and Power*, International Perspectives on Literacy as Policy and Practice.London: Falmer Press, pp. 36-57.

[82] Amir Hassanpour, '*The Kurdish Experience'* Middle East Research and Information Project. http://www.merip.org/mer/mer189/kurdish-experience

[83] Jaffer Sheyholislami '*Language and Nation-Building in Kurdistan-Iraq'*, Paper presented at the Middle Eastern Studies Association 43th Annual Meeting, Boston, MA, USA, November 21-24, 2009 http://www.kurdishacademy.org/?q=node/712

[84] C. J. Edmonds: *Kurdish Nationalism*. Journal of Contemporary History Vol. 6 No. 1 (1971) pp87-107

[85] *Ibid.*

[86] *Ibid.*, p. 90.

of a sovereign, independent Kurdistan.

The initial chance for an eventual Kurdish state looked bright. The Western powers – the United States and Britain in particular – expressed credible sympathy towards the Kurdish people's aspiration for a state of their own. This was captured both in Woodrow Wilson's so-called 14-point outline on ethnic self-determination and autonomy and also in the Treaty of Sevres.[87] Point XII of Woodrow Wilson's document, while assuring the 'Turkish portion of the Ottoman Empire secured sovereignty', recognised in equal measure 'security of life and an absolutely unmolested opportunity of autonomous development' for "other nationalities [like the Kurds] under Turkish rule".[88] The Treaty of Sèvres – the basis and terms of peace between the Allied Powers and the Ottoman Empire – provided for a future sovereign, independent Kurdistan. But before provisions in either document could be implemented, the Turkish war of independence broke out. Kurdish religious traditionalists took sides with their fellow non-Kurdish Muslims against the Greeks towards the liberation of Anatolia following promises by the Turkish nationalist, Mustafa Kemal, that the cultural and ethnic identity of Kurds would be respected and protected in a future state of Turks and Kurds. At the conclusion of the war,

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[87] 'Timeline: Iraqi Kurds', BBC News, 19 April 2011
http://news.bbc.co.uk/1/hi/world/middle_east/country_profiles/2893067.stm See also text of the Treaty of Sèvres and Lausanne:
Article 62
A Commission sitting at Constantinople and composed of three members appointed by the British, French and Italian Governments respectively shall draft within six months from the coming into force of the present Treaty a scheme of local autonomy for the predominantly Kurdish areas lying East of the Euphrates, south of the southern boundary of Armenia as it may be hereafter determined, and north of the frontier of Turkey with Syria and Mesopotamia, as defined in Article 27, II (2) and (3). If unanimity cannot be secured on any question, it will be referred by the members of the Commission to their respective Governments. The scheme shall contain full safeguards for the protection of the Assyro-Chaldeans and other racial or religious minorities within these areas, and with this object a Commission composed of British, French, Italian, Persian and Kurdish representatives shall visit the spot to examine and decide what rectifications, if any, should be made in the Turkish frontier where, under the provisions of the present Treaty, that frontier coincides with that of Persia".
Article 63
The Turkish Government hereby agrees to accept and execute the decisions of both the Commissions mentioned in Article 62 within three months from their communication to the said government".
Article 64
If within one year from the coming into force of the present Treaty the Kurdish peoples within the areas defined in Article 62 shall address themselves to the Council of the League of Nations in such a manner as to show that a majority of the population of these areas desires independence from Turkey, and if the Council then considers that these peoples are capable of such independence and recommends that it should be granted to them, Turkey hereby agrees to execute such a recommendation, and to renounce all rights and title over these areas. The detailed provisions for such renunciation will form the subject of a separate agreement between the Principal Allied Powers and Turkey. If and when such renunciation takes place, no objection will be raised by the Principal Allied Powers to the voluntary adhesion to such an independent Kurdish State of the Kurds inhabiting that part of Kurdistan which has hitherto been included in the Mosul vilayet". Taken from: http://www.hri.org/docs/sevres/part3.html
[88] President Woodrow Wilson's 14 Points (8 January, 1918) https://history.state.gov/milestones/1914-1920/fourteen-points

however, Atatürk abandoned his promises: Woodrow Wilson's 14 points and document and the Treaty of Sevres were replaced with the Treaty of Lausanne. The envisaged independent Kurdish state was gone for good. By 1925, Kurds had been shared among Turkey, Iraq and Syria, and permanently stripped of the cultural autonomy they had been enjoying in the Ottoman Sultanate. Their lands [constituting 'Kurdistan'] were likewise parcelled out among the same states. One result of this was a permanent loss of contact and interaction among the Kurdish peoples, as expressed in nomadic sub-Kurdish groups' loss of unrestricted movement across the Mesopotamian Plains.[89]

Feeling thus betrayed by the West and hemmed in by the Turks, Persians and Arabs, the Kurdish people, led by their "landlords, tribal chiefs, sheikhs and urban-based intellectuals resorted to armed insurrections against their new states".[90] Notable among these was the uprising against British rule in 1923 and the unsuccessful creation of a 'Kurdish Kingdom' in Iraq by Shaykh Mahmud Barzinji,[91] an uprising under Shaykh Said (in the area between the Euphrates on the west and Lake Van on the east in 1925), Ihsan Nuri and former Ottoman officers (in the extreme north-east between 1930 and 1931) and a third uprising under Sayyid Riza of the Dersim region in I937).[92] The modern Turkish state experienced three serious Kurdish rebellions within the first 15 years of its birth, the suppression of one of which was to lead to the massacre of Dersim (It is often described as genocide).[93] Iran, by then under the rule of the Reza Shah Pahlavi, also experienced rebellions by Kurdish nationalists. In a series of military setbacks, Iran lost to its Kurds control of lands it had seized from them in 1918. These lands hosted the short-lived Mahabad Kurdish Republic in 1946. Kurdish revolts struck fear in the hearts of the three countries – Iran, Iraq and Turkey – so much so that they cast aside the enmity between them to devise a common strategy under the Treaty of Saadabad in 1937 to deal with the common Kurdish 'problem'.[94]

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[89] Elizabeth Austin (2014). '*Iraq's Instability Offers Kurdistan an Opening for Independence',* International Policy Digest (August 4, 2014) http://www.internationalpolicydigest.org/2014/08/04/iraq-instablity-kurdistan-independence/

[90] Amir Hassanpour, '*The Kurdish Experience'*, Middle East Research and Information Project http://www.merip.org/mer/mer189/kurdish-experience

[91] 'Iraqi Kurdistan profile: Timeline', BBC News, January 20 2015 http://www.bbc.co.uk/news/world-middle-east-15467672

[92] Robert Olson (2000). *The Kurdish Rebellions of Sheikh Said (1925), Mt. Ararat (1930), and Dersim (1937-8): Their Impact on the Development of the Turkish Air Force and on Kurdish and Turkish Nationalism. Die Welt des Islams.* New Series, Vol. 40, Issue

[93] *Ibid.*

[94] Michael M. Gunter (1992). '*Foreign Influences on the Kurdish Insurgency in Iraq'*. Conflict Quarterly, Fall (1992) p. 7.

The various rebellions and attempts at state creation by Kurdish nationalists in the immediate aftermath of the Ottoman Empire were all crushed. The leaders of the uprisings were either hanged or deported from their Kurdish homelands.[95] However, within predominantly Kurdish areas in Iran, Iraq and Turkey, the failure of those early risings rather consolidated the Kurdish people's perception of themselves as an oppressed people. It facilitated the integration of human resources and political interests within and across Kurdistan towards the pursuit of more nationalist agendas.

For the first time in the modern history of the Kurdish people, thus, the intellectual elite and traditional political figures joined hands to agitate for the same form of a state that had arisen from the ashes of the Ottoman Empire (e.g. Iraq, Syria,= and Turkey). The Society for the Revival of Kurdistan was in this regard representative of the spirit of Kurdish nationalism of the era. With the input of its urban-based bourgeoisie and intellectual elite, it managed to proclaim an independent Mahabad Republic Iran in 1946. There was evidence that Kurdish nationalism was adapting itself to modern political thought and the European influence in Middle-Eastern politics.

In Iraq, the educated Kurdish elite and urban-dwellers, the chiefs, Sheiks and landowners in charge of traditional political structures united against the state. In 1964, Mustafa Barzani, representing rural-based, traditional political chieftains and clans in Kurdistan, and some educated Kurdish elites (including military officers) teamed up to form the Kurdish Democratic Party (KDP). The Mahabad influence was further to be felt by the fact that Mullah Mustafa Barzani had fought as a guerrilla fighter in Iran in the failed attempt to defend the republic of Mahabad from the Iranian state's forces.[96] There was yet another international dimension to the KDP's set-up: the educated members of the party were mostly Marxists. Effectively then, the KDP represented a marriage of urban and rural-based political interests, and for that matter, the broadening of Kurdish nationalism beyond its ethnic ideological beginnings[97].

But even with these developments, the traditional institutional memory of past achievements and related privileges and goodwill continued to dominate other power networks and strategic choices within the Kurdish nationalist groupings. The choice of Mullah Mustafa Barzani as the

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[95] For Iran, see Abbas Valli (2014). *Kurds and the State in Iran: The Making of Kurdish Identity*, London: I.B Tauris, Chapter One.

[96] Gerard Chaliand, *A People without A Country. The Kurds and Kurdistan*, London: Zed 1993, pp. 131-133.

[97] Author's interview (2013). with former leader of the Iranian Kurdistan Democratic Party, Abdullah Hassan Zadah.

leader of the KDP was an acknowledgement of the central stage occupied by the Barzanis in the history of Kurdish nationalism.[98]

The KDP's struggle against the Iraqi state lasted for more than six decades. A pattern of tepid detente and generally fractious Kurdish-Iraqi state relations would also develop over that period: every new government would initially either seek to solve "the Kurdish problem once and for all", and, accordingly, launched a series of attacks on Kurdish guerrilla forces, leaders and villages. The failure of such campaigns would be followed with offers of autonomy and expanded political rights to Kurds. On a few occasions, there would be initial peaceful overtures and promises of autonomy to Kurds, which would not be honoured, prompting Kurds to either boycott the political process or resort to violence against the repressive state[99]. For example, one key moment in relations between Kurds and the Iraqi state under Saddam Hussein in the 1970 included the conclusion of an agreement between the two parties (Saddam's government and Barzani's KDP) in which the Kurds were promised recognition as a distinctive group and autonomy. But the promises were broken and Kurds resumed their violence against the Iraqi state (this time with the initial support of the USA and Israel), which would lead to eventual KDP support for Iran in their eight-year war with Iraq.[100] The Anfal and the post-Persian Gulf War reprisals against the Kurdish people were some of the punishments Saddam's government meted out on the Kurdish peoples for fighting against the Iraqi state.[101] The brutalities, however, backfired: the aggression of the Iraqi state ultimately secured the Kurdish peoples a *de facto* state in the form of the KRG. Whether that will eventually lead to the creation of a sovereign Kurdish state is discussed in the second half of this thesis.

Kurdish internal disunity: A recurring subplot of Kurdish nationalism

Based on their experience as a serially persecuted and economically marginalised people, it would be reasonable to expect Iraqi Kurds to always demonstrate a united front in their nationalist agitations. The contrary, however, has been the fact throughout the history of post-Ottoman politics in Iraqi Kurdistan. Although external divisive influences have been partly to blame for this fact, the lack of political unity amongst the Kurds can be primarily traced to a

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[98] For a brief history of the role of the Barzanis in Iraqi Kurdish nationalism, see Pierre Le Beller, 'Profile of Masoud Barzani, a life in the service of Kurdistan', Kurdistan Regional Government. http://www.gov.krd/a/d.aspx?a=45390&l=12&r=73&s=010000
[99] Author's interview (2013) with Nechirwan Barzani, the KRG's Prime Minister.
[100] *Ibid.*
[101] Michael M. Gunter (2011*). Historical Dictionary of the Kurds.* Second ed., Oxford: Scarecrow Press, p. 127

host of 'internal factors': tradition and tribalism; religion, class struggle and ideological differences, and the selfish ambitions on the part of the early political leaders of the Kurdish movement.[102] The intrusive and sometimes outright imperialist politics of the powerful states in the Gulf region, together with the Great Powers' rival interests in the Middle East, have been the main catalyst of the sustained disunity among the Kurds.[103] These factors, however, need to be discussed holistically to enable a fuller understanding of the magnitude and impact of the lack of unity among Iraqi Kurds. That will be done through a discussion of the phenomena in their internal and external facets.

Early signs of division in Kurdish political history: internal factors

The period between the dissolution of the Ottoman Empire and the creation of Iraq as a British colony, as has already been explained, marks the beginning of modern Kurdish nationalism. Iraqi Kurdish agitation, however, could be said to have attained a definite organisational form within the context of Iraqi Kurds' participation in the politics of the short-lived Republic of Mahabad. It was to lead to the formation in 1946 of the Kurdistan Democratic Party (KDP), the 'preeminent' political party in 'modern Kurdish history'.[104] At its first congress in Bagdad, the KDP members elected Mulla Mustafa Barzani as president of the party.[105]

The divisions that have bedevilled the Kurdish political leadership since then can be traced to the intra-party rivalry that ensued immediately after the formation of the KDP. The climax of the bickering and struggle for power in the party was the founding in 1975 of the KDP's longstanding rival in Kurdistan, the PUK under the leadership of Jalal Talabani. With the backing of the various tribal leaders in Kurdistan,[106] the KDP, until then, had assumed the status of being the Iraqi Kurds' official platform for the pursuit of self-determination in Iraq. The birth of the PUK splintered the Kurdish nationalist front. This marked the beginning of the inter-party rivalry and power play between the two parties.[107]

The rivalry between these two political parties has over the years erupted into bitter and

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[102] Author's interview (2016) with Ali Bapir, the leader of Kurdistan Islamic Group.
[103] *Ibid.*
[104] Michael M. Gunter (1996). '*The KDP-PUK Conflict in Northern Iraq'.* Middle East Journal, *50*(2), pp. 224-241, p. 226.
[105] *Ibid*, p. 226.
[106] S. Erkmen (2012). *'Key Factors for Understanding Political Dynamics in Northern Iraq: A Study of Change in the Region,*' Uluslararası Hukuk ve Politika, *87.*
[107] *Ibid.*

occasionally violence.[108] Even though Barzani's presidency was 'honorary' in nature – at least in the eyes of the intellectuals in the KDP – he considered himself the natural leader of Kurds and their spokesperson.[109] Barzani could justify this perception of himself with reference to his exploits as a guerrilla fighter and the leader of the Iraqi Kurdish forces that fought in the army of the Mahabad republic. But it is also possible to understand how the intellectuals and urban elites in the party would frown at such a perception of self. It can be concluded, therefore, that the personal egos of both Barzani and the intellectuals in the KDP were the main factors of the division in early Kurdish nationalist and party politics. It sowed the seeds of the conflicts that would crop up years later among Kurdish political leaders. The factors were somewhat personal in nature. Nevertheless, it rocked the political stability of the Kurds. It also presented outside forces with the opportunity to exploit the internal divisions to their benefit, and to the detriment of the Kurds' pursuit of self-determination.

The social, tribal, personality and ideological divide

The origins and legitimacy of Barzani's political power in Kurdistan derived originally from his standing as a traditional leader. His charisma as a leader was thus rooted in conservative, tribal politics. He, however, managed to transpose this power onto Kurdish national politics and eventually emerged the as the "guiding spirit of the Kurdistan Democratic Party (KDP)".[110] It helped to galvanise the largely rural Kurdish populations behind the nationalist cause. But political union between the urban socialites and the intellectual elite with Barzani had its drawbacks. Compared to their perception of their modern Marxist, ideological politics, the elites thought Barzani's to be a 'severe form of backwardness'.[111]

The divisions along social and tribal lines were also evident in Kurdistan. The Sorani-speaking tribe regarded itself as being among the sophisticated educated urban socialites, while Barzani's tribe (Badinan) was regarded as a people still living under traditional influences.[112] The differences in perceptions soon developed into differences in approach to the pursuit of

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[108] Michael M. Gunter (1996). '*The KDP-PUK Conflict in Northern Iraq Source*'. Middle East Journal, Vol. 50, No. 2 (Spring, 1996), pp. 224-241.

[109] Martin Van Bruinessen (1992). *Agha, Shaikh and State: The Social and Political Structures of Kurdistan*. London and New Jersey: Zed Books Ltd., p. 27.

[110] Michael M Gunter (2008). *The Kurds ascending: The evolving solution to the Kurdish problem in Iraq and Turkey*. New York: Palgrave MacMillan, p.13.

[111] Martin Van Bruinessen (1992). *Agha, Shaikh and State, The Social and Political Structures of Kurdistan*. London and New Jersey: Zed Books Ltd. p. 27.

[112] Martin Van Bruinessen (1992). *Agha, Shaikh and State, The Social and Political Structures of Kurdistan*. London and New Jersey: Zed Books Ltd. p. 27.

self-determination among the Kurds. Needless to say, the Kurds have been struggling since the split in the KDP to unite under a common leadership and political ideology.

The political groupings have been pursuing the quest for self-determination in line with their own regional and ideological interests, sometimes to the direct detriment of their opponents' interests. All the Kurdish political leaders and major parties have at one time or the other collaborated with perceived enemy regimes and states against their political opponents.[113] Although the two political parties have worked together in the past, they have also been involved in 'bloody conflict', and remain divided along "philosophical, geographical, dialect, and ambitious" lines.[114] Essentially, the internal division in the political structure and lack of unity amongst the Kurds can be described as one rooted either in religion, political party affiliation or tribalism. Iraqi Kurds have intermittently supported Baghdad-based governments against fellow Kurds who oppose the Iraqi state mainly as a result of "their tribal antipathies" against those rebelling against the state.[115] The tribal differences and rivalries were major factors in the collaboration of some Kurds with the brutal Baathist regime against their fellow Kurds.[116]

Another important factor in the internal rift within Kurdish party politics has been the fact that succession to leadership positions in Kurdish party politics has been dominated more by clan and family affiliations than by party structures.[117] The PUK dominated by the same clannish tendencies. In the absence of the ailing Jalal Talabani, his wife, Herro Ibrahim, has been acting as the de facto leader of the party. Talabani's son is also the person the PUK chose to fill the Deputy Prime Minister's position allocated to the PUK under the KRG's power arrangements.[118] The dominant role of the Talabanis in the PUK was one of the major factors to the creation of the Goran Party, the KRG's current major opposition.[119]

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[113] Author's interview with Hoshiar Abdullah, A member of leadership of the Change Movement and Iraqi Parliament.

[114] *Ibid.*

[115] Michael M. Gunter (2008). *The Kurds ascending: The evolving solution to the Kurdish problem in Iraq and Turkey*. New York: Palgrave MacMillian, p. 2.

[116] Author's interview (2016) with Hoshiar Abdullah, A member of leadership of Change Movement and Iraqi Parliament.

[117] Michael M. *Gunter* (2008*). The Kurds ascending: The evolving solution to the Kurdish problem in Iraq and Turkey*. New York: Palgrave MacMillian, p. 39.

[118] Author's interview with Hoshiar Abdullah, A member of the leadership of Change Movement and Iraqi Parliament.

[119] *Ibid.*

Lack of unity amongst the Kurds: the external factors

As already stated, there is also an external factor to the chronic political disunity among Kurds. This part of the thesis briefly evaluates the issues that have been driving this development. One of these is the physical location of the KRG: it necessarily enmeshes the Kurds in some of the major security, economic and political tensions within the Middle East and international politics. An independent Kurdish state carved out of Iraq would undoubtedly impact significantly on Turkey's, Iran's, Israel's, Saudi Arabia's and Russia's and the United States' economic and security interests in the Middle East

The nature of the regional and geopolitical tensions that would be raked up by the prospect of independent Kurdish statehood in the Gulf region are discussed comprehensively in the chapter on 'external reaction to Kurdish statehood', specifically in relation to a select number of countries – Iraq, Turkey, Iran and the US. Some of the important issues discussed in that context included the overly politicised and occasionally militarised Sunni-Shia divide in the Middle East which has been driving the rivalry between Iran and the Sunni states (e.g. Turkey and Saudi Arabia) and the regional policies of the states involved. Turkey and Iran, in particular, have been seizing on these issues to sow seeds of discord between the KRG's major political parties and between Kurds and some of the minority groups (e.g. Shias and Turkmen) within KRG's territory. Turkey's and Iran's fear of a potential contagion effect of KRG independence on their own Kurdish populations is also discussed in relatively more detail in that section of the thesis. As is widely acknowledged, the creation of a Kurdish independent state in Northern Iraq would embolden other Kurdish groups in the region to pursue their respective "cultural, social and even political autonomy, if not independence".[120] This has historically been reason enough for Iran, Turkey and Iran to intervene in Kurdish politics, mostly to deepen and exploit disagreements among Kurdistan's major political parties, ostensibly to prevent a possible Kurdish independence movement precipitating unrest among their own Kurdish populations. Iran and Turkey, in particular, have been tapping into other regional security and economic considerations and concerns to fuel conflicts in the KRG, as when they provided various forms of military support to the KDP and the PUK in the KRG's civil war in 1995.[121] Turkey's exploitation of the divisions it helped to create among

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[120] Author's interview (2016) with Professor Dlawar Ala'aldeen, President of the Middle East Research Institute.
[121] Michael M. Gunter (1998). *'Turkey and Iran Face Off in Kurdistan'*. Middle East Quarterly. March, vol. 5, pp. 33-40.

Kurdistan's major parties was quite remarkable: Having aided the KDP in the war with the PUK, Turkey would later launch a series of military interventions in the KRG allegedly to dislodge the PKK from Northern Iraq after it had entered the civil war as an ally of the PUK.[122]

Religious and political ideologies have also been a conduit for external forces to sow seeds of discord within the KRG's body politic. The role of Marxism and Arabism in the development of factionalism in Kurdish politics has already been discussed in other chapters in this essay. The Marxist factor, in particular, could be said to have been a benign factor for the sectional considerations that drove the founders of the PUK away from their more traditional or nationalist colleagues in the KDP. More recently, religion has been the ideology driving a wedge between the KRG's major political parties and some of the region's minorities. For example, the region's Islamist political party has been following a largely nonviolent path. Nonetheless, it is known to be supported by external Islamic groups from Turkey, Pakistan and Saudi Arabia. This complicates the KRG's pursuit of independence under one nationalistic banner.

Conclusion

This chapter has argued that the Kurds are a recognisable national group, and also that Kurdish identity has a long history. Since the 16th century, there has been discussion of an identity of 'the Kurds'. However, the main part of this chapter's argument has been to take a constructivist approach in support of the argument that a definite Kurdish identity manifested itself in the 20th century. Western powers, particularly the US, seemed to initially recognise the Kurds' right to a nation-state after World War I. However, the settlements which followed the ending of the Ottoman and German empires saw Kurdish hopes for a nation been set aside. The imperialist interests of the European great powers were an important factor in this context. Also of crucial importance was the rise of Turkey as a new nation-state. Ironically, the repression that followed this actually strengthened Kurds' perception of themselves as a national group. By the mid-20th century, Kurds in Iran, Iraq, Syria and Turkey were agitating for national political recognition. This later led to the creation of the Republic of Mahabad, whose struggles resulted in the founding of the KDP of both Iran and Iraqi Kurdistan. Mullah Mustafa Barzani's

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[122] Michael Williams and Hugh Pope (1997). Turkey Claims Success in Fight Against Kurds: http://www.wsj.com/articles/SB864768549742549000

KDP would become the vanguard nationalist platform for Kurds.

The discussion of Kurdish identity, nationalism and political disunity in Iraqi Kurdistan provide the canvass for the evaluation of the prospects of a future independent Kurdish state.

This chapter has, therefore, set out a framework for arguing the political case for a Kurdish nation. The next chapter takes this further by looking at the Kurdish experience in Iraq in the last two decades, an experience which shows further the political realities of a Kurdish national identity. The lack of disunity among Kurds and the tendency on the part of its major politicians and political parties to pursue their narrow parochial interests through alliances with known enemies of the Kurdish peoples undoubtedly have been major factors for the failure of Iraqi Kurds to achieve statehood. But, as argued in the section on 'internal capabilities', those issues are best seen as growing pains. The Kurds, in spite of their sense of nationhood, are not a monolithic group. Their disagreements and rivalries are thus a crystallisation of the realities behind the façade of a common Kurdish identity. Most importantly, Kurds have demonstrated the ability to put aside their differences and to speak with one voice on the issue of statehood. The political class has also demonstrated an increasing sense of maturity and tolerance of each other. It is hoped, therefore, that the Kurds will continue to rally around a constructed sense of nationhood to resolve their differences and pursue their dream of statehood in unison.

CHAPTER FOUR:
The Kurdish Right to Self-determination

Introduction

This chapter brings the thesis to its central argument, namely, that the most effective means to protect Kurdish peoples and their culture is to allow the KRG to become an independent state. The Kurdish argument for an independent state has been routinely articulated by others as the pursuit of freedom from the historically repressive and politically dysfunctional Iraqi state.

It is generally acknowledged that the KRG has evolved into a *de facto* state. Under the current Iraqi federal constitutional dispensation, and in view of the KRG's autonomous status, Kurds can be said to be enjoying the same magnitude of freedom and civil liberties guaranteed to citizens of liberal democracies. The KRG's *de facto* status has brought Iraqi Kurds unprecedented peace and fairly impressive economic progress. But *de facto* statehood cannot guarantee Kurds the maximum and durable protections they require to avoid a repetition of the repression and human rights abuses meted out by past Iraqi regimes. Iraq remains largely dysfunctional and is still prone to violent sectarian conflicts and political upheavals. The weak response of the Iraqi army to the vicious campaign of ISIS is a reminder of the Iraqi state's inability to protect the sovereignty and lives of its peoples. Kurdish people still live under the possibility of future attacks from the Iraqi state which, as is argued in many parts of this thesis, is hostile to the KRG's strivings for statehood. The Iraqi federal government has not explicitly threatened the KRG with violence despite the region's increasing rhetoric on the theme of independence, but that could also be because the Iraqi state has its hands full with the problem of ISIS. A less distracted Iraqi state may respond with violence to the KRG's increasing attempts at achieving economic sovereignty, regarded by experts as the prelude to the KRG's secession from Iraq in the foreseeable future. The KRG's resolve to secure the approval of the international community for becoming an independent nation-state thus remains a justified imperative.

However, the Kurdish people would need to make a case for the recognition of the KRG as a state. Kurds would be expected to rely mainly on political and legal arguments to achieve this goal. The political arguments for a KRG state are discussed in other parts of this thesis. In this chapter, I focus attention on the concept of 'self-determination' as a legal argument for the KRG to petition the international community for permission to secede from Iraq. Accordingly,

here I discuss the KRG's demand for statehood by examining the concept of self-determination, including unilateral secession, as one of the moves contemplated by Kurds in their pursuit of statehood.

Prior to the United Nations' General Assembly Resolution on the Granting of Independence to Colonial Territories and Peoples in 1960, 'self-determination' was understood as a political thought rather than as a legal right.[123] The current perception of the concept as a legal right had its beginnings in the above-mentioned resolution. The International Court of Justice in the Palestinian Wall Advisory Opinion described self-determination as "erga omnes: a right applicable to all and valid against all".[124] It is also stated to be "one of the essential principles of contemporary international law".[125] Kurds could also assert the right to external self-determination by relying on several provisions in transnational and international law instruments. In short, Kurds can pursue self-determination through several avenues and mechanisms under international law.

However, few communities in the post-decolonisation era have been able to exercise successfully the right to self-determination to secure statehood. This has been so regardless of the unjust socioeconomic circumstances and repressive political systems under which many aspirants to self-determination find themselves.

Nevertheless, the right to self-determination exists under international law. Communities of people seeking to create a state of their own routinely appeal to the concept as grounds to be granted permission to become a state. That opportunity avails itself to Iraqi Kurds, too, in their pursuit of statehood. In this chapter, I examine UN resolutions and charters, decided cases and other relevant international law to assess the Kurdish people's chances of obtaining statehood through the right to self-determination.

Traditionally, states react with disapproval at attempts by sections of their populations to seek statehood through secession. Past and current reactions of the Iraqi state to the KRG's strivings for independence suggest that a future proclamation of statehood by Kurds would most likely not have the approval of the state. The resolve by Iraqi Kurds to have their own state may thus lead to a unilateral declaration of independence from Iraq. The fact that the KRG would not have the permission and approval of the Iraqi state under such circumstances would not

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[123] Martin Dixon (2007). *Textbook on International Law*. 6th Edition. Oxford: Oxford University Press. p. 164.
[124] *Ibid.*
[125] *Ibid.*

necessarily stop Kurds from achieving their ambition of international recognition. There are precedents in international law for a community to achieve self-determination through unilateral secession.

As part of the requirements for recognition of a unilateral secession, however, a separatist community or group must prove that they satisfy numerous criteria spelt out in the various transnational legal instruments sanctioning unilateral secession under certain circumstances. For example, the KRG would need to prove that they are capable of running a viable state in accordance with the criteria of statehood. In this chapter, I will establish whether the Kurds meet the eligibility criteria for unilateral secession as specified under a select number of legal provisions dealing with the concept of external self-determination. I will also investigate whether the KRG meet both the objective and subjective (legal) elements of self-determination (secession) and the criteria for statehood under the Montevideo Convention.[126]

The essay will also briefly explore the feasibility of a future appeal to the principle of remedial right as a mechanism for Kurds to secede unilaterally from Iraq. It is readily acknowledged, however, that the odds in favour of a successful case for a Kurdish remedial right to self-determination are minimal under the prevailing political circumstances in Iraq and the KRG. Nevertheless, I will explore the issue given its attractiveness as a concept to those who support Kurdish statehood. The possibility that Iraq may fall into severe political crisis in the future, together with the possibility Iraqi state vicious attacks against Kurds, also make the issue of a remedial right germane to the examination of the KRG's options for the expression of external self-determination. It is argued, however, that under the prevailing conditions in the KRG and the rest of Iraq, several universal declarations of the international community and the United Nations would offer stronger support for the Kurdish right to self-determination than the remedial right approach.

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[126] The treaty was signed at the International Conference of American States in Montevideo, Uruguay, on 26 December 1933. It entered into force on 26 December, 1934. The treaty discusses the definition and the rights and duties of states.

The concept of self-determination: evolution

The early origins of the concept of self-determination have been traced in some contexts through its 'central precept' of equality from ancient Greco-Roman and Afro-Asian streams of thought.[127] Other accounts, however, cite the French Revolution,[128] and also the wars of independence across Latin America[129] as the earliest points at which organised pursuits of self-determination became clear. In fact, Becker Lorca argues that by the time of the First World War, there was a 'pre-history' of self-determination, with peoples using justice arguments to argue for their rights.[130]

Other manifestations of the concept or features of self-determination have been identified in the rhetoric of Vladimir Lenin, a leading figure in the Russian Revolution of 1917, and in the political thoughts of the US President Woodrow Wilson (as expressed in his contribution to international peace efforts after World War I). The statements on self-determination by the two statesmen reflected the turbulence of the times, and the substantial influence the political ideologies of the two countries were to exert on the creation of states and national borders in the 20th century. Soviet leaders such as Lenin argued that colonialism contradicted the importance of self-determination. Socialists argued for the right of minorities to autonomy within existing states, and even outright secession where such rights are supressed.[131] The socialist rhetoric on self-determination, however, was not replicated in practice. Soviet leader Joseph Stalin for instance, subordinated the principle of the right of self-determination to the success of the socialist revolutionary struggle.[132]

US President Woodrow Wilson gained recognition for his speeches and ideas on self-determination at the end of the First World War. Wilson believed that national movements had been a core part of political instability in Europe before the ware, and that it was imperative to accept rather than stop this movement. Under Wilson, therefore, the USA was sympathetic to the idea of new nation-states coming into being. In practice, however, Wilson's rhetoric, just like that of the Soviets, did not match his approach to self-determination. After promising

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[127] S. James Anaya (1996). *Indigenous Peoples in International Law*. Oxford: Oxford University Press p. 76.
[128] Antonio Cassese (1995). *Self Determination of Peoples, A legal reappraisal*. Cambridge University Press, p. 11.
[129] Kristina Roeppstorff (2013). *The Politics of Self Determination*. London: Routledge, pp. 10-11.
[130] Arnulf Becker Lorca (2014*). 'Petitioning the International: A "Pre-history" of Self-determination', European Journal of International Law, 25(2),* pp. 497-523.
[131] Antonio Cassese (1995). *Self Determination of Peoples, A legal reappraisal*. Cambridge University Press, p. 21.
[132] *Ibid.* pp.15-19.

nations such as Kurds independence, he cooperated with Britain and France in dividing up the Middle East (the Sykes-Picot Agreement being the most well-known outcome) into territories, which then became colonial states with minorities such as the Kurds.

On the other hand, Wilson's 14-point proposal for world peace contributed to the concept of self-determination evolving into a legal right. More significantly, his speeches and position on the subject played a key role in the creation of the League of Nations in 1919. The League had as an aim the promotion of international stability and preserving the peace. Even though the USA did not join the league due to isolationist opposition from Congress, it helped to establish self-determination as an international issue.[133] The League of Nation's mandate system for the administration of colonial territories of the defeated states in the First World War played a pivotal role in the liberation of colonised territories and peoples.[134]

On the other hand, the major powers, although committed to respecting each other's territorial integrity and international rights, nonetheless denied non-Western peoples similar rights.[135] For example, the plea of black emancipatory movements and international political activists (e.g. Marcus Garvey and W.E.B. Du Bois) to be allowed to establish an autonomous, self-governing territory in parts of Africa was rejected on the grounds that 'self-determination' under the auspices of the League of Nations applied only to states and not 'peoples'.[136] Similarly, many non-Western territories (many of them still under colonial rule) were denied membership of the League because, as was argued, they either did not constitute genuine states or did not conform to the standards of 'civilisation' required of states, or both.[137] The issue of self-determination thus came to be tied to Western-centric concepts (e.g. 'statehood'/Western notion of 'civilisation'), which were then used to deny membership of the League of Nations (and for that matter, statehood) to non-Western nations and peoples.[138]

At the end of the Second World War, the issues of political autonomy and independence for peoples around the world had become major ones in the realms of international law and international relations. The victorious allies had fought the war on a set of principles set out in

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[133] Office of the Historian, US Department of State. *The League of Nations (1920). Milestones: 1914–1920*: https://history.state.gov/milestones/1914-1920/league
[134] Charles Townshen (2011). *The League of Nations and the United Nations*. BBC History. www.bbc.co.uk/history/worldwars/wwone/league_nations_01.shtml
[135] Arnulf Becker Lorca (2014). '*Petitioning the International: A 'Pre-history' of Self-determination'*. European Journal of International Law 25(2), pp. 497-523.
[136] *Ibid.* pp. 499-504.
[137] *Ibid.* pp 504-9.
[138] Ibid pp. 509-12.

the Atlantic Charter in 1942. This included a commitment to solving future problems peacefully and securing peaceful cooperation between states. In 1943, it was agreed to establish an international organisation after the war to ensure the stability of the system, and in 1945, the 'United Nations' (UN) organisation was founded at a conference in San Francisco.[139]

It was expected that this new transnational global body, the United Nations – which replaced the League of Nations as the forum for peaceful inter-state relations and settling of intra-state grievances – would become the context for the resolution of agitations, with the potential to create new and split existing states. Thus, the UN's incorporation of the notion of self-determination in its Charter (article 1(2) and article 55) as a right was expected. The concept was further adopted in the 1970 Declaration on Friendly Relations and Cooperation Between states (s94), the Helsinki Final Act adopted by the Conference on Security and Co-operation in Europe (CSCE) in 1975, the African Charter of Human and Peoples' Rights of 1981, the CSCE Charter of Paris[140] and the two major Covenants on Rights ICCR (Art. 1) and ESCR (Art. 2). Self-determination is now seen as part of customary international law.[141] The link between the UN's charter and the evolution of the concept of, and right to, self-determination was established through the leading role the court and other documents played in the attainment of political independence of previously colonised countries, the majority of which were in Africa. Specifically, the inclusion of self-determination as a right in the UN Charter is widely considered to have acted as a motivation and legal argument by many states in Africa and Asia to achieve independence. The mass decolonisation of Asia and Africa thus went further to enhance the evolution of the concept of self-determination into *jus cogens* in international law – a core principle which cannot be overturned.[142] The UN's influence on the development of the concept of self-determination was also to be discerned in the central feature the concept has acquired in the charters and legal instruments of many regional and transnational bodies.

The inclusion of 'self-determination' in the UN's Charter, however, generated new controversies, the main one being whether the concept was a legal *right* or merely a *principle*. There was nothing in the Charter that recognised 'self-determination' as a legal tool or mechanism.

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[139] Beneditto Conforti (2003). *The Law and Practice of the United Nations*. Third Edition. Martinus Nijhoff. pp. 1-7.

[140] Mahmoud Abbaker Suleiman (2011). *Darfur, A Crisis of Identity & Governance*. Author House, p. 343.

[141] Beneditto Conforti (2003*). The Law and Practice of the United Nations.* 3rd edition. Leiden: Martinus Nijhoff, p. 263.

[142] Malcolm Shaw (2003). *International Law*. Cambridge: Cambridge University Press, p. 189.

The right to self-determination provided under the aegis of the UN and other transnational authorities is nearly always limited to an existing recognisable territory under foreign control. One early example of this after the end of the Cold War was Namibia. It had been under the trusteeship of South Africa since 1918, and the South Africans had refused to cede independence. But by the end of the 20th century, the idea of self-determination as a legal right for colonised peoples and for 'people perceived to constitute a nation' had gained near universal acceptance. The point was established in a series of judgments of the International Court of Justice, beginning with the Namibia case where the concept was confirmed as a right. Subsequent negotiations between South Africa and Namibian national groups supervised by the UN led to Namibian independence. Self-determination as a legal right was further affirmed in the cases of Western Sahara and East Timor (both were under foreign occupation). The issue was whether other categories of political and human groups (apart from 'colonised peoples' and 'peoples constituting a nation') were also entitled to invoke the right to self-determination.[143] *Partial* settlement of the question also came from the ruling in the Aaland Islands case, where it was affirmed that ethnic and national minorities were not entitled to external self-determination as a right.[144] Currently, however, the general view is that self-determination is a legal right to which all people, including selected minorities and indigenous people, are entitled.[145]

The system at present is not consistent and is generally acknowledged to be influenced significantly by politics. The allocation of a seat at the United Nations to Monaco, as an example, and the denial of the same to Kurds reflects this fact. Also , the status quo works with received ethnic designations that sometimes perpetuate past injustices. Consequently thus, in the acceptance of Stalin's policy of national delimitation[146] under which the various ethnicities in the erstwhile Soviet Union were afiirmed, some groups(e.g. Uzbeks and Armenians) are able to escape from Russian subjugation while depriving some others (e.g. Chechens) of the right to self-determination. The inconsistency in the application of the law on self-determination can be seen across the spectrum of issues constituting the context of 'self-determination' under international law.

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[143] Helen Quane (1998). '*The United Nations and the Evolving Right to Self Determination'.* International and Comparative Law Quarterly, 47*(3),* p. 327.

[144] Collectively, the islands in the archipelago form the smallest region of Finland, affirmed by a decision made by the League of Nations in 1921 following the Åland crisis.

[145] Caroline Foster (2001). '*Articulating Self-Determination in the Draft Declaration on the Rights of Indigenous Peoples'*. European Journal of International Law, pp. 141-157.

[146] Patricia Carley (1996). Self Determination. *Report from a Roundtable Held in Conjunction with the US State Department Police Planning Staff Washington*, DC: United States Institute of Peace, p. 2.

Self-determination as a legal concept: definitions and dimensions

'Secession' as a concept is approached from diverse disciplinary perspectives (e.g. law, economics, politics and international relations). The concept can thus attain different meanings and interpretations even within the same discourses.[147] From a legal perspective, however, Foster has defined self-determination as "the idea of a community's right to control its own future, and thus physically survive and prosper to its fullest extent."[148] Quane, on the other hand, describes the right to self-determination as the right of peoples to determine their international status and self-government.[149] However, Article 1 of the International Covenant on Civil and Political Rights (1966) establishes not only 'self-determination' as a legal right, but also specifies how or on what terms it may be realised in practical situations: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."[150] It is generally, agreed, however, that there are two types of self-determination: *internal self-determination*, in which the process is directed internally to a state which is seen as oppressing a certain cultural, ethnic or religious group; and *external self-determination*, in which a separatist entity may seek independence as a state and aim at full recognition by other states under international law.

In many contexts, and especially with regard to people living in democratic states, the application of the right to self-determination is understood and applied in *internal* terms. However, there is nothing stopping a group from trying to secede from a larger entity as long as this is done peacefully.[151] Recently, Kosovo and South Sudan relied on the right to external self-determination to achieve independence. It will be argued below that under certain conditions, the Iraqi Kurds could secede from Iraq without the permission or consent of the Iraqi state.

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[147] Peter Radan (2007). *The Definition of Secession.* Macquarie Law Working Paper Series WP 2007-3, p. 1

[148] Caroline E. Foster (2001). 'Articulating Self-Determination in the Draft Declaration on the Rights of Indigenous Peoples*'. European Journal of International Law,* Vol. 12, No. 1, p. 142.

[149] Helen Quane (1998). *'The United Nations and the Evolving Right to Self Determination'*. International and Comparative Law Quarterly, Vol. 47, No. 3, p. 537.

[150] International Covenant on Economic, Social and Cultural Rights:

http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx

[151] Ralph Wilde (2001). *Accordance with International Law of the Unilateral Declaration of Independence in Request of Kosovo,* The American Journal of International Law, Vol. 105, No. 2 (April 2011), pp. 301-307.

This fact brings the statehood aspiration of the KRG under the issue of 'secession' as it pertains under international law. In some instances, external self-determination could imply the right to unilateral secession.[152] Many insurgent and nationalist groups (e.g. the Fretilin in East Timor and the Kosovo Liberation Army) have used the concept to realise the right to statehood, which almost always involves secession from territories of existing states. This facility, it is argued, is also available in some international legal instruments for Kurds to pursue statehood.

In the next section, I discuss the concept of 'secession' and whether, given the experiences of the Kurdish people in Iraq and how the Iraqi state has been conducting itself, especially in relation to its Kurdish citizens, the KRG can realistically rely on non-violence and international law for the realisation of its ambitions of statehood.

Will a unilateral secession by the KRG from Iraq be in accord with international law?

The previous discussion concluded with the recognition that 'secession' is one of the forms by which 'self-determination' manifests itself in practical contexts. However, there are issues about the legality of secession as a means for certain groups to assert their independence. For example, there is no official definition of the concept of 'secession' in 'treaty law', UN declaratory General Assembly resolutions or 'virtually all international legal instruments'.[153] Experts also agree on the extreme difficulty in delineating the contexts and exceptional cases in which the legal right to external self-determination trumps the principle of the inviolability of state boundaries.[154] Moreover, the definition of 'peoples', on which the ability of groups to exercise the right to self-determination revolves, is vague.[155] Most significantly, international law is also silent on the question of whether 'sub-state entities' (e.g. the KRG) can legally secede from an existing state.[156]

Whether certain groups (e.g. Iraqi Kurds) can use secession as a right to achieve independence within the context of international law is also an issue. Experts also disagree on the question as to whether the KRG or any separatist or secessionist entity forming part of an existing

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[152] Lee Seshagiri (2010). 'Democratic Disobedience: Reconceiving Self-Determination and Secession at International Law', *Harvard International Law Journal,* 51, p. 533.

[153] Glen Anderson (2013). *'Secession in International Law and Relations: What Are We Talking About?'*, Loyola of Los Angeles International and Comparative Law Review, Vol. 35, pp. 343-386.

[154] *Ibid.*

[155] *Ibid.*

[156] Peter Roethke (2011). *'The Right to Secede Under International Law: The Case of Somaliland'.* Journal of International Service, 37, p. 4.

sovereign state can rely on international law for a definitive answer to its quest for independent statehood. The discussion has already touched on UN Secretary General U Thant's claim that the UN categorically rejects the dismemberment of a member state in the creation of a new state. However, the UN has recognised the secession of new states like East Timor from Indonesia and South Sudan from Sudan. Nevertheless, the question remains open as to whether international law definitively sanctions secession.

On the one hand, it has been argued, with reference to positive law, that international law strongly frowns on the violation of the territorial integrity of states, the end purpose of secession. Some positive law documents and texts support this view.[157] Many major international instruments – e.g. the UN declarations on the right to self-determination – do not categorically consent to the exercise of secession as a right.[158] It has also been asserted, that since its inception, the UN has yet to recognise a unilateral secession opposed by a host state.[159] An example was the attempt by the province of Katanga to secede from the Congo. From the rejection of Katanga's attempts to secede from Congo in the 1960s up to the cases of Cyprus, Armenia and Georgia in the 2000s, the UN has been consistent in its opposition to secession.[160]

Under customary international law also, self-determination (i.e. self-governance) was a right extended to colonised peoples only.[161] With regard to existing states, the right to self-determination was perceived to be concerned only with the freedom to choose leaders and forms of government without the intervention or interference of outsiders.[162] The Åland case,

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[157] Glen Anderson has listed the following as notable examples: the Declaration on the Granting of Independence to Colonial Countries and Peoples, G.A. Res. 1514, 15 U.N. GAOR Supp. (No. 16) at 66,67, U.N. Doc. A/4684 (1960): "Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations"; the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the U.N., G.A. Res. 2625, 25 U.N. GAOR Supp. (No. 28) at 124, U.N. Doc. A/8028 (1970): "Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour": Glen Anderson (2013). 'Secession in International Law and Relations: What Are We Talking About?', *Loyola of Los Angeles International and Comparative Law Review,* Vol. 343, pp. 343-386.

[158] Nikolaos A. Ioannidis (2014). *The Constitutional Prohibition of Secession under the Prism of International Law: the cases of Kosovo, Crimea and Cyprus* (19 November 2014) http://www.lawphdconference.ed.ac.uk
[159] *Ibid.*
[160] George Nolte (2006). *Secession and Intervention. In Marcelo G. Kohen (ed.) Secession: International Law Perspectives*. Cambridge: Cambridge University Press. pp. 68-69.
[161] Nikolaos A. Ioannidis (2014). The Constitutional Prohibition of Secession under the Prism of International Law: the cases of Kosovo, Crimea and Cyprus *http://www.lawphdconference.ed.ac.uk (19 November).*
[162] Jonas Wolff (2014). *The Question of Self-determination in International Democracy Promotion,* Peace Research Institute of Frankfurt Working Paper No. 19. pp. 2-6.

however, showed that it was possible to consider the applicability of the right to self-determination outside the context of decolonisation. There have been many instances in which the territorial integrity of existing states has been threatened by groups wishing to form new states from territories forming parts of their parent states. The number of new states formed through separatist agitations and added to the community of states since the end of the Second World War is evidence of this.[163] It, thus, became imperative to consider the possibility that some of the agitations had merits and required the attention of the law. That also brought to the fore the inherent conflict between, on the one hand, the recognition of the right to self-determination in certain contexts, and on the other, the principle of inviolability of state sovereignty and territorial integrity under international law. A balance had to be struck between upholding both principles. The compromise was that the right to self-determination under non-colonial contexts was not absolute.[164] According to Vidmar, the eventual compromise consisted of the requirement that separatist groups, either before or after a unilateral declaration, must have the consent of the parent state for the secession to be legal under international law.[165]

Furthermore, the same text in which the United Nations guaranteed the territorial integrity of states also required states to respect the fundamental human rights of their subjects, qualifying thereby the principle of inviolability of states' territorial integrity.[166] Some experts are of the opinion that this requirement yielded the principle of remedial secession. The main issue arising in cases of secession was whether the aspirant separatist group's rights had been severely violated to make their continued membership of a parent state morally untenable.[167]

According to one view, secession may be legal if:

> (1) it shall concern people in territories that are subject to decolonisation; (2) it shall be envisaged by the national legislation of the parent state concerned; (3) the territory inhabited by a certain people should be occupied or annexed after 1945; (4) the secessionists shall be "a people"; (5) their parent state shall flagrantly violate their human rights and (6) no other effective remedies under

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[163] Bruno Coppieters and Richard Sakwa (2003). *Contextualizing Secession: Normative Studies*. Oxford University Press, p. 1.

[164] Jure Vidmar (2010). *'Remedial Secession in International Law: Theory and (Lack of) Practice'*. St Antony's International Review 6(1), pp. 37–56.

[165] *Ibid.*

[166] *Ibid.*

[167] Bruno Coppieters and Richard Sakwa (2003). *Contextualizing Secession: Normative Studies*. Oxford University Press, p. 3.

national or international law may exist, if any of these conditions are met.[168]

From this perspective, remedial secession becomes a correction of wrongs suffered by a group at the hands of a parent state, and is most notably understood as a 'last resort argument' when no other alternatives were available.[169] Thus, to gain the permission of the law and the recognition of the international community, a separatist group would need to show in one way or the other that it has exhausted other reasonable means of conflict avoidance or resolution before pursuing a secessionist route.[170] Importantly, however, it was recognised that a state's offer of a peaceful settlement of a secessionist attempt by one of its groups may come too late[171] after previous severe or gross human rights violations.[172] Serbia's offer of autonomy to Kosovo was judged as such: the previous violence had rendered Kosovo's attempts at secession irreversible. Kosovo thus became a partially recognised state.

The Canadian Supreme Court reached a similar conclusion in 1998 in its advisory opinion on Quebec's quest to secede from Canada. While recognising the "legitimacy of a negotiated secession",[173] the court also emphasised the inadequacy of Quebec's grounds for secession, specifically in the fact that it was part of a democratic state that guaranteed its people all fundamental rights, that is, freedom to pursue and achieve political, cultural, economic and social development.[174] The court reiterated the point that external self-determination was accessible to minorities of an existing state, and that the right could develop under circumstances wherein the minorities were subjected to severe oppression and persecution by their parent state. In Loizidou v Turkey, the European Court of Human Rights also recognised the legality of external self-determination where the separatist group had been "massively underrepresented in an undemocratic and discriminatory way". For Vidmar, this amounted to a recognition of "the right of self-determination in the form of secession and consequently, a

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[168] Anna Stepanova (2014). *International law and legality of secession in Crimea,* Cambridge Journal of International and Comparative Law (blog 20 April). http://cjicl.org.uk/2014/04/20/international-law-legality-secession-crimea/

[169] Thomas W. Simon (2011). '*Remedial Secession: What The Law Should Have Done, From Katanga to Kosovo*', University of Georgia Journal of International and Comparative Law, Vol. 40, No. 1, p. 105; Allen Buchanan, Theories of Secession:
http://philosophyfaculty.ucsd.edu/faculty/rarneson/BuchananTheoriesofSecession.pdf

[170] *Ibid.*

[171] *Ibid.*

[172] *Ibid.*

[173] Susanna Mancini (2008). '*Rethinking the boundaries of democratic secession: liberalism, nationalism, and the right of minorities to self-determination*'. International Journal of Constitutional Law, 6(3/4), pp. 553-584.

[174] Ivea Verzbergaite (2012). *REMEDIAL SECESSION AS AN EXERCISE OF THE RIGHT TO SELF-DETERMINATION.* www.etd.ceu.hu/2012/vezbergaite_ieva

validation of the remedial secession argument."[175]

Remedial right of secession appeals to Kurds and their sympathisers because of the series of human rights abuses and suspected genocide suffered by Kurds at the hands of past Iraqi regimes. The Kurdish case for the right to remedial secession is perceived to be strengthened by the fact that 'genocide' and ethnic cleansing are considered *jus cogens* and, thus, binding on all states and also standing "above the state claim of sovereignty".[176]

However, it is doubtful whether Kurds can assert such a right. Firstly, the law requires the human rights abuses, upon which the argument for secession would be mounted, to be on-going. Currently, however, Iraqi Kurds are not being subjected to any human rights abuses by the Iraqi state: the persecutions and suspected genocide lie in the past and, thus, cannot be invoked as proof of current or on-going human rights abuses. Secondly, the law requires proof that the state against whom the right is being asserted has also revoked the autonomous status of the separatist entity. That has not been the case in post-Baathist Iraq. The KRG enjoys wide political autonomy that more or less enables it to function as a *de facto* state. On the facts, therefore, the KRG's present situation does not satisfy the criteria required by the law on the remedial right for the KRG to successfully secede from Iraq on that note.

This said, the international community and the International Court of Justice (ICJ), in particular, have opened the door to secession as an expression of 'self-determination'. For example, in 2010 the International Court of Justice argued in relation to the 2008 declaration of independence by Kosovo that: "The Court considers that general international law contains no applicable prohibition of declarations of independence. Accordingly, it concluded that the declaration of independence of 17 February 2008 did not violate general international law."[177] The court also judged that Kosovo's independence resolutions (specifically, 1244 (1999)[178]) did not bar Kosovo from a declaration of independence from the Republic of Serbia.[179] Based solely on these facts, the KRG could also assert the right to secede from Iraq. But, as noted in many parts of this thesis, Kosovo cannot be an example to the KRG in its striving for independence, and that is simply because Kosovo was considered to be a *sui generis* or an

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[175] Jure Vidmar (2010). '*Secession in International Law: Theory and (Lack of) Practice'*. St Antony's International Review, 6(1). pp. 37-56.
[176] *Ibid.*
[177] The International Court of Justice (2010). Accordance with international law of the unilateral declaration of independence in respect of Kosovo: summary of the advisory opinion, p. 8. http://www.icj-cij.org/docket/files/141/16010.pdf
[178] *Ibid.*, p. 14
[179] *Ibid.*

exceptional case. The principle of self-determination enunciated in the above-mentioned case, therefore, cannot constitute a precedent on which the KRG could rely to secede from Iraq.

Reference has already been made to the ICCPR as an authoritative source for the definition and scope of the right to self-determination in both its internal and external forms. The question, however, is whether the Kurdish people can access the rights spelt out in the legislation to secede from Iraq. Some contradictions between the language of the legislation and the statements from the states that sponsored its enactment do not allow for a clear answer to the query. As Hannum writes, "both the reference to 'all' peoples and the fact that the article is found in human rights treaties intended to have universal applicability suggest a scope beyond that of decolonisation".[180] Significantly, however, Quane notes that "a considerable number of States, including those which submitted the proposals, noted that there was no right to secede".[181] Article 1(1) gave groups 'organised as a people' the right to even pursue independent statehood, but since it precluded 'secession' as an expression of the right to self-determination, 'groups within states' were not 'peoples' for the purposes of this legislation.[182] On that note, therefore, the ICCPR would not avail itself as a mechanism for Kurds to secede from Iraq.

These, however, do not exhaust the Kurdish people's chances of pursuing secession from Iraq under the aegis of international law. For example, Iraqi Kurds could rely on Principle 5 (e) of the Friendly Relations Declaration (1970),[183] which grants "all peoples the right to establish determine, without external interference, their political status and to pursue their economic, social and cultural development".[184] The declaration further adds that "free association or integration with an independent State, or the emergence into any other political status 'when freely determined by a people constitute modes of implementing the right of self-determination'".[185] The provisions are said to apply to 'all peoples' and, therefore, do not require any technical definition of 'people' (as is the case with some international law instruments) for the assessment of any group of peoples' eligibility to exercise the rights

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[180] Donald Clark and Robert Williamson (eds.) (1996), *Self-determination: International Perspectives*. London: MacMillan Press, p. 20.

[181] Helen Quane (1998). '*The United Nations and the Evolving Right to Self-determination*'. International and Comparative Law Quarterly, 47, p. 24.

[182] *Ibid.*, p. 25.

[183] UN Documents, "Gathering a body of global agreements" (1970). Resolution adopted by the United Nations General Assembly Twenty-fifth session, Agenda item 85. http://www.un-documents.net/a25r2625.htm

[184] *Ibid.*

[185] *Ibid.*

provided in the declaration. Thus, broadly interpreted, Principle 5 of the Friendly Relations Declaration (1970) should make secession legal under international law. The Helsinki Final Act, adopted in 1975 by the Conference on Security and Cooperation in Europe, while affirming its commitment to "equal rights and self-determination of peoples",[186] also recognised 'people's' right to external self-determination "without external interference."[187]

Strictly speaking, then, unilateral secession could be said to not violate international law under some given circumstances. The issue was categorically clarified in the case of Kosovo. It was the contention of states such as the Netherlands and Albania that Kosovo's unilateral secession from Serbia deserved the recognition of the law on the basis of the human rights violations perpetrated against the people by the Serbian state. The International Court of Justice, on the other hand, tasked itself with answering the question of whether unilateral secession outside a colonial context was legal from the perspective of international law. The court's answer was that unilateral secession was not illegal because it had not been pursued through illegal (i.e. violent) means. Kosovo, being a non-state actor, in any event could not be judged according to such a standard.[188] This, taken in tandem with the judgments in the Åland case, in Namibia and in Quebec suggested that a 'people' can assert the right to unilateral secession either because their rights have been grossly violated by the parent state or because they constitute a non-state actor. Given the Kurdish people's status as a non-state actor, they should thus be able to pursue unilateral secession as an expression of their right to external self-determination. Their case would be strengthened if the Iraqi state resorted to violence and human rights violations in its dealings with Kurds in the future.

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[186] Article 1 (2) United Nation Charter. http://www.un.org/en/sections/un-charter/chapter-i/

[187] UN Documents, 'Gathering a body of global agreements' (1970). Resolution adopted by the United Nations General Assembly Twenty-fifth session, Agenda item 85. http://www.un-documents.net/a25r2625.htm

[188] Ralph Wilde (2011). '*Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*', The American Journal of International Law, 105(2), pp. 301-307.

Creation of states in international law

The discussion in the previous section was concluded on the note that the KRG, from an institutional and jurisprudential perspective, and specifically with reference to the doctrine of self-determination as an argument for the declaration of unilateral secession from an existing state, would have a legitimate case under international law were it to declare itself a sovereign state without the permission of the Iraqi state. However, as noted, the view persists among certain experts in international relations and international law that a state formed from an existing one in the manner in which the KRG aspires would need to prove its effectiveness through satisfying a set of criteria to bolster its chances of gaining recognition as a properly constituted state under international law. I am of the view that the KRG can meet the so-called 'criteria of a state' and qualities or characteristics of a viable, effective state (see sections below).

In other sections of this thesis, I have presented definitions of 'states' from political and sociological perspectives. In this section, I will focus on the question of whether the KRG can or will satisfy the criteria for the creation of a state under the Montevideo Convention, currently the most widely accepted mechanism for the identification of a duly constituted state under international law. The discussion proceeds from a brief exploration of some of the theoretical definitions of statehood.

Definition and creation of a state

As might be expected, academics and statesmen do not agree on the definition of a 'state'. As a result, there have been several attempts to develop a formal definition of the state under international law and international relations from several perspectives. Many of these have failed to gain the approval of all member states of the UN General Assembly or legal scholars. In defining a state, Fiore, as an example, suggested that a concentration of 'political power' and 'law' formed the essential characteristics of a proper 'state'.[189] Other definitions, such as Baty's, identify proper states as ones in possession of a steady human population living freely in well-organised, effectively administered societies and communities.[190] Such definitions could be said to agree in their thrust with others that identify states as defined territories within

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[189] Thomas D. Grant (1998-9). '*Defining Statehood: The Montevideo Convention and its Discontents*'. Columbia Journal of Transnational Law. Vol. 37, p. 8.
[190] *Ibid.*

which alliances of a considerable number of people reside and live as a community. There are also definitions of 'state' that dwell on some features that are presented as though they are features that all proper and effective states have. These include, for example, that all properly constituted states are said to be "subject to the supreme authority of a supreme head of state (president) or a sovereign", with "the power, ability and means to maintain, guide and control the political organization of the alliance long with the agreed backing of the law".[191] Many other political and institutional features have been attributed to 'states' in similar definitions (e.g. 'independence', permanently settled population and 'supreme control and ownership of a fixed territory').[192]

These definitions, although reliable and, thus, capable of being used to differentiate proper and failed states in many contexts, are to a large extent descriptive and appear to have been developed from the features of existing states. They do not provide a strong argument for why the various forms of state features just mentioned must be universally accepted or why states cannot take other forms. More importantly, I contend that the answer to the question of what constitutes a state should be reserved for positive law: the law as known to and accepted by all states should determine what constitutes a state. The Montevideo Convention, mentioned previously, can fulfil this requirement. The convention, originally signed in 1933 as a treaty at the International Conference of American States in Montevideo, Uruguay, is recognised universally as the reference for the criteria of states and the rights and responsibilities of states.[193] Indeed, the Badinter Commission, which oversaw the resolution of the dispute between areas of the former Yugoslavia/ followed the criteria laid down in the Montevideo Convention as by that time it was accepted as international customary law.[194]

A state, according to Article 1 of the treaty, is said to have "a permanent population; a defined territory; government; and capacity to enter into relations with the other states". As will be explained further down, there are arguments in support for and against the use of the Montevideo Convention as the measure for the identification of proper states. For now, however, I submit that the KRG would need to satisfy the criteria set out in the convention to succeed in being recognised as a state should it secede from Iraq. In the next section, I briefly

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[191] *Ibid.*

[192] Thomas D. Grant (1998–9). *Defining Statehood: The Montevideo Convention and its Discontents*, Columbia Journal Of Transnational Law. pp. 414-418.

[193] The Avalon Project (no date). Convention on the Rights and Duties of States (inter-American); (December 26, 1933). http://avalon.law.yale.edu/20th_century/intam03.asp

[194] Ruth Lapidoth (2012). *When Is an Entity Entitled to Statehood*? Israel Journal of Foreign Affairs 6(3), p. 76. http://www.israelcfr.com/documents/6-3/6-3-5-RuthLapidoth.pdf

discuss the issue of whether and how the KRG satisfies the criteria as stipulated in the Montevideo Convention.[195] The KRG's ability to satisfy the criteria is important; for example, the recent moves by Palestine towards recognition as a path to eventual statehood fall well short of the Montevideo Convention. As Goodwin-Gill argues:

> In this highly contested context, and from a limited international law perspective, Palestinian 'statehood' can only seem indeterminate and uncertain, considered against traditional, Montevideo Convention criteria – a fluctuating and hitherto uncounted population, borders at the mercy of realignment by a superior force, daily restrictions on the capacity to govern itself. And yet, as many have said, the conception of the Palestinian State may still have its uses, and offer the potential for Palestinians to put their complaints, their disputes, their rights and their claims on a higher plane, and to access more directly a variety of international mechanisms to assist their cause, bringing about or bringing closer that goal of a State in international law, a national home for the people of Palestine which has been the stated aim of the international community for over sixty years.[196]

As argued below, the KRG scores far higher on these criteria.

1) A permanent population

On the facts, the KRG or Kurdish Northern Iraq would be able to satisfy these criteria. Firstly, Kurds have since the creation of the modern Iraqi state consistently constituted between 15 to 20 per cent of the country's population. They have constituted a large body of people for well over seven centuries, moving into the Mesopotamian Plain and Kirkuk after the twelfth century,[197] all of which approximate to the entire geographical area controlled and administered by the KRG since 1994. A measure of the KRG's possession of a steady population may also be gleaned from the appreciably high birth rate among Kurds. Thus, although the Montevideo Convention does not stipulate the number of people required for the satisfaction of the criterion

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[195] See detailed discussion regarding Taiwan in Jianming Shen (2000). '*Sovereignty, Statehood, Self-Determination, and the Issue of Taiwan*', American University International Law Review, 15(5), pp. 1101-1161.

[196] Guy Goodwin-Gill (2011). Palestine, Statehood and the Challenges of Representation. *European Journal of International Law* (blog 19 December). http://www.ejiltalk.org/palestine-statehood-and-the-challenges-of-representation/#more-4249

[197] David McDowall (2009). *A Modern History of the Kurds.* New York: I.B. Tauris, pp. 7-8.

of 'definite population', the relatively high birth rate among Kurds and its current population of approximately four million people exceed that of many internationally recognised states, for example, Liechtenstein, Monaco and Luxembourg, and this should suffice as a measure of the KRG's possession of a self-perpetuating and 'definite' population.

2) A defined territory

With regard to the requirement of a 'defined territory', the KRG would be able to prove possession of a land mass accepted even by the Iraqi constitution to belong to the Kurdish people. The landmass constituting proper Kurdish territory existed before the creation of the colonial and later independent state of Iraq, and was secured under the Treaty of Lausanne. However, at the inception of the Iraqi state as a unitary entity, the entire land mass of the Iraqi state, including the Kurdish parts, was controlled and governed solely and directly by the central government through its appointees. Thus, although local tribal chieftains maintained a certain level of dominion of the lands on behalf of the Kurdish populations, Kurdish Iraq was in law and fact under the control of the Iraqi state. Since the fall of Saddam Hussein, however, and with the subsequent re-constitution of Iraq as a federal state, the territory inhabited by the Kurdish people has politically been firmly under the direct and sole administration of the KRG. The KRG-administered territory thus includes the provinces of Sulaimaniya, Arbil and Dohuk, altogether totalling about 22,000 km2 or eight per cent of Iraq's territory.[198] The Iraqi state and the KRG made competing claims to the ownership of the province of Kirkurk,[199] originally a Kurdish territory. With the assistance of the USA, the two sides devised a mechanism, that is, a referendum, to resolve the issue. Following the Iraqi state's failure to comply with the terms of the agreement, and the subsequent conquest of Kirkuk by the Islamic State in 2014, the Pershmerga (Kurdish military forces) recaptured the province and subsequently brought it under the control of the KRG. Technically, therefore, there is no disputed territory between Iraq and the KRG.[200] The Iraqi state contends otherwise. Nevertheless, the KRG controls a definite territory that is substantial enough (four times the size of Lebanon[201]) to make it more than capable of meeting the second criterion of a state under the Montevideo Convention.

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[198] M.A. Ahmed (2012). *Iraqi Kurds and Nation-Building* (London: Palgrave Macmillan), p. 143.

[199] Denise Natali (2012). *The Politics of Kurdish Crude. Middle East Policy* Council 19(1). http://www.mepc.org/journal/middle-east-policy-archives/politics-kurdish-crude

[200] Paul Wood (2014). *Iraqi Kurds 'fully control Kirkuk' as army flees*. BBC News 12 June 2014. http://www.bbc.co.uk/news/world-middle-east-27809051

[201] Kurdistan Regional Government '*The Kurdistan Region in Brief*'. http://cabinet.gov.krd/p/p.aspx?l=12&s=020000&r=300&p=210

3) A government

As regards the third criterion of 'a government', the consensus is that the government must be 'effective'. A 'central legal authority' (i.e. a government) aiming to represent an entity claiming statehood should be capable of exercising effective control over the territory and the people in question. The convention does not specify the type of government that satisfies this criterion, but it could be argued that a government would be effective if it was able to exercise the powers of sovereignty normally observed of central legal authorities of modern states (taxation, law-making, organisation of a legal system, police and military forces). For example, the Peshmerga number around 190,000 at the moment and not only provide security for the KRG, but have cooperated with the CIA and the US military before and since the invasion of Iraq in 2003.[202] Since 2001, the KRG has not only been operating a well-functioning parliament, police and army, it is also imbued with the power to cancel federal laws under the current Iraqi constitution.[203] The KRG has also proved quite capable in the administrating of its interests, territory, peoples and resources.[204] The KRG has been managing the laws and resources of the territory under its administration, far better and more efficiently than the Iraqi state. Indeed, the KRG has for almost 20 years been the only functional part of the territory constituting the modern state of Iraq. The clearest evidence of this may be discerned in these facts: Kurdistan is the only safe place in the region; the Kurdish army is the only army to have fought back against ISIS in 2014 and 2105. As would be expected of all responsible and efficient governments, the KRG has been able to marshal its fighters with the most meagre of resources to fight off external threats (in the form of ISIS) in Kobani (Syria) and has also secured the province of Kirkuk.

4) Capacity to enter into relations with other states

The capacity to enter into relations with other states is essential to the notion of independence and is captured in international law, namely, that "an entity is not a state unless it has competence, within its own constitutional system, to conduct international relations with other states, as well as the political technical and financial capabilities to do so".[205] This criterion is

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[202] Profile: *Who are the Peshmerga* ? BBC News, 12 August 2014. http://www.bbc.co.uk/news/world-middle-east-28738975

[203] Kurdistan Regional Government, the Kurdistan Parliament. http://cabinet.gov.krd/p/p.aspx?l=12&p=229

[204] Peter Galbraith (2014). *Only an independent Kurdistan can save what's left of Iraq from becoming a terror state*, Politico. http://www.politico.com/magazine/story/2014/06/iraq-independent-kurdistan-107958.html#.VYmntlJXHcw

[205] J. Craig Barker (2000). *International Law and International Relations*. Continuum London, New York, p. 40.

generally agreed to be satisfied in an entity's ability and capacity to sign international treaties, establish and maintain diplomatic relationships with other states and enter into international organizations. The KRG appears to have met this requirement. Firstly, since its creation as an autonomous region, the KRG has increasingly been negotiating various contractual and diplomatic relationships with other nations. Notable among these has been the development of greater and more cordial relations with Turkey (which initially was opposed to a Kurdish autonomous region), so much so that Turkey has granted the KRG permission to transport its oil sales through pipelines situated on Turkish soil.[206]

As proof of the KRG's capacity to enter into relations with other nations, it has been able to convince many EU countries to set up diplomatic posts in the region, suggesting also that the states concerned generally see a feasible Kurdish state on the horizon. Many scholars now see an entity's ability to contract as evidence of its status as a *de jure* state and even much more central to a state's existence than the other three elements of the Montevideo Convention.[207] Either way, the KRG is credible in this area.

However, opponents of KRG as an independent state may argue that although the KRG does perform some sort of external relations, in order to fulfil this important criterion, the KRG would need to demonstrate a capacity to act in the international arena independently of the Iraqi central government. Reference may be made thus to the various republics of the former Soviet Union. Although considered *de jure* states and independent elements of the Soviet federation, they were not recognised internationally as having statehood because all of their international conduct was carried out on their behalf by the central Soviet government in Moscow. Whatever external relations the KRG has with foreign nations may be argued as being similar to the federated units of former USSR, and thus calls into question the KRG's independence status. This argument, however, overlooks the fact the oil and other economic agreements (and the EU agreements mentioned above) have been negotiated by the KRG itself, without permission or advice from the Iraqi state, indicating that in a de facto sense, the KRG is acting as an independent diplomatic actor in the manner of sovereign states.

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[206] Author's interview (2016) with Falah Mustafa Baker, the Head of the Department of Foreign Relations, Kurdistan Regional Government.

[207] J. Vidmar, (2013). *Democratic Statehood in International Law: The Emergence of New States in Post-Cold War Practice.* UK: Hart Publishing Ltd. p. 49.

Conclusion

This chapter consists of a long section of argument, covering a number of sub-sections, which has set out the case for a Kurdish state to be recognised in international law. This has been discussed in three areas: self-determination (secession), the criteria for state creation and recognition of a state. In the chapter, I have argued that external self-determination is a legitimate and legal path for a group or territory to follow if it meets certain conditions. These conditions, it was accepted, need to be narrow. Otherwise there would be chaos as a wave of movements would seek to form a new state on weak principles. The chapter, therefore, accepted the argument that a remedial path to state status may not apply to the KRG under current political conditions in Iraq. Nevertheless, it was argued that the KRG had a strong case for being recognised as a state, and this case was based on international law agreements and judgements in a select number of international law instruments and provisions and individual cases and case studies such as Kosovo.

Furthermore, the tests the KRG must pass to be recognised in international law were discussed. Here, reference was made to the Montivideo Convention that sets out four criteria for the recognition of a state: 1) a permanent population; 2) a defined territory; 3) a government and 4) the capacity to enter into relations with other states. It was argued that the KRG meets all these tests very effectively. For example, as was also mentioned in other parts of this chapter, the KRG has often been the most effective functioning part of Iraq, which was very clearly established by the KRG Peshmerga combatting the rise of ISIS after the Iraqi Army collapsed and fled.

Overall, it has been argued that the KRG is a *de facto* (*de jure*) state. In fact, the KRG is the most stable part of Iraq and has been since 2003. It is often the safe haven to which other groups in Iraq flee when they are being oppressed. One important argument in the chapter is the issue of secession being aimed at protecting a people from further gross violence. This is clearly applicable to the experience of the Kurds in Iraq under Saddam Hussein and since 2003 when, without the structure of a *de facto* state in place, Kurds would surely have been massacred by both Sunni and Shia extremist groups.

CHAPTER FIVE:

ASSESSING THE KURDISTAN REGIONAL GOVERNMENT'S INTERNAL CAPABILITIES

Introduction

It was established in Chapter Four of this thesis that the KRG satisfies the criteria of statehood under the Montevideo Convention because the KRG has a "permanent population, definite/defined territory, government, and capacity to enter relations with other states".

Whereas some experts add other requirements (e.g. 'sovereignty', 'independence' and legal recognition) to the three criteria, an increasing number of experts, Robert Jackson among them, have mentioned that the three criteria from the Montevideo Convention constitute the most reliable evidence or trait of a polity's possession of empirical statehood (i.e. a permanent population and effective government and, by extension, greater chances of viability).[1] Such polities are to be distinguished from 'juridical states', that is, states that arose from international legal recognition.[2] Although the KRG is recognised as a state of a peculiar kind by some experts,[3] it is not a juridical state. It is a 'quasi state' seeking recognition.[4] As is typical of quasi-states, the KRG has been seeking international recognition as a state, and this chapter will discuss its future prospects as an independent state from this perspective.

Therefore, the prospects for the KRG becoming a recognised state at the moment lie its functioning as a de facto state. Since the invasion of Iraq in 2003, the KRG has, unlike the rest of Iraq, enjoyed relative peace and a general improvement in living conditions and respect for civil liberties and human rights. These facts about the KRG have been acknowledged by statesmen and state institutions in the West. Shimon Peres, the ex-President of Israel, for example, described the Kurdish autonomous region as a democracy that grants equality to women.[5] Similarly, a policy statement released by the UK House of Commons in 2015 spoke of the KRG as "the best governed part of Iraq, with a developing democratic culture and

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[1] Robert H. Jackson and Carl G. Rosberg (1982). '*Why Africa's Weak States Persist: The Empirical and the Juridical in Statehood*'. World Politics, 35(1), Oct., pp. 1-24.

[2] *Ibid.*

[3] Denise Natali (2010). *The Kurdish Quasi-state: Development and Dependency in Post-Gulf War Iraq*. New York: Syracuse University Press.

[4] Pal Kolsto (2006). '*The Sustainability and Future of Unrecognized Quasi-States'*. Journal of Peace Research, 43(6f). pp. 725-740.

[5] Dan Williams, *Israel tells U.S. Kurdish independence is 'foregone conclusion'*. http://www.reuters.com. (June 26, 2014).

relatively stable economy ... and which is professionally and effectively defended by its national guard, the Peshmerga".[6]

Perceptions of the KRG's prospects as a future viable independent state are also accentuated in relation to the Iraqi federal state, an entity regarded by many political and international relations experts and commentators as a failed state.[7]

However, the KRG's self-governing capacities should be grounded in an objective context of facts. From the post-independence experiences of some recently newly created states, it is foreseeable that the KRG would face a broad set of challenges should it attempt to realise independent statehood. The current crisis in South Sudan in particular is illustrative of how an optimistic prognosis about the future of peoples and territories aspiring to independent statehood can quickly become a nightmare shortly after achieving independence after the realisation of that aspiration.[8] The hope was that sovereign statehood and the imminent end of years of suffering, suspected genocide, discrimination and political and economic marginalisation[9] at the hands of the Arab Muslim-dominated government in the north would usher in a period of economic prosperity, political stability, the rule of law and respect for human rights for the people of South Sudan.[10] Shortly after independence, however, the country sank into civil war. A large number of the civilian population was displaced in the process. South Sudan has yet to realise the benefits of its vast oil reserves. The country remains largely under-developed and has had to rely mostly on humanitarian assistance for survival.[11] South Sudan's post-independence problems are illustrative of the challenges that often engulf new states created out of difficult social and economic conditions. It is necessary to thoroughly assess the future viability of the KRG as a state because of the likelihood that it would obtain independence under similar circumstances to those of South Sudan.

Accordingly, this chapter will attempt a rigorous assessment of the KRG's 'internal

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[6] House of Commons Foreign Affairs Committee UK Government policy on the Kurdistan Region of Iraq . Eighth Report of Session (2014-15). http://www.publications.parliament.uk.

[7] Author's interview (2016) with Khalid Shwani, the Iraqi Presidential Advisor and the Spokesman for the Presidency.

[8] Author's interview (2016) with Hoshyar Abdulla, a Member of the Iraqi Parliament.

[9] Ada Lin (2011). 'A Rough Road: Southern Sudan's Independence', Harvard International Review, 32(4), pp. 6-7.

[10] Some specifics on the pre-independence optimism and post-independence disappointments may be gleaned in the article 'Viewpoint: South Sudan has not lived up to the hype': www.bbc.co.uk/news/world-africa-18550314.

[11] EU increases humanitarian aid to South Sudan (Brussels, 18 September 2015): http://europa.eu/rapid/pressrelease_ip-15-5671_en.htm.

capabilities'. 'Internal capabilities' are understood in this context as those things in and about a state or political authority (the KRG in this case) that can be used to measure its ability to sustain itself economically, politically and militarily in a manner that would enable it to survive as a viable, independent state.[12] These include its ability to provide basic security, its ability to sustain stable government and its economic viability.

The extent to which a state is able to provide its populations the most essential 'public or political goods' (e.g. "security, a legal system, health care, education, infrastructure, and money and banking system"[13]) provides a means for the assessment of its effectiveness. 'Effective governments', according to Liebach, are measured by their states' ability to provide their populations appropriate levels and types of public goods. With effective governance systems and institutions, states are able to maintain in their territories "high levels of security, political freedom and civil liberties… environments conducive to the growth of economic opportunity… and independent judiciary, well-kept road networks and telecommunication systems".[14] Max Weber, on the other hand, identified the main source of the effectiveness in the successful application of the monopoly of legitimate force traditionally reposed in, and structured across, states' bureaucratic machineries. Weber, thus, grounded the *raison d'être* of statehood primarily in the creation and maintenance of 'internal order'. The corollary to this is the notion that 'weak states' are characterised by ineffective governments and a breakdown in law and order.[15]

Financial or economic resources are also important to the ability of states to achieve 'effective governance'; after all, any state's ability to provide its populations a reasonable amount and quality of public goods in a sustained manner would invariably depend in part on the magnitude and quantity of financial resources at its disposal. A consideration of any polity's capacity to evolve into, or remain, a thriving state should also include an assessment of the polity's economic strength and how its resources are managed. The discussion of the KRG's 'internal capabilities' will thus include an assessment of whether it has the relevant levels of economic resources or capacity to sustain itself.

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[12] Author's interview (2016) with Hoshyar Abdulla, a Member of the Iraqi Parliament.

[13] Tiffany Howard *(2014). Failed States and the Origins of Violence: A Comparative Analysis of State Failure as a Root Cause of Terrorism and Political Violence.* London: Ashgate, p. 14.

[14] Robert I. Rotberg (2003). *When States Fail: Causes and Consequences*. New Haven, CT: Princeton University Press, pp. 3-4.

[15] Robert H. Jackson and Carl G. Rosberg (1982), *Why Africa's Weak States Persist: The Empirical and the Juridical in Statehood*. World Politics, 35(1), Oct., pp. 1-24.

It is also germane to the purpose of this discussion to examine the issue of whether the KRG has the relevant and effective governance systems and institutions that could enhance the efficient and effective delivery of appropriate levels of public goods to its population. The discussion will thus focus on how the KRG manages its economy, the means of governmental power and sources of its legitimacy within it, how the KRG government relates to civil society and organisations and how it reacts to the demands and concerns of individuals and groups which compose the domestic society. The aim is to assess the KRG's prospects of emerging as, and remaining, a viable state in the foreseeable future. The discussion begins with an examination of the KRG's economy.

Economic aspects of the KRG's 'internal capabilities'

As already suggested, the prospects of the KRG emerging as a viable state in the foreseeable future will depend to a large extent on its ability to provide its population with the most important 'political goods', including security, education and health care. Access to readily available economic resources are of critical importance in this context. The correlation between economic strength and general state viability can be explored from several perspectives. As an example, weak national economies are often marked by government or state inability to extract taxation from its populations towards the financing of social and economic programmes.[16] Weak national economies have been identified both as a 'feature' and a 'cause' of 'weak' and 'failed states'.[17] There is also a correlation between strong, developed economies and effective states, as illustrated in the list of the strongest economies (they all have effective state systems).[18] A study of the major Asian economies (e.g. Korea and Japan) has confirmed that the virility of democratic systems and indeed entire state systems can increase or grow in tandem with that of national economies.[19] The KRG's long-term viability as a state in the foreseeable future can thus be considered as a question on the depth of its economic strength or potential.

The need to assess the KRG's potential as an effective state in terms of economic strengths and

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[16] Daron Acemoglu (2005). *Politics and economics in weak and strong states*: Journal of Monetary Economics 52, pp. 1199–1226.

[17] Tiffany Howard (2014). *Failed States and the Origins of Violence a comparative analysis of State Failure as a root cause of terrorism and Political Violence.* London: Rutledge, p. 17.

[18] 'The world's most powerful economies': http://www.telegraph.co.uk/business/2016/02/11/the-worlds-most-powerful-economies/ (26.12.2006)

[19] Francis Fukuyama (1995). '*Confucianism and Democracy*'. Journal of Democracy, 6(2): (April 1995), pp. 20-33.

vulnerabilities can further be justified by the certainty that the KRG would be confronted with some challenges peculiar to new states. Some of the challenges may emanate from the predictable fractious process by which the KRG may secede from the rest of Iraq. It is reasonable to presume that the Iraqi state would react to a future KRG secession with the typical hostility of states on the verge of losing some new state populations, resources and territories they once controlled. Sudan's aggressive response to South Sudan's quest for statehood as an example was rationalised by the fact that South Sudan's independence referendum had the potential to remove 640,000 square kilometres of land, nine million people and a plethora of natural resources, including oil, from the control of Sudan's central government.[20]

Most recently, the United Kingdom threatened to prevent Scotland from using sterling as its currency in the event of a Scottish breakaway from Great Britain.[21] That certainly would have had an adverse effect on an independent Scotland's credit rating and ultimately on its economy. It cannot be ruled out that an embittered Iraqi state might deny an independent Kurdish state the use of its currency and economic cooperation. The Iraqi Federal government has already been denying the KRG critical budgetary support,[22] mainly with the intention of stifling the KRG's ambitions of independent statehood. The drastic effects such measures have had on the KRG's economy underscore the crucial importance of sound finances for the KRG's statehood aspirations. It is also true that independent states mostly enjoy superior access to financial resources, significantly more than their newly formed state counterparts.[23] Existing states' advantage in this context is mainly in their having a relatively lower political and economic risk profile. A state that comes into being without the political support of the world's strongest economies can be expected to struggle for access to external credit or even trade deals on favourable terms.

The post-independence travails of South Sudan also offer a case study for the difficulties that could engulf a polity that comes to independent statehood with a fragile economy. Upon the attainment of statehood, South Sudan had to contend with a largely underdeveloped infrastructure, a stunted agriculture sector and the need to contend with volatilities in the world

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[20] Ada Lin (2011). '*A Rough Road: Southern Sudan's Independence'.* Harvard International Review, 32(4), pp. 6-7.

[21] Andrew Black and Aiden James (2014). *Scottish independence: 'Yes' vote means leaving pound, Says Osborne*. http://www.bbc.co.uk/news/uk-scotland-scotland-politics-26166794 (13 Feb 2014).

[25] Author's interview (2016) with Falah Mustafa Babker, the head of Department of Foreign Relations, Kurdistan Regional Government.

[23] Ejikeme Jombo Nwagwu and Ugwueze, Michael Ikechukwu (2014). *'New States in World Politics: Prospects and Challenges'.* IOSR Journal of Humanities and Social Science, 19(10), pp. 1-11.

market price of oil. The problems were soon compounded by a violent conflict between the country's two major political and ethnic factions. Hampered by access to credit, South Sudan has had to depend on powerful international organisations to keep important services and institutions in the country running. For example, Chinese oil companies and non-governmental organisations account for the provision of 80 per cent of services within South Sudan's health care sector.[24] South Sudan's economic underdevelopment at the point of political independence has been a major factor in the new state's plunge into economic dependence.

The KRG has already experienced some of the difficulties of prospective and new states which must rely mostly on external financial resources to run their state institutions and administrative services. Fortunately for the KRG, the experience came before the actual declaration of independence. The KRG thus has the opportunity to put its economy in order to be able to emerge into independence as a strong economy and effective state. This further highlights the significance of an analysis of the KRG's economic strength as a quasi-state as a means of discerning its future viability as a state. The concept of 'quasi-state' itself has been described in interchangeable terms in several contexts as the equivalent of the concepts of 'de facto states', 'unrecognised states', 'para-states' or 'pseudo-states'.[25] However, whereas authors such as Jackson[26] use the term quasi-states to refer to internationally recognised, independent states that are in crisis ('failed' and 'weak' states), other experts apply the term as a reference to polities that are said to possess 'less-than-real statehood', and that is because they are said to 'lack international recognition', even though they are said to possess internal sovereignty (i.e. absolute control over all affairs and peoples in their territories). In addition to 'wielding absolute 'control over their own territory',[27] polities designated as 'quasi-states' would also have sought, or would be seeking, international recognition without success.[28] The KRG, since its creation in 2001, has exhibited all these features and characteristics, most notably in the ability to field an army, control its own territory, educate its populations, and maintain a local economy,[29] sometimes much more efficiently and more effectively than the Iraqi state

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[24] Simon Allison: *Was South Sudan a Mistake*? http://www.theguardian.com/world/2014/jan/08/south-sudan-war-mistake.

[25] Pal Kolsto (2006). *The Sustainability and Future of Unrecognized Quasi-States*. Journal of Peace Research, 43(6f), pp. 725-740.

[26] Robert H. Jackson (1991). *Quasi-states: Sovereignty, International Relations and the Third World,* Cambridge: Cambridge University Press.

[27] Robert H. Jackson and Carl G. Rosberg (1982). 'Why Africa's Weak States Persist: The Empirical and the Juridical in Statehood'. *World Politics*, 35(1), p. 4.

[28] Pal Kolsto (2006). '*The Sustainability and Future of Unrecognized Quasi-States'*. Journal of Peace Research, 43(6f), pp. 725-740.

[29] *Ibid.*

generally.[30] It is a quasi-state – with the characteristics of a state but without recognition.[31] Before attaining its perceived current quasi-state status, however, the territories now constituting the KRG endured harsh, adverse socio-economic conditions. The infrastructural development of the Kurdish regions had, since the inception of the Iraqi state, been neglected by the various Iraqi regimes and, except for the region's agricultural sector, the local economy had for decades remained underdeveloped.[32] The Iraqi army, on the orders of Saddam Hussein, carried out punitive expeditions across present day KRG. In the process, Saddam's forces razed numerous Kurdish villages, and also carried out forced evacuations of the most abled-bodied segment of the Kurdish populations.[33] At the end of the expedition, the basic structures and fundamentals of the rustic Kurdish economy were in crisis. The *Economist* described the situation in Kurdistan at that time as follows:

> [The KRG's] Local industry and, especially, agriculture (once the dominant employer in Kurdistan) were all but annihilated by the time Kurdistan gained its autonomy in late 1991. Large parts of the local population had been forcibly evicted from their razed villages to the towns by Saddam, and subsequently employed in the public sector in an effort to ensure their dependence on Baghdad.[34.]

The situation was to be exacerbated first by the UN's embargo on the Iraqi state and subsequently by Saddam Hussein's refusal to allow food items and medical items to be transported to areas in Iraq that had rebelled against his regime in the wake of the Gulf War.[35] This further resulted in an acute shortage of "food, fuel and medical supplies"[36] in the Kurdish regions. Conceivably then, Kurdistan would have faced the type of crisis usually predicted of newly independent states, and which the likes of South Sudan and Kosovo have had to deal with after attaining statehood. The KRG would certainly have descended into anarchy if it had pursued and obtained international recognition as an independent state in the immediate aftermath of the First Gulf War as some Kurdish political activists and their sympathisers were

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[30] Author's interview (2016) with Falah Mustafa Baker, The Head of Department of Foreign Relations, Kurdistan Regional Government.

[31] Pal Kolsto (2006). '*The Sustainability and Future of Unrecognized Quasi-States'*, Journal of Peace Research, 43(6f), pp. 725-740.

[32] *Ibid* p. 3.

[33] Mahir Aziz (2011). *Kurds of Iraq, Ethno nationalism and National Identity in Iraqi Kurdistan.* London: I.B. Tauris & Co, p. 8.

[34] Iraq's Economy (2007). *The Economist:* http://www.Economist.Com.

[35] *Ibid.*

[36] Human Rights Watch (1992). Endless Torment: The 1991 Uprising in Iraq And Its Aftermath: https://www.hrw.org/reports/1992/Iraq926.htm.

agitating for at the time.

For now, though, it may reasonably be speculated that the magnitude of any such crisis would in the foreseeable future not be as significant as in 1991. As it happened, the Kurdish people benefitted from a massive and sustained humanitarian assistance from the UN and various NGOs for a significant period of time after the Gulf War in 1991 following the UN's creation of the no-fly zone over Kurdistan. The second phase of the aid programmes in particular eased the post-war political tension in the region and facilitated institution building, development of new avenues of revenue "generation, infrastructural reconstruction, development of new industries, and a massive increase in cross-border trade".[37] Even at that point, the Kurdish economy was considered to be structurally stronger than that of the mother state, Iraq[38] External aid thus provided the KRG the breathing space to develop firm and relatively robust structures that, together with a set of sound policies, enabled the local economy to stabilise. In the current context, the Kurdish economy is stable and relatively prosperous. Between 2007 and 2010, a few years after it acquired its current autonomous status, the KRG had managed to amass a set of macroeconomic indicators that ranked favourably among those in the Middle East and countries in the developing world. For example, the KRG's budget of $9.6 billion in 2010 was ranked 96th in the world; its economic growth of 4.3 per cent achieved the previous year was 35th best among the world's economies; its GDP per capita (PPP) of $4,500 in the same year was said to be higher than 41 of the world's fully independent states.[39] By 2014, KRG GDP stood at over $23.6 billion, with a per capita income of $4.452 and an average growth rate of 9% per annum.[40] That said, the KRG's economy since 2015 has encountered some severe challenges caused mainly by events in Syria and the Sunni parts of Iraq and war with ISIS,[41] and also by the KRG's longstanding disagreement with the federal Government over the administration of revenues from the exploitation of the KRG's hydrocarbon resources. The discussion will address the nature and magnitude of the crisis and the relevant issues in detail, and how the KRG has been trying to deal with the problems. For now, however, the focus of the discussion will be on the most important sectors of the economy, and how the

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[37] Denise Natali (2010). *The Kurdish Quasi-state: Development and Dependency in Post-Gulf War Iraq.* New York: Syracuse University Press, p. 89.

[38] *Ibid.* p 27.

[39] Kurdistan Board of Investment: Kurdistan's Economy. http://www.kurdistaninvestment.org/economy.htmlis.

[40] Invest in Group (2013). Determined to Grow: Economy. http://investingroup.org/review/236/determined-to-grow-economy-kurdistan/

[41] The World Bank. (2015) *The Kurdistan Region of Iraq Needs an Estimated US$1.4 billion this Year to Stabilize the Economy:* http://www.worldbank.org/en/news/press-release/2015/02/12/kurdistan-region-iraq-stabilize-economy.

KRG government has been trying to broaden and diversify its economic base.

The agricultural base of the KRG economy

One of the most important segments of the Kurdish economy is its agricultural sector. The significance of this sector to a viable future Kurdish state may be understood in the proven correlation between food shortages and political instability in developing countries, and also in the fact that food is often used as a weapon in many international political and international relations contexts.[42] The KRG as a region has the wherewithal to achieve food sufficiency, whether as part of Iraq or as an independent sovereign state.[43] For one thing, Kurdistan is blessed with relatively substantial water resources and arable land, as well as rare geographical features for a region in the Middle East. The favourable climatic conditions and vegetation in the KRG account for the its possession of approximately 28% of Iraq's arable land, despite the fact that the KRG as a geographical region constitutes just 8% cent of the country's total land mass.[44]

The KRG has been fortunate that substantial portions of its landmass constitute a part of the "mountains, steppes, and pastures that also form important parts of the so-called Fertile Crescent, considered the birthplace of agriculture".[45] The KRG part of the Fertile Crescent comprises about 1,521 million hectares of land, with easy access to steady rain-fed waterbodies that also are conducive to the cultivation of a wide variety of vegetables. The rich soils in the Fertile Crescent thus afford the KRG the opportunity to use agriculture not only to attain food security, but also to diversify the economy. The relatively favourable climate further offer an immense potential for the generation of agriculture-related employment within the KRG region.[46] The easy access to water resources across the region also sustain pastoral farming and livestock rearing, a major source of employment for the KRG's rural population.[47]

In the main, however, crop cultivation constitutes the backbone of the KRG's agricultural sector. Middle Eastern staples such as wheat, barley and fruits have been grown in Kurdistan

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[42] Asia-Pacific Center for Security Studies (1998). *Food Security and Political Stability in the Asia-Pacific Region.* One-day seminar, Honolulu, Hawaii, (11 September 1998). http://apcss.org/Publications/Report_Food_Security_98.html.

[43] Author's interview (2016) with Abdul Sttar Majeed Minister of Agriculture and Water Resources.

[44] M. Ahmed (2016). *Iraqi Kurds and Nation-Building.* London: Palgrave Macmillan.

[45] Anna Laurent (2012). *Recovering a Garden of Paradise in Iraqi Kurdistan: The Death of Farming in the Land Where Agriculture was Born.* http://www.annalaurent.com/wp-content/uploads/2012/10/Kurdistan-AnnaLaurent.pdf /

[46] Author's interview (2016) with Abdul Sttar Majeed, Minister of Agriculture and Water Resources.

[47] *Ibid.*

since the ninth century.[48] Currently, the KRG dedicates about 567,625 hectares of land to the cultivation of wheat, with an expected yield of about 351,284 tonnes per annum.[49] The production of barley takes up about 10,806 hectares of the KRG's arable land, with a calculated annual yield of 4382 tons.[50] Together, the lands devoted to the cultivation of the two crops constitute 50 per cent of the KRG's farming lands.[51] Estimates of wheat production in the KRG between 1980 and the early 2000s have been estimated at between 120,000 and 650,000 tons.[52] The historical abundance of food and high crop yields in the region underscores the reputation of the area controlled by the KRG as the "bread basket of Iraq".[53]

However, as a result of the Baathist Party's sustained persecution of the Kurdish people, the general levels of food production in the KRG fell drastically, especially in the period between 1980 and the first ten years after KRG achieved *de facto* autonomous political status in 1991. Saddam Hussein's attacks on Kurdistan included targeting mustard gas at Kurdish villages, razing about 4,000 Kurdish villages, and forcing evacuations of Kurdish people from their farming lands and villages.[54]

In the last two decades, therefore, the KRG has had to depend on food imports to feed its populations. The cost of the region's food imports from Turkey and Iran alone stood at over $7 billion in 2011.[55]

The KRG seems to understand the risk to the region's long-term food security posed in the dependence on food imports and decline in agriculture-related employment in the region. The KRG has been adopting measures not only to boost food production in the region, but also to diversify the sector. The measures include increasing government support for agriculture (from 2 per cent to 10 per cent), encouraging the optimal use of water for irrigation purposes, protecting local farmers from unhelpful competition (e.g. cheaper imports), boosting rural repopulation through an 80 per cent increase in electricity supply to the KRG's villages,

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[48] Anna Laurent (2012). *Recovering a Garden of Paradise in Iraqi Kurdistan: The Death of Farming in the Land Where Agriculture Was Born*. http://www.annalaurent.com/wp-content/uploads/2012/10/Kurdistan-AnnaLaurent.pdf.

[49] *Ibid.*

[50] *Ibid.*

[51] *Ibid.*

[52] Agriculture and Farmers in Kurdistan, New Series, no.73. http://www.koushu.co.jp/AAI_E/NewsE/S_Kurdish_agri_and_farmers.pdf.

[53] Kurdistan Board of Investment. Agriculture. http://www.kurdistaninvestment.org/agriculture.html.

[54] Robert Olson (1992). '*The Kurdish Question in the Aftermath of the Gulf War: Geopolitical and Geostrategic Changes in the Middle East*'. Third World Quarterly, 13(3), pp. 475-499.

[55] Kurdistan Board of Investment, Kurdish Fact Sheet. http://www.kurdistaninvestment.org/fact_sheet.html

motivating and supporting the youth and able-bodied Kurds to return to rural areas through the provision of low-interest loans, and reducing government food support to the population.[56] There has also been a sustained effort to boost livestock production.[57] As part of an ambitious five-year plan to boost agricultural production in Kurdistan, the KRG government has, since 2009, invested about US$10.5 billion towards achieving a 100 per cent increase in the region's milk production (of 400 million litres per annum).[58] A portion of the investment is also expected to go towards the provision of micro-credit to farmers and the construction of factories to produce agricultural products.[59]

The KRG imposed a high tax on imported vegetables to reduce the imports from neighbouring states and to encourage the local farmers to produce local vegetables. In the last eight months of 2015, it reduced 28 per cent of their imports.[60]

The measures seem to be bearing fruit. The most significant results have been recorded in the production of wheat in the region. In 2015, three years after the KRG launched the programme to boost food production in the region, it achieved record wheat production of over 1,650,000 tons, an increase of 400 per cent over that of the previous year.[61] Given the low rainfall in the region that year, the bumper harvest came as a surprise to both farmers and government. Consequently, the Government had to build more silos across the region in anticipation of even better crop yields in 2016. With the increase in greenhouse farming and fruit production, and a bourgeoning water harvesting and mineral water production in the region,[62] the KRG can look to the future with optimism. The region's quest for self-sufficiency and long-term food security will certainly be secured when, all things being equal, the refugees and displaced persons from non-Kurdish parts of Iraq return to their original habitats and, in the process, reduce the demand on the KRG's food resources.

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[56] Simon Kerr (2012). Kurdistan's Food Security Begins at Home. https://www.ft.com/content/382419e2-3732-11e2-893a-00144feabdc.

[57] United States Agency for International Development (2008). *Kurdistan Region Economic Development Assessment*: Final Report December 2008. http://www.mop.gov.krd/resources/MoP%20Files/PDF%20Files/DCC/Studies/EDA%20Report_English.pdf.

[58] Delovan Barwari (2009). '*Kurdistan's Economy: Its potential and its challenges*', *Kurdish Herald*, 1(5), http://www.kurdishherald.com/issue/005/article05.php

[59] *Ibid.*

[60] Author's interview (2016) with Abdul Sttar Majeed, Minister of Agriculture and Water Resources.

[61] Author's Interview (2016) with Abdul Sttar Majeed, Minister of Agriculture and Water Resources.

[62] Simon Kerr (2012). *Kurdistan's Food Security Begins at Home.* https://www.ft.com/content/382419e2-3732-11e2-893a-00144feabdc0

Oil and the KRG economy

By far, the KRG's short- to medium-term general economic wellbeing is dependent on the fortunes of its extractive industry, currently dominated by the production and export of crude oil and development of gas fields for exporting gas. The magnitude of the wealth Kurdistan stands to reap in the future from the production and export of hydrocarbon products may be discerned in the implications of the region's physical location along the prolific Zagros Fold belt that encompasses the oil-rich zones of Iraq and Iran.[63] The British colonial government knew of the rich crude oil deposits in this geographical zone.[64] Guided by the awareness of the crucial role of crude oil and gas in international economic, military and political relations, the British colonialists encouraged the exploration and production of oil in Mosul and Kirk (Baba Gor Gor) as far back as 1925.[65]

In post-colonial Iraq, however, exploration for oil and gas in Kurdistan was conducted sporadically between 1952 and 1980 with no serious commitment being made to it.[66] The search for and drilling of oil in Kurdistan began in earnest only after the construction of two wells in oil-rich Taq Taq in 1994.[67]

With the overthrow of Saddam and the creation of the autonomous Kurdistan authority in the federal Iraqi state in 2005, the KRG began to explore possibilities of accelerating the exploration of oil in the region. The intention clearly was to generate revenues from the possible export of oil to encourage the economic development of the region.[68] The KRG sought to exploit some clauses in the new federal constitution to bring under its control all activities relating to the exploration, production and export of crude oil from Kurdistan.[69] The affected clauses in the new Iraqi constitution allowed for the sharing of powers relating to investments and general commerce in the governorates between the autonomous KRG and the federal

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[63] Joost R. Hiltermann. (2012). '*Revenge of the Kurds: Breaking Away From Baghdad'*, Council on Foreign Affairs, 91(6), pp. 18-19.

[64] Guiditta Fontana (2010). *'Creating Nations, Establishing States: Ethno-Religious Heterogeneity and the British Creation of Iraq in 1919-23'.* Middle Eastern Studies, 46(1), pp. 1-16.

[65] Ferruh Demirmen (2003). '*Oil in Iraq: The Byzantine Beginnings,' Global Policy Forum: April 25, 2003.* https://www.globalpolicy.org/component/content/article/185/40548.html.

[66] David Mackertich and Adnan Samarrai, The history of hydrocarbon exploration in Iraqi Kurdistan: 1901 to 2012.
http://www.petroceltic.ie/~/media/Files/P/Petroceltic-V2/pdf/Mackertich-Samarrai-2013-Geol-Soc-Zagros-conference-presentation.pdf, p.8.

[67] *Ibid.*

[68] Joost R. Hiltermann. (2012). '*Revenge of the Kurds: Breaking Away From Baghdad',* Council on Foreign Affairs, 91(6), pp. 18-19.

[69] Philippe Le Billon (2015). *'Oil, Secession and the Future of Iraqi Federalism',* Middle East Policy, 23(1), p. 69.

government.[70] The KRG thus entered into contracts with mainly international oil companies for exploration and possible export of the region's oil. This was to lead to the construction of the Tawke-1 well and to the so-called First Tertiary and Cretaceous discoveries in the region in the same year.[71] In what was perceived as a quest for economic sovereignty, the KRG subsequently adopted a series of legislation and policies to attract foreign oil companies to prospect for and produce oil in the region. By 2007, the KRG's immense potential wealth from the exploitation of its hydrocarbon deposits was being acknowledged in concrete figures and credible estimates in official publications. In about a decade after achieving political autonomy, the KRG's share of oil deposits along the Zagros Fold belt was variously put at between 45 and 70 billion barrels.[72] OPEC has computed the KRG's and the rest of Iraq's proven and unproven reserves at 50 and 80 billion barrels, respectively.[73] The KRG has thus been ranked tenth among countries with proven oil reserves.[74] The *Financial Times* placed the KRG fourth in its own rankings.[75]

Undisputedly then, oil offers the strongest hope for the KRG in its pursuit of economic independence and a steady source of revenue to fund provision of public goods to its people. By 2014, the oil companies in the region had developed enough wells to enable the exportation of over 500,000 barrels per day (bpd) of oil, approximating one seventh of Iraq's total production.[76] By the KRG's own projections, its oil exports would reach a million barrels per day by the end of 2016.[77] The KRG's region's oil output could even rise by some additional 300,000 per day,[78] especially if, as anticipated, the KRG gains a favourable result in the planned referendum on the future of Kirkuk, and, in the process, formally secures legal ownership of the Kirkuk oil fields the Peshmerga seized from ISIS in 2013. These, together with the contracts completed in 2014 between the KRG and Turkey, would take the Kurdistan's estimated gas

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[70] Kerim Yildiz (2007). *The Kurds in Iraq. The Past, Present and Future, London:* Pluto Press, pp. 133-134.

[71] *David Mackertich and Adnan Samarrai, The history of hydrocarbon exploration in Iraqi Kurdistan: 1901 to 2012.* http://www.petroceltic.ie/~/media/Files/P/Petroceltic-V2/pdf/Mackertich-Samarrai-2013-Geol-Soc-Zagros-conference-presentation.pdf. p. 16

[72] Unpo (2011). *Iraqi Kurdistan: reserves of oil and natural gas render the region 'very wealthy'.* http://www.unpo.org/article/12446.

[73] Editorial staff in oil and gas (2015). *Iraqi Kurdistan has world's 8th oil and gas reserves*: Ekurd Daily, 30 March. http://ekurd.net/iraqi-kurdistan-has-worlds-8th-oil-and-gas-reserves-2015-03-30

[74] Nancy E. Soderberg and David L. Phillips (2015). *Task force report state-building in Iraqi Kurdistan*, p. 31. http://www.humanrightscolumbia.org/sites/default/files/pdf/pbhr_state_building_kurdistan.pdf.

[75] Guy Chazan (2013). *Kurdistan's vast reserves draw oil majors*. https://www.ft.com/content/8d15816c-4929-11e2-9225-00144feab49a

[76] Kurdistan details its secretive plan to export half a million barrels of oil per day right under Iraq's nose: http://www.iraq-businessnews.com/2015/05/26/kurdistan-oil-production-at-record-levels/

[77] Kurdistan oil profile raised amid chaos in Iraq: oil and energy trends, July 2014, p.14. http://onlinelibrary.wiley.com.epdf

[78] *Ibid.*

deposits to over 5 trillion cubic metres.[79] The KRG set ambitious targets intended to take oil output to 2.0 MBD by 2019,[80] thus putting it in a very good position to achieve the economic sovereignty and financial independence it seeks. With the higher levels of peace and security in Kurdistan (against the rest of Iraq's descent into violence and conflict) and the economic boom projected in the KRG's rich oil and gas industry, the hydrocarbon industry has attracted Kurdistan businesses and investments, and investors.[81] As of 2010, international oil companies had invested about $20bn (£13bn) in the KRG's hydrocarbon industry alone.[82] Up to the end of 2013, investments in the oil industry resulted in an influx of expatriates to the region and a related boom in the real estate and hospitality industries in the KRG. The ensuing boom has been felt mainly in the KRG's three major cities – Erbil, Sulaimaniyah, and Dohuk – where "new constructions, shopping malls car dealerships, gold shops, hotels, and restaurants have come to symbolise the KRG's economic resurgence. Between 2007 and 2013, for example, the KRG recorded the construction of more office buildings, apartments and gated communities than any city in Iraq, including Baghdad".[83]

Since the inauguration of the federal constitution, the KRG has been deemed entitled to a share of Iraq's oil revenues, calculated at 17 per cent of the federal budget. The KRG has disputed receiving those payments consistently and in full, but even the actual sum that the KRG received in 2010 alone from the Iraqi government amounted to about 12.604 trillion dinars (US$10.8 billion – said to be 10 per cent of the national budget),[84] a substantial amount of money by. The federal budgetary allocations contributed significantly to the improvement in the KRG's economy, as captured in the microeconomic indicators already highlighted in this discussion.

Under these favourable economic circumstances, the KRG government has demonstrated a strong commitment to the transformation of the region's economy and to the provision of the most essential political goods to the populace. The scope of this discussion does not allow for

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[79] KRG plans 10b cm in natural gas exports to turkey in two years: http://www.hurriyetdailynews.com/
[80] Nancy E. Soderberg and David L. Phillips (2015). Task force report state-building in Iraqi Kurdistan, p. 31. http://www.humanrightscolumbia.org/sites/default/files/pdf/pbhr_state_building_kurdistan.pdf
[81] Author's interview (2016) with Falah Mustafa Baker, the Head of the Department of Foreign Relations, Kurdistan Regional Government.
[82] Mark D. Weaver: *Kurdistan's Great Recession: From to Bust in the Rentier Economy*, IRIS Economic Report): http://auis.edu.krd
[83] Under the Mountains: Kurdish Oil and Regional Politics, Oxford Institute of Energy Research, p.18: https://www.oxfordenergy.org.pdf
[84] KRG Claims Baghdad Is Shorting Its Budget Share, Halts Oil Flow: http://www.al-monitor.com/pulse/business/2012/06/krg-accuses-baghdad-of-reducing.html.

an exhaustive discussion on the soundness of the policies and related effects of the KRG's funding of housing, food, educational and health needs of the region's populace. In relation to the aim of this discussion, however, it may be submitted that the KRG's utilisation of the windfall from the favourable economic circumstances in the region should be understood as a fiscal tool towards the expansion of the regional economy, and also as a means of easing the region's populations of the lingering effects of the many years of economic deprivation in Kurdistan under the various Baathist regimes. In pursuit of these objectives, the KRG has annually budgeted about US$2.35 billion – approximating 75 per cent of its investment expenditure and 20 per cent of the region's share of the Iraqi state's budget – to providing its 5.3 million people with potable water, electricity and farming inputs at heavily subsidised rates.[85] In addition, the government plans an investment of about US$5.8bn in the provision of housing in the region's three biggest cities over a 10-year period. This has contributed to the expansion of the construction industry and the generation of jobs in the sector.[86]

Recent economic problems – oil, politics and security

As indicated earlier, the economic boom grounded to a halt in 2014. Many have traced the causes of the problem to structural problems in the Kurdish economy. From such a perspective, the economic meltdown was always likely to happen and have an adverse effect on the region's short-term economic health at a certain point.[87] Most experts, however, agree that a host of events dating from the end of 2013 were the main triggers of the apparent economic problems. The most significant of these has been the fallout from the KRG's recurring disagreements with the central government over the development of the KRG's oil fields (and oil exports) and payments due to companies that have been developing the region's oil infrastructure. The federal government in Bagdad has, since 2007, viewed with suspicion and anger the KRG's apparent resolve to exclude the federal government from the KRG's plans to develop a petroleum industry, and has threatened at every opportunity to punish the KRG's perceived preparations of secession from Iraq. The KRG, in its reply to such actions, withdrew from agreements and negotiations with the central government, ratified a new petroleum law and officially excluded Bagdad from participation in the development of the KRG's oil industry.

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[85] Building the Kurdistan Region of Iraq. The Socio-Economic Infrastructure: Ministry of Planning Kurdistan Regional Government. http://www.mop.gov.krd/resources/MoP%20Files/Newsletter/SENA_factsheet.pdf

[86] Randy Johnson (2016). *Boom Town: Iraq's Kurdish Region Flourishes Amidst Warfare*: http://21stcenturywire.com, (March 10)

[87] Mark D. Weaver: *Kurdistan's Great Recessio*, IRIS Report, University of Sulaymania: http://www.iraq-jccme.jp/. p.8

Most crucially, the KRG signed oil deals with a host of foreign oil companies[88] in defiance of protests from the federal government. By the end of 2013, about 60 foreign oil companies had signed up to the KRG's plans to develop its own oil industry and eventually export oil and gas.[89] The Iraqi government responded by blacklisting some of the major companies involved.[90] The climax of the disagreements came when the KRG, with the cooperation of Turkey, began exporting oil via pipelines laid through Turkish lands. In retaliation, Bagdad initially withheld half of Kurdistan's share of the national budget, and eventually stopped all payments altogether, insisting that any future payments would be conditional on the KRG surrendering to the federal government every barrel of oil the KRG produced.[91] Furthermore, the central government refused to pay for the costs of the developed oil fields in the KRG, in the process plunging a good number of the foreign creditor companies into financial difficulties.

To make matters worse, the world price of oil fell by 40 per cent in February 2014, resulting in a drastic reduction in the KRG's revenues. By 2015, a barrel of crude that sold a year and a half before for US$100 was fetching just US$20 (per barrel) for the KRG.[92] The ensuing drop in the region's revenues could be estimated not only from the payments withheld by the central government to the KRG (put at about US$17bn), but also from the dependence on oil sales, which constituted 96 per cent of the KRG's revenues from its own resources.[93]

Around the same time, the so-called Islamic State launched attacks on Kirkuk and territories within the KRG. It also resulted in a massive flow of refugees into the KRG. The Peshmerga would eventually repel the attacks with air support from a US-led coalition.[94] By then, however, the sense of absolute peace and security about the KRG which had attracted tourists and investors alike to the region was shattered. It forced many prospective investors to rethink plans to undertake projects in the region. The tourist industry also suffered a considerable loss of clientele. The problems of the KRG were soon compounded by a massive influx of refugees

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[88] Yaniv Voller (2013). '*Kurdish Oil Politics in Iraq: Contested Sovereignty and Unilateralism'*.Middle East Policy, Spring 2013, Volume XX, Number 1.

[89] Philippe Le Billon (2015). '*Oil Secession and the Future OF Iraqi Federalism'*, Middle East Policy, Vol. XXII, No. 1.

[90] *Ibid.*

[91] Baghdad money squeeze tests limits of Iraqi Kurdistan's autonomy: http://uk.reuters.com/ Mon Mar 17, 2014

[92] Author's interview with Falah Mustafa Baker, the Head of the Department of Foreign Relations, Kurdistan Regional Government.

[93] Erin Banco (2015). *Falling oil prices are hurting Iraq's fight against ISIS, threatening stability.* http://www.ibtimes.com/falling-oil-prices-are-hurting-iraqs-fight-against-isis-threatening-stability-1774890

[96]The Kurdistan Region of Iraq: *Assessing the Social and Economic Impact of the Syrian Conflict and ISIS*: http://www-wds.worldbank.org/

[94] peshmerga repel major ISIS attack in Northern Iraq (2015). http://www.bbc.co.uk/news/world-middle-east.

from the Syrian conflict (also precipitated in large part by ISIS attacks there) and internally displaced persons from Kirkuk, Mosul and other areas in Iraq seized by the ISIS. At a certain point, the refugees and internally displaced persons in the KRG were estimated to have contributed to a 30 per cent increase in the region's population. A substantial number of the refugees and displaced person are children of school age.

That and other factors about the refugees and displaced persons brought substantial pressure to bear on the infrastructure and public finances of the KRG.[95]

In 2015, the World Bank put the amount of money required to offset the destabilising effects of the refugee crisis on the Kurdish economy at US$1.4 billion.[96] The general conclusion among experts, then, is that the KRG's economy is in crisis. The region's post-boom economic difficulties have been captured in a series of statistics, facts and expert analysis. The construction industry and the three big cities of Dohuk, Sulaymaniya and Erbil, where the effects of favourable economic conditions were mostly to be observed, have seen a suspension of 600 projects;[97] with the exception of employees at the Ministry of Interior and Defence Forces (Peshmergas), all public sector employees have had their wages slashed and also experienced delayed salary and wages payments running to several months.[98] Economic growth in Kurdistan, according to the World Bank, contracted by five percentage points against a 100 per cent increase in the region's poverty rate, from 3.5 percent to 8.1 per cent;[99] the public payroll component of the KRG's budgetary shortfall in 2015 also stood at 425 billion Iraqi dinars (US$350 million) per month.[100]

Since 2015, the Kurdistan Regional Government has been reacting to the sources of the problems with some measures that seem tailored to alleviating the region's short-term cash flow problems, and, ultimately, at remedying the current over-dependence of the Kurdish economy on the oil sector. However, oil remains key to the KRG government and economy. The KRG officials have been negotiating with their colleagues from the central government

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[95] Author's interview (2016) with Falah Mustafa Baker, the Head of the Department of Foreign Relations, Kurdistan Regional Government.

[96] The Kurdistan Region of Iraq Needs an Estimated US$1.4 billion this Year to Stabilize the Economy http://www.worldbank.org/en/news/press-release/2015/02/12/kurdistan-region-iraq-stabilize-economy.

[97] financial crisis shuts down 6,000 projects in kurdistan region: http://www.nrttv.com/

[98] Protests intensify in Iraqi Kurdistan amid economic crisis: http://www.reuters.com/article/us-mideast-crisis-iraq-protests-idUSKCN0VI11X.

[99] The Kurdistan Region of Iraq Needs an Estimated US$1.4 billion this Year to Stabilize the Economy http://www.worldbank.org/en/news/press-release/2015/02/12/kurdistan-region-iraq-stabilize-economy.

[100] Aso Sarawiy (2016) *Barzani says financial crisis may push Kurdistan to think ʾbeyond oil.* http://rudaw.net/english/kurdistan/230120164

for a resolution to the budget allocation impasse. In December 2014, the two parties reached an agreement that the KRG, effective from 1 January 2015, would forward to the central government 550,000 barrels of oil from oilfields in Kirkuk and the KRG every day, in exchange for 17 per cent of the national budget.[101]

Soon, however, the KRG and the central government were accusing each other of having failed to abide by the terms of the agreement. Citing an alleged failure by the Iraqi central government to honour its payment commitments to the Kurdistan, the KRG has, since md-2015, adopted a series of measures to address its cash shortfall. Major among these has been the pursuit of increased oil production and exports, mainly via its pipelines through Turkey[102] and other unconventional channels.[103] The KRG has been using proceeds from the oil sales to pay salary arrears to public sector workers and outstanding development costs owed to various oil companies.[104]

The KRG's economy also received an additional boost in the intensification of the development of gas fields in the region. With an estimated 2.83 trillion cubic meters of gas reserves (89 per cent of Iraq's), the KRG could be a major player in the production and export of gas in the future.[105] The region's potential as a major supplier of gas has been recognised by Turkey and some European countries (e.g. Austria and Hungary)[106] seeking to reduce their overdependence on gas supplies from Russia. Turkey[107] and companies like Genel[108] have participated in the development of gas fields in the KRG. Furthermore, with the KRG's already developed fields (e.g. Miran and Shaikan oilfields)[109] likely to come on stream in the next two to three years, the KRG's oil and gas sector can be expected to significantly ease the region's cash flow

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[101]Mohammed A Salih (2015) *Iraqi-Kurdish oil deal is slipping away.*
http://www.aljazeera.com/news/2015/02/iraqi-kurdish-oil-deal-slipping-150219054908938.html.

[102] Anthony McAuley (2015). *Kurdistan Regional Government breaks monthly oil export record.*
http://www.thenational.ae/business/energy/kurdistan-regional-government-breaks-monthly-oil-export-record.

[103] David Sheppard, John Reed and Anjli Raval: *Israel turns to Kurds for three-quarters of its oil supplies*:
http://www.ft.com/cms.

[104] Kurdistan Pays Oil Companies for Third Month to Maintain Output: http://www.bloomberg.com/news/.
(November 30, 2015).

[105] Eldar Kasayev: *Iraqi Kurdistan, and the Future of the Russian Gas Business*: http://en.interaffairs.ru/10-09-2010.

[106] Author's interview (2016). With Falah Mustafa Baker, The Head of Department of Foreign Relations Kurdistan Regional Government.

[107] Selcan Hacaoglu: *Turkey Turns to Iraq's Kurds for Gas Amid Pressure from Putin*:
http://www.bloomberg.com/news/articles. (December, 2,2015)

[108] Firat Kayakiran: *Genel to develop Kurdish gas fields for Turkey Export*: http://www.worldoil.com/news.
(2014)

[109] *Under the Mountains: Kurdish Oil and Regional Politics* (Report By The Oxford Institute of Energy.
https://www.oxfordenergy.org. (2016)

problems in the short to medium, and even long-term.

The KRG realises, however, that relying solely on the exploitation of its hydrocarbon resources would expose the entire economy to the vicissitudes of the global oil industry. The seriousness of the repercussions would have been confirmed in an ongoing financial crisis in the region. Diversification of the Kurdish economy has thus been one of the major aims driving the post-autonomy economic policies of the KRG. The development of tourist-based infrastructure and the promotion of tourism as an industry have become salient policies in the KRG's attempts to emulate the success of Dubai as a tourism hub.[110] It has been discernible in the aim behind the US$3bn investment in the so-called 'Downtown Erbil' project aimed at the delivery of "five-star hotels, apartment towers, shopping so-called malls, schools and healthcare facilities".[111] To these may be added a host of favourable factors, including Kurdistan's idyllic countryside and about 3,500 landmarks and monuments in the region.[112] The relative peace Kurdistan enjoys with neighbouring Syria, Turkey and pre-dominantly Arab parts of Iraq, the KRG's location between Iran and Turkey and the predominantly Arab parts of Iraq, together with the vigorous promotion of tourism in the region, seem to have combined to make the KRG a centre of tourism.

Since 2007, the KRG has recorded a substantial increase in the number of tourists to the region, as well as a massive flow of revenue to businesses in its hospitality industry. In six years (2007 to 2012), the number of tourists to the region rose from 377,397 to 2.2 million.[113] Kurdistan has three international airports, and has had a 300 per cent increase in the number of hotels across Kurdistan in nine years (between 2007 and 2015) including Sheraton, Hilton and Kaminski.[114] If the conflicts in neighbouring Syria and Mosul are resolved, it is not unreasonable for the KRG to meet its expectation of revenues of about US$2.17 billion from its tourist sector by 2025.[115]

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[110] Kurdistan adopts Dubai plan to boost development: http://cabinet.gov.krd/a/dSaturday. , (17 March 2007)
[111] Alexandra Di Stefano Pironti (2014). Not All Kurds Want Kurdistan Transformed into the Next Dubai. http://rudaw.net/english/kurdistan/ (21/04/2014)
[112] Opening up to the World: Tourism. http://investingroup.org/review/243/opening-up-to-the-world-tourism-kurdistan/(2013)
[113] *Ibid.*
[114] Destination Kurdistan: is this autonomous Iraqi region a budding tourist hot spot? http://world.time.com/ December 31, 2012.
[115] Alexandra Di Stefano Pironti (2014) Not All Kurds Want Kurdistan Transformed into the Next Dubai. http://rudaw.net/english/kurdistan/ April 21, 2014.

Summary

As argued above, the economy is an essential part of a functioning *de facto* or 'quasi' state. Kurdistan's economy is more robust than those of comparable states (such as Bosnia, Kosovo and South Sudan) since independence. The KRG economy has not been exposed to further instability due to civil war – the bitter dispute between the KDP and the PUK ended in 1997. In addition, the oil resources of the KRG make it a centre for foreign investment interest (unlike Bosnia and Kosovo, for example). This may be further assisted by the development of gas fields. The basis for the KRG's independence is evident and is recognised politically in the policy of the central Iraqi government to prevent any *de facto* Kurdish control over oil exports and revenue.

The importance of oil and gas for an economy may itself bring weaknesses – what has been termed the 'resource curse' of being overly dependent on one or two commodities whose prices may fluctuate in international markets.[116] For example, even developed economies such as Venezuela and Russia have seen their economies affected in major ways by oil price falls. In any negotiations for an independent KRG, it would be absolutely essential that it gain control over the extraction, sale and revenue of oil resources. This may even involve concessions to the Iraqi government, such as a commitment to pay a certain percentage of oil revenues to the central government over a fixed period. It is evident that oil and gas are likely to continue to bring in guaranteed revenue, and if the KRG government does not waste the resources on corruption and public spending, it may be able to build up sufficient reserves to sustain itself through oil and gas price changes. In short, the opportunity is present for economic stability, while it develops other areas of its economy that show potential. These two are agriculture, which in previous decades has proved successful, and tourism.

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[116] Andrew Rosser, 2006. '*The Political Economy of the Resource Curse: A Literature Survey'.* Institute of Development Studies Working Paper 268

Political capabilities: the KRG's governance, institutions and stability

The discussion of KRG's 'internal capabilities', as already explained, enquired into whether the KRG can function as a viable state in the foreseeable future. The previous section focused mainly on the KRG's ability to develop a reasonably strong economy which would enable the KRG to provide its population with the most essential public goods in a manner that would enhance the KRG's chances of evolving into a viable state in the foreseeable future. This section will discuss the issue of whether the KRG has the type of 'governance systems, institutions and democratic politics' that can enhance its viability as a sovereign state. As already argued, states' abilities to provide their populations with the most essential political goods (such as security, health care and education.) crucially affects their effectiveness and ultimate viability.

The discussion will thus examine the KRG's 'political system' in relation to its political institutions, including its multiparty system and peculiar political culture, how political power is obtained, shared and applied in interactions between representatives of the KRG government, and its social, religious and political groups, and civil society in general.

It is appropriate at this point to attempt a clarification of the distinctive meanings of the concepts of 'governance' and 'good governance' and how the latter can be used to assess the potential of the KRG's 'political system' in relation to the region's aspirations to being a stable, thriving state in the foreseeable future. The concept of 'governance' has thus been broadly defined as "a conscious exercise of direction, regulation and control over a human system."[117] The notions of 'direction', 'regulation' and 'control' are generally perceived as elements of the art/science of 'administration' and 'management'. This may explain why 'governance' as a concept has also been used extensively to refer to the management and administration of diverse 'human systems', such as "donor and charity organisations, corporate entities, and academic institutions".[118] Increasingly, however, the concept of 'governance' has become widespread within the context of 'public administration', a term frequently used interchangeably for the term 'public governance'.[119]

The term 'public governance' has thus been defined as 'formal and informal decision-making

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[117] Cutting, Bruce and Kouzmin, Alexander. *Refounding Political Governance: The Metaphysics of Public Administration*. Ebook, Chapter 1, p. 5.

[118] Martin Doornbos (2001). '*Good governance: the rise and decline of a policy metaphor?,*' Journal of Development Studies, Vol. 37, No. 6.

[119] Laurence E. Lynn, Jr. (2006), *Public Management: Old and New*, London: Routledge, p. 4.

processes and arrangements in line with states' constitutional values.[120] Therefore, governance of 'public interests' via state institutions differs from that of other human systems in that public governance's scope and mission are rooted in the sovereignty and, hence, supreme authority of states over affairs in their territories as guaranteed under international law . The UNDP has defined 'public governance' as "the exercise of economic, political, and administrative authority to manage a country's affairs at all levels".[121] 'Public governance' also thus includes "mechanisms, processes, and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations, and mediate their differences".[122] 'Political power' as an instrument of 'public governance' is traditionally or ideally expected to be applied to the management of countries' affairs, and also to the regulation of relationships between citizens and the state and a wide range of domestic and transnational organisations and institutions.[123] 'Political power' in the KRG would have to be applied in a similar manner to the maintenance of social stability, peace and economic development in the region if 'public governance' in the KRG is to emerge as a positive factor for the region's evolution into a viable state in the foreseeable future.

From the perspective of both the Iraqi constitution and international law, the KRG is not yet a sovereign independent state. Kurdistan is merely a region or state in the sovereign state of Iraq. Notwithstanding this, the KRG has demonstrated clear control over the administration of affairs within its territories. It thus possesses at least 'domestic sovereignty' even if it lacks international legal sovereignty.[124] This explains the popular perception of the KRG as a de facto state.[125] Aspirations of statehood are a topical issue in Kurdish political discourse, and could be said to be the most potent factor of cohesion among its political elite and the rank and file of the Kurdish populace. The term 'public governance' can therefore be aptly applied not only towards the assessment of the concept of 'political power', as obtained and applied in the KRG, but also in the inquiry as to whether the KRG's governance or political system, public institutions and political culture could enhance the region's evolution into an 'effective state'.

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[120] Policy Framework for investment user's toolkit: Chapter 10. Public governance: http://www.oecd.org p. 2
[121] 'What is governance'?
   http://web.worldbank.org/wbsite/external/countries/menaext/extmnaregtopgovernance.
[122] *Ibid.*
[123] Definition of basic concepts and terminologies in governance and public administration, Economic and Social Council. Committee of Experts on Public Administration Fifth session New York, 27-31 March 2006:
[124] Yaniv Voller (2013). '*Kurdish Oil Politics in Iraq: Contested Sovereignty and Unilateralism*', Volume 20, Number 1: http://www.mepc.org/journal/middle-east-policy.
[125] See, for example, Yaniv Voller (2014). *The kurdish liberation movement in Iraq: from insurgency to statehood.* New York: Routledge.

In practical terms, however, 'public governance' is realised in the form of 'regimes', 'governments' and 'political systems'. At any given time or period, a country's form of 'public governance' may be 'democratic', 'authoritarian' or 'autocratic'. Within different and even similar countries, too, any of these forms or systems of 'public governance' could lead to different results as far as the provision of political goods and creation or enhancement of effective states is concerned. However, certain attributes or features have been observed to be typical of regimes and systems often described as demonstrating 'good [public] governance'. The attributes or features of 'good governance' include "accountability, transparency, efficiency, effectiveness, responsiveness and rule of law."[126] Countries with a consistent record of 'good governance' are also said to experience growth in "investment and economic development."[127]

 'Good governance', however, entails much more than the efficient delivery of public goods: it is also observed in how government or state power is applied in interactions between operatives of the state and state institutions, on the one hand, and, on the other, political and civil organisations and their personnel, civil society and non-governmental organisations. 'Democratic politics', as opposed to totalitarianism and despotism, in this context, would be more approximate to 'good public governance'.[128] 'Democratic politics' and related governance systems and regimes, again unlike autocratic or despotic ones, are generally built on impersonal institutions and steady economic and political structures, principally for effective human development.[129] "Political freedom and human rights, and removal of discrimination" have also been identified as features of societies run on democratic political institutions and related economic structures.[130] Although 'democratic governance' does not always produce sound government, sustained economic development or even political stability, it offers a more peaceful means for change of 'inefficient governments' and also in its offer of a predictable political direction through free and fair elections.[131] Democratic governance further trumps other forms of political authority in how it grants to the voting public freedom

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[126] Governance Principles, Institutional Capacity and Quality: http://www.undp.org/

[127] *Ibid.*

[128] DFID, (2006). *'Governance, Development, and Democratic Politics: DFID's Work in Building More Effective States'*, Department for International Development, London: http://webarchive.nationalarchives.gov.uk/+/http:/www.dfid.gov.uk/pubs/files/governance.pdf.

[129] Adel M. Abdellatif (2003). *Good Governance and Its Relationship to Democracy & Economic Development* :ftp://pogar.org

[130] Jeane J. Kirkpatrick (1984). '*Democratic Elections and Democratic Government',* World Affairs, Sage Publications Vol. 147, No. 2 (Fall 1984), pp. 61-69

[131] *Ibid.*

of public protest against bad governance.[132] Democratic political systems also produce regimes that pursue "more inclusionary policies and create fewer radicalized elements".[133] Democratic governance and politics, in sum, offer human societies better chances for the achievement and maintenance of peace, economic prosperity and social cohesion.

Voller has observed how the KRG, like many 'separatist entities', has tried to obtain legitimacy in the eyes of the community of recognised states through a demonstration of a staunch commitment to democracy.[134] The KRG does this with the obvious aim of proving to the international community that it has the capacity for 'good governance' and, thus, has earned the right to be a sovereign state. But it is also true that Kurdistan has had to adopt the principles of democracy, rule of law and human rights as a medium not only to highlight their mistreatment at the hands of the Iraqi state, but also as a means of addressing the differences among its own political groups. The practice of 'democratic governance' in Kurdistan (since the establishment of the KRG in 1991) is thus to be seen as a commitment to democracy forced upon the KRG by external and internal circumstances. The KRG's submission to 'democratic politics and governance' has its rationale in these empirical considerations.

The constitution of the KRG democracy

The most conspicuous features about the KRG's democracy would be seen in this regard to derive primarily from the region's status as a constituent state in the multi-party federal democracy of the Iraqi state. The Iraqi state commits the KRG to maintain a democratic political and governance system through Articles One and Two (b) of its federal constitutional provisions, wherein the Iraqi state itself is affirmed as a 'republican', representative democracy in which "no law that contradicts the principles of democracy may be established".[135] Any political system other than a 'democracy' in the KRG (e.g. an autocratic regime or sultanate) would thus be unlawful from the perspective of the federal constitution, the source of the KRG's legal status as an autonomous 'region' within the Iraqi state. This is further affirmed in the legal implication of the provisions in Article 13 of the federal constitution, which stipulates that any prospective KRG constitution is subservient to that of the federal state.

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[132] *Ibid.*

[133] Burak Bilgehan Ozpek (2012). *Democracy or Partition: Future Scenarios for the Kurds of Iraq',* Insight Turkey, Vol. 14, No. 3, pp. 127-140

[134] Yaniv Voller (2013). '*Kurdish Oil Politics in Iraq: Contested Sovereignty and Unilateralism*,' Middle East Policy, Volume 20, Number 1: http://www.mepc.org/journal/middle-east-policy

[135] Iraqi Constitution. Article 2 (b). http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf.

The discussion will presently touch on the KRG's regional draft constitution. For now, however, it may be noted that the KRG duly complies with the federal constitution's implicit 'democracy requirement' at the 'regional level'. This is seen in the provisions of Articles One and Three of the KRG's draft constitution, which confirm Kurdistan as a multi-party, parliamentary [*republican*] democracy, the sovereignty of which is said to reside in 'the people'.[136]

The KRG further complies with the traditional structures of federal democracy through the maintenance of a regional political authority responsible for the administration of the governorates, Dohuk, Sulaimaniyah and Erbil. The KRG describes its governance institutions as exercising "legislative and executive authority in many areas," some of which are specified on the KRG's official website.[137] The constitutional boundaries and subject matter jurisdiction of the KRG's political authority have been a source of recurring disagreements between the Iraqi federal government and the KRG. There are many instances of, and explanations for, the said disagreements. Some of the disagreements would seem to emanate from attempts by the federal government to claw back bits of the wide latitude the federal constitution seems to have accorded the KRG in many matters. There are also inherent contradictions in some aspects of the Iraqi state's constitution. Then also is the KRG's resolve to exercise its autonomous powers through values consistent with its political aspirations, social structures and political history. The constitutional disagreements between the KRG are many and complex in nature. For the purposes of this discussion, however, the most serious ones revolve around the following issues: the dispute between the KRG and the federal government over ownership and control of oil fields in the KRG, the status and role of the KRG's Peshmerga within the Iraqi state's security apparatus, and the status of disputed territories such as Sinjar, Khanaqin and oil-rich Kirkuk.[138]

Also of significance is that the Kurdish draft constitution (Article 6) confirms the plurality and equality of religious faiths in the region[139] in a manner that challenges the federal constitution's proclamation of Islam as the state religion and major source of law in Iraq. The KRG's draft constitution also clearly makes the disputed territory of Kirkuk, the subject of a scheduled referendum, part of the KRG territory. Given the supposed supremacy of the Iraqi constitution

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[136] Author's interview (2016), with Dr Farsat Sofi Ali, member of the Kurdistan Parliament (KDP)
[137] *Ibid.*
[138] *Ibid.*
[139] Author's interview (2016) with Falah Mustafa Baker, the Head of the Department of Foreign Relations, Kurdistan Regional Government.

in points of conflict between its provisions and the constitutions of the various federations, the KRG's departure from its federal constitutional provisions would seem to raise a question or two about the KRG's commitment to the principles of democracy. The scope of this discussion, however, may not allow a comprehensive examination of the basis of this perception. In their relevance to the KRG's commitment to democracy, however, the disagreements and the KRG's clear departure from some constitutional provisions in the Iraqi federal constitution may partly be described as an instrument of political strategy and partly as a means to govern the KRG with values (e.g. social inclusion and equality of the sexes and religions before the law) that inherently stand in conflict with the dictates of Islam as a source of law and official state religion in a religiously pluralistic state.

The attempt to claim Kirkuk as part of the KRG in defiance of its disputed status and related scheduled referendum would also appear as a tactical response to the federal government's footdragging on the actual holding of the deferred referendum on the future of the oil-rich province,[140] which, at this point in time, also happens to be in the actual possession of the KRG. The disagreements between the KRG and the Iraqi state would, thus, be best discussed outside the assessment of the KRG's commitment to democratic rule and principles within its territories. On this note, the discussion will delve further into the governance systems of the KRG with a focus on the 'legitimacy of regime or governments' in the KRG and the democratic application of governmental power within the region.

Democratic governance and political authority in the KRG

It has already been stated that the legality of the KRG as a political authority is grounded in its status as a constituent state of the federal republic of Iraq, and that its government is composed of the traditional three arms of government common to liberal democracies. executive power in the KRG is exercised by the President, and the Prime Minister and his Cabinet. The executive branch of government derives its legitimacy (defined as the "recognition of the right to govern")[141] from Article 1, Law No.1, as "promulgated by the Kurdistan National Assembly in 1992".[142]

The presidency occupies the topmost position on the executive hierarchy and is required to be

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[140] Author's interview (2016) with Dr Farsat Sofi Ali, member of Kurdistan Parliament (KDP)

[141] Jean-Marc Coicaud (2002*). Legitimacy and Political Right: A Contribution to the Discussion on Political Right and Political Responsibility*. New York: Cambridge University Press, p. 5

[142] Kurdistan Regional Presidency. http://www.presidency.krd/english/pdisplay.aspx?sm=oJeOd5f59dk.

filled by a person elected by secret ballot via a popular vote for a four-year tenure that may be renewed only once for the same person through the same electoral procedure or process.

The first and only president of the KRG thus far has been Masoud Barzani. First elected as president in January 2005 by the National Assembly, he was re-elected through a popular vote by two-thirds of the electorate in 2009 following a change in the region's electoral laws. Based on the KRG's constitutional laws, Mr Barzani should have left office at the expiry of his second term in office in 2013. Controversially, however, his presidency has been extended twice, thus keeping him in the presidency despite the protests of his political opponents and the and criticisms of the international community. On both occasions, the extended tenure was justified with reference to KRG's laws suspending presidential elections in times of 'crisis'. The war with ISIS has been invoked on both occasions to support Mr Barzani's continued stay in office beyond the permitted duration of his term.[143]

Claims of the alleged illegality of the extension of Barzani's presidency may be tempered by the fact that the Speaker of Parliament – who is required by Kurdish law to assume the presidency in the event of crisis – has shown no willingness to do so.[144] Secondly, Kurdistan Law No. 19 (fourth paragraph) endorses the continued stay of the President in office when the holding of elections is rendered impossible by extremely adverse events, such as war. The KRG's electoral commission has not responded to President Barzani's personal request for the organisation of presidential elections for his replacement, the reason cited being that the ongoing war with ISIS renders such an event, impossible.[145] It would also seem that prominent members of the opposition share in the pragmatism of an extended Barzani presidency, and have cited the favourable stand of the KRG's Western allies on Barzani's continued presidency as the basis for their tacit, if nuanced, support for the KCC's decision.[146] As a reflection of the KRG's hybrid system of government, the remainder of the executive arm of Kurdistan's political authority is comprised of a cabinet of ministers with portfolios drawn from practically all parties in the KRG: the Kurdistan Democratic Party (KDP), Patriotic Union of Kurdistan (PUK), Kurdistan Islamic Movement, the Chaldean Assyrian Syriac Council, Turkmen

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[143] Author's interview (2016) with Dr Farsat Sofi Ali, member of Kurdistan Parliament (KDP)

[144] See, for instance, KRG Parliament Speaker: Barzani's Term Extension 'Against the Law': http://www.al-monitor.com, August 15, 2015.

[145] Barzani Calls for Solution to KRG's Presidential Crisis: https://www.middleeastmonitor.com(Sunday 16 August 2015)

[146] Kaka Hama. August 18, 2015. Parties warned by US officials to keep Barzani president. http://rudaw.net/english/kurdistan/180820156.

representatives, Communists and Socialists,[147] and a Prime Minister appointed by the Kurdish National Assembly in consultation with the parties. The Cabinet, Prime Minister and Deputy Prime Minister are constitutionally charged with the review and approval of budgets for the various ministries as well as the preparation of new legislation for the ultimate review and enactment by the parliament.[148] Executive power at the governorate level is exercised on behalf of the regional government by governors appointed by the President.

The Kurdish Parliament (KP), formerly the Kurdish National Assembly, constitutes the legislative arm of the Kurdistan Regional Government. Under Kurdish law, the law chamber's 111 seats are required to be filled every four years by members from the various political parties, among which the most prominent are the KDP, the PUK and, more recently, Goran, an offshoot of the PUK. In recognition of the right of minority groups to fair representation in parliament, 11 parliamentary seats are reserved for groups drawn from the communities of Turkmen (5 seats), Chaldeans, Syriacs and Assyrians (5 seats), and Armenians (1 seat).[149] Constituting the KRG's unicameral legislature and main law-making body, the KP was at the official inauguration of the KRG as a constituent of the federal state of Iraq, directly responsible for the appointment of the President. The KP is further vested with the power to ratify or reject agreements with foreign governments.

After ensuring the appointment of Masoud Barzani for the first time, the KNA's power of presidential appointment was modified by the 2009 electoral reform, which subjected future presidential appointments to direct elections through a secret ballot by adult suffrage. The Kurdish parliament, however, retains responsibility for the approval of the nominations of both the Prime Minister and the cabinet, and can dissolve the cabinet with a vote of no confidence in it. Since the creation of the KRG, the two major parties, the KDP and the PUK, have dominated the KNA in terms of membership, and hold between them 63 seats, representing the votes won in the last parliamentary elections. The two parties' stranglehold on Kurdish politics, however, is currently under serious challenge from the Goran ('Change') Party, which campaigned on an anti-corruption platform and won 24 per cent of votes cast (approximately 30 seats) in the same elections. This growing challenge is evidence of the genuine nature of

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[147] Author's interview (2016), with Dr Farsat Sofi Ali, member Of Kurdistan Parliament (KDP).

[148] Gareth R.V. Stanfield (2013). I*raqi Kurdistan: Political Development and Emergent Democracy,* London: Routledge, P. 158.

[149] Author's interview (2016) with Dr Farsat Sofi Ali, member of the Kurdistan Parliament (KDP).

Kurdish democracy.[150]

The KRG's official website describes the KRG's main governance institutions as comprising the Kurdistan Region Presidency and the Kurdistan Parliament.[151] However, the region has a judicial arm of government that has all but asserted its independence and autonomy from the federal court system and related hierarchy. Following the reorganisation of the court system in Kurdistan by local politicians after Saddam Hussein's withdrawal of state services from the Kurdish region in 1991, Law No. 44 of Kurdistan's Principles and Procedure s – the KRG's *de facto* constitution until 2009 – confirmed the establishment of Kurdistan's judicial system and, with it, the supremacy of Kurdish law over Iraqi state law and its independence from the legislative and executive organs of the region's then fledgling self-governing institutions.[152] The institutional independence of the KRG's judiciary was further affirmed first in 1992 via the Judicial Authority Law (which also established a Kurdish Supreme Court)[153] and subsequently through the enactment of Law No. 23 of the Judiciary Law of 2007.[154]

The facts about the structure of the KRG's judiciary, together with those of the Region's executive and legislative organs of government, enable a description of the KRG's governance and political systems as possessing the nominal or formal features of a liberal democracy. However, a distinction is made between 'procedural or formal democracy' (i.e. the institutions, procedures or routines of democratic systems) and 'political or substantive democracy' (i.e. 'the redistribution of power') in forming the conclusion that the output, and not the forms of democratic institutions and processes, determines their quality and usefulness.[155] It has thus been noted how the embrace of democracy by countries in Africa, Asia and Eastern Europe between the mid- and late 1980s soon led to mass disillusionment in democratic systems of governance, owing principally to the failure of those 'new democracies' to deliver the required levels of social equality, social mobility, reductions in poverty, and reductions in corruption.[156] For democratic governance and related political systems to be worth having, therefore, they

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[150] Michael Knights (2009). *Managed democracy gives way in Iraqi Kurdistan: policy analysis,* The Washington Institute: http://www.washingtoninstitute.org/policy-analysis/

[151] Fact sheet: about the Kurdistan Regional Government. http://cabinet.gov.krd/p/p.aspx?l=12&p=180

[152] Gareth R. V. Stanfield (2003). *Iraqi Kurdistan: Political Development and Emergent Democracy.* London: Taylor and Francis Group, p. 158.

[153] *Ibid.*

[154] *Ibid.*

[155] Robin Luckham and Anne Marie Goetz et al. (2000). *Democratic institutions and politics in contexts of inequality, poverty and conflict: A conceptual Framework* (IDS Working Paper 104): https://www.ids.ac.uk

[156] Union Kübra and Dilek Azman (2011). '*The Problem of "Democratic Deficit" in the European Union',* International Journal of Humanities and Social Science, Vol. 1 No. 5; 242, p. 1.

must prove their practical usefulness through the enhancement of freedoms, civil liberties, security, living conditions and general standards of living.

Certainly there are problems with KRG democracy – and these are addressed below – but in - terms of an 'actual existing democracy', the KRG is outperforming the rest of Iraq and neighbouring states such as Syria ,Iran, Turkey and most of Arab States.[157] One of the most important timelines for the evaluation of the substance in the positive perceptions on the KRG's governance record is the period between the withdrawal of the Iraqi state from the KRG under Saddam's orders (i.e. 1991) and when the KRG formally came into being as an autonomous constituent state of the federal republic of Iraq (2005). The KRG's political power groups engaged in a struggle over political power. Following the agreement between the parties to end this struggle, the actors began to build the rudimentary frameworks of democracy. Many of the KRG's early politicians had no experience in civic administration. Within a short space of time, however, they managed to restore the numerous Kurdish villages destroyed by the Iran-Iraqi war and the Anfal genocidal campaign. As a result, the overwhelming majority of the Kurdish people forced into the cities by the said campaigns returned to their homes in the countryside.

The KRG's early administrative structures enabled the creation of a regional economy that was to grow in less than a decade to match the volume and resilience of the economies of many established developing countries. The managerial acumen of the KRG's political class may further be observed in the dexterity with which the KRG managed to attract investments from all parts of the world in the development of its oil wells and petroleum industry, against threats of lawsuits and outright violence from the Iraqi federal government. Other indicators of political acumen can be discerned in how the KRG managed to secure asymmetrical status and, by extension, disproportionate regional powers vis- à-vis the other states in the Iraqi federation within the new federal Iraqi state, and the extent to which the KRG has 'leveraged' that status to secure relatively large chunks of Iraq's oil wealth in the form of budgetary allocations from the federal government while, at the same time, maintaining a regional political authority. Additionally, in terms of international relations, the KRG's governing class has managed to convince almost all the major industrialised countries to set up diplomatic missions in Erbil, the capital of the KRG. Indeed, by the time the KRG was established as an autonomous region,

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[157] Author's interview (2016) with Dr Farsat Sofi Ali, Member of Kurdistan Parliament (KDP).

it had diplomatic representation in "Europe, the US, the Middle East and the Far East".[158] As of 2015, the KRG, besides hosting 31 diplomatic missions, had fully-staffed missions in 14 countries.[159] It is argued that the KRG could, in the future as part of the advocacy for recognition of a future Kurdish state, cite its cordial relations with many countries from all continents as proof of its capacity to enter into relations with other state. Having made these points, the stability of domestic political institutions and the development of external relations cannot expand without the maintenance of another public good – security – to which the next section turns.

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[158] Gareth R.V. Stanfield (2013). *Iraqi Kurdistan: Political Development and Emergent Democracy*, London: Routledge, p. 12.

[159] Author's interview (2016) with Falah Mustafa Baker, the Head of the Department of Foreign Relations, Kurdistan Regional Government.

Internal and external security

'Security', as highlighted previously in this chapter in the discussion on the internal capabilities of the KRG, ranks highly among the 'political goods' states are traditionally expected to provide their people. The KRG's Peshmerga was an important factor in allowing crude Kurdish political structures to develop after 1991. Many of the early administrators of the polity, including the President, Masaoud Barzani, were drawn from the ranks of the Peshmerga. In the contemporary period, they have provided an important role in protecting the KRG from outside incursions by Shia or Sunni militias by providing internal security and in repelling external threats such as the one from ISIS.[160]

The KRG as a polity and the Kurdish people in particular face a constant existential threat to the location of their territories in Iraq and the Middle East, two of the most volatile and certainly most violent places on the globe. Past experience with the Iraqi state also serves to remind Kurds that their existing state, Iraq, far from guaranteeing their safety from external enemies, is itself a threat to the security of the Kurdish peoples.

By far the most serious security issue confronting the KRG in recent times has been the attacks launched by Islamic State in 2014 against some Kurdish villages and Erbil and the subsequent capture and enslavement of some members of the Yazidi community. The KRG's containment of the ISIS threat has been so effective and thorough that many Western countries see the KRG as the most reliable partner in the fight to rid the Middle East of these extremists. The USA and other Western countries have accordingly stepped up efforts to support the KRG through the provision of training to the KRG's armed forces. Despite the continued threat from ISIS, the KRG remains the most stable part of Iraq.[161]

The government of the region recognised the extraordinary importance of the Pershmega by exempting them from the pay cuts and delayed salary payments introduced in the region as part of the austerity measures to address the economic meltdown in 2014.

Having said this, the KRG's security structures and architecture entail far more than their 'army'. As detailed by Chapman, the KRG's 'security sector' is comprised of, in addition to the Peshmerga, 'the Asayish' ('Security', the principle enforcement agency for major crimes),

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[160] Author's interview (2016) with Falah Mustafa Baker, the Head of the Department of Foreign Relations, Kurdistan Regional Government.
[161] Kurdistan Regional Government. http://www.globalsecurity.org/military/world/iraq/krg.htm.

the intelligence services of the two parties – 'Parastin' ('Protection") of the KDP, and 'Dazgay Zanyari' ('Information Apparatus') of the PUK and the KRG's municipal police force.[162] The vigilance and coordination among these organisations, the general competence of the KRG's Ministry of Interior and the security-mindedness of the average Kurdish citizen are an important context for these organisations.

Human rights

As stated, one of the means that separatist groups adopt to present a positive image to the international community is to portray themselves as democrats with a staunch commitment to the promotion of civil liberties, human rights and the rule of law. This and the awareness that 'good governance' also entails respect for human rights,[163] civil liberties and other human freedoms[164] define the image the KRG projects to the international community. The KRG's politicians and diplomats seem to understand the goodwill that commitment to human rights and civil liberties can bring to bear on the region's aspiration to statehood. At every opportunity, therefore, KRG officials highlight the region's supposed uniqueness as a Middle Eastern democracy in a predominantly Islamic society.[165] Attention could, thus, be drawn to the KRG promoting and implementing policies and laws that purport to safeguard the types of freedoms and liberties and human rights values commonly associated with liberal democracies. The KRG's tendency to and flair for self-promotion as an oasis of sound democratic governance has been acknowledged in numerous international press reports and Western government publications on the regional government.[166] The KRG's formal commitment to the values of human rights, the promotion of civil liberties, minority rights and equality of the sexes can also be verified in aspects of the preamble and articles in the region's draft constitution. Specifically, the preamble of the draft constitution projects the KRG's pride in its ethnic and religious pluralism[167] and commitment to the 'principles of human rights' and 'rule of law'. Similarly, several articles in the same document attest to a resolve on the part of the

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[162] D.P. Chapman (2009*). Security forces of the Kurdistan regional government.* Centre for Strategic and International studies Washington DC, p. 2.

[163] Author's interview (2016) with Soran Omar, member of the Kurdistan Parliament, head of Human Rights Department.

[164] Jeane J. Kirkpatrick (1984). Democratic Elections and Democratic Government'. *World Affairs, Vol. 147, No. 2, pp. 61-69.*

[165] Harold Rhod, '*Kurdistan is the most democratic place in the region*', Interview with Rudaw. http://rudaw.net/english/kurdistan/30042014.

[166] See for instance, the Kurdistan Regional Government as a partner for the UK Government: http://www.publications.parliament.uk/pa/cm201415/cmselect/cmfaff/564/56409.htm.

[167] Denise Natali, Interview with Rudaw (Kurdish Media): http://rudaw.net/english/kurdistan/30042014

KRG to uphold the rights of all religious faiths in the region (Article 6 and 7) and respect for all its linguistic groups (Art. 14). In particular, Article 18 of the draft constitution reads like a bill of rights in its dedication of an entire chapter to the proclamation of the KRG's commitment to the tenets of fair justice, the rule of law, and life and liberty, and, as stated, the values observed in mature liberal democracies. The promotion of these values and rights is incorporated into the educational curriculum of the KRG as a way of raising a future Kurdish population respectful of "disadvantaged and vulnerable groups and individuals, including women, children and minorities".[168]

In practical terms, the KRG allocates a substantial portion of seats and positions in its regional and municipal councils to women.[169] The KRG further reduced the eligibility age for entering the parliament from 30 to 25 and increased the quota of seats for females from 25 to 30 per cent.[170] The reduction in the age of eligibility for the parliament was ostensibly meant to enable youth and female involvement in regional and local government politics. In the same year (2009) the KRG added 10 additional seats to the quota of seats for the Christian and Turkmen communities in the KRG's parliament.[171] That brought to 10 the number of seats allocated in Parliament to each of the two minority groups.[172] Also worthy of mention is that the major political parties have routinely appointed to ministerial positions members from minority groups that would not otherwise be represented in government. That translates into a broad, institutional commitment to political inclusion across the KRG.

In addition to political institutional reform, the KRG has also enacted social reforms. In addition to the enactment of laws against domestic violence (lauded as the first of its kind in Asia[173]) and child marriages, the KRG has put in place a robust legal framework to address female genital mutilation, a pervasive problem in the Middle East. Thus, despite the high prevalence of female genital mutilation among the adult female population in the KRG, the its campaign against the practice has apparently resulted in a decrease in the prevalence of the

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[168] Audrey Osler and Chalank Yahya (2013). *Challenges and complexity in human rights education Teachers' understandings of democratic participation and gender equity in post-conflict Kurdistan-Iraq,*' Education Inquiry, Vol. 4, No. 1, March, pp. 189-210.

[169] Michael J. Kelly (2010). *The Kurdish Regional Constitution within the Framework of the Iraqi Federal Constitution: A Struggle for Sovereignty, Oil, Ethnic Identity, and the Prospects for a Reverse Supremacy Claus',* Penn State Law Review, Vol. 114, No. 3.

[170] The Kurdistan Regional Government (the Kurdistan Parliament).
http://cabinet.gov.krd/p/p.aspx?l=12&p=229.

[171] *Ibid.*

[172] *Ibid.*

[173] KRG Looks to Enhance Protection of Women, Children: http://www.al-monitor.com/pulse/originals/2015/04/iraq-kurdistan-draft-amendment-violence-women-law.html

practice among children aged six and under, and is currently is reported to be 'close to zero'.[174] The progress of reform, however, remains uneven. A report by a delegation of British parliamentary observers to the KRG notes that the regional government's progressive laws and policies on the protection of women face numerous challenges at the grass roots and in conservative fringes of Kurdish society.[175] However, the report acknowledges the positive attitudes among the KRG's ruling elite towards "advancing gender equality" in the region.[176] More generally, the KRG's constitution guarantees freedom of speech and expression, as provided for in Article 59. The right to freedom of thought and worship in the KRG may also be inferred from the KRG's refusal to adhere strictly to the Iraqi state's constitutional adoption of Islam as the country's official religion.

The KRG's commitment to the freedom of thought and expression, however, is practically expressed in the relatively wide latitude and unrestricted avenues it grants the media and the public towards the expression of all sorts of opinions, including demonstrations against the political elite and ruling government.[177] Gunther in particular has commented positively on the proliferation in the KRG of media outlets "representing a broad spectrum of opinion, and evidencing the existence in the KRG of various freedoms that other Iraqis can only dream about".[178] The respected international organisation, Reporters Sans Frontieres, has also commented favourably on the "dynamism of the Kurdish intelligentsia" and the extremely high concentration of media outlets in the KRG (they number over 850, including 415 print media).[179] Other foreign visitors and even students from other parts of Iraq have expressed positive admiration for the freedoms on the campuses of universities in the KRG and how members of the opposite sex are allowed to interact freely without an official censor.

The availability of such freedoms, however, is not to suggest that the KRG has a perfect record on human rights and tolerance of dissent against the ruling government. As noted in several reports on the subject, journalists in the region are subjected to intimidation and occasional

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[174] *Ibid.*

[175] Author's Interview with Hoshyar Abdulla, a member of the Iraqi Parliament and a leader of the Change movement in Kurdistan.

[176] *Ibid.*

[177] Author's interview (2016) with Falah Mustafa Baker, the head of the Department of Foreign Relations, Kurdistan Regional Government.

[178] Michael M. Gunter (2014). '*Unrecognized De Facto States in World Politics*', The Brown Journal of World Affairs. Volume 20, Number 2, p. 9.

[179] Between Freedom and Abuses: The media paradox in Iraqi Kurdistan, Report by Reporters Without Borders, 2010.
http://www.reporterohnegrenzen.at/wpcontent/uploads/pdf/RSF_Bericht_Autonome_Region_Kurdistan_2010.pdf.

unlawful arrests and detentions.[180] There have also been numerous reports of the assassinations of prominent professional and student journalists for being specific about the alleged involvement of some powerful KRG politicians and army officers involved in corruption.[181]

There would seem to be an incongruence between, on the one hand, the KRG's genuine aspirations to develop into a mature liberal democracy and, on the other, its institutional capacity or even political will for the creation and realisation of the state of affairs commensurate in tenor with the ideals and values of liberal democracy. A region with the history and neighbours of the KRG needs time to fully absorb the magnitude of tenderness, tolerance and empathy required for the application of democratic principles and values to challenging behaviours and moments. In that regard, the most important trait or feature about the KRG worth highlighting, as far as the respect for human rights and all human freedoms is concerned, may be the degree of commitment, seriousness and sincerity with which the regional government tackles reported abuses at the institutional level. The KRG's response to a series of criticisms from Amnesty International can be seen as a positive development, even if aspects of the response (e.g. the suggestion that death penalties are rarely carried out in the KRG[182]) sounded a bit contrived and lacking in conviction. There was, however, a high level of maturity and sense of responsibility in the KRG's invitation to Amnesty International for a joint investigation of accusations levelled against some Yazidi members of the Peshmerga for alleged violence against Arabs in areas seized from ISIS.[183] The explanation that the KRG itself has provided security for numerous organised demonstrations against its government and politicians would also suggest that the region's much-reported human rights abuses, even if substantially true, may have been subjected to exaggeration.[184] Human rights organisations and the KRG's friends in the West have found it reassuring that the KRG's politicians readily comply with judicial interventions intended to correct human rights and civil liberty violations, as when, for example – on the orders of a High Court Judge – the security forces released from custody a lawyer detained for protesting at the wrongful detention of a client, who also was released on bail on the same judge's orders.[185] Thus, the KRG's struggles with the maintenance

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[180] Author's interview with (2016) Ali Hama Salah, Member of the Kurdistan Parliament (Movement of Change).

[181] Author's interview (2016) with Soran Omar, a Member of the Kurdistan Parliament and head of the Human Rights Department of Parliament.

[182] KRG Responds to Amnesty International Report. (25/06/2016) http://basnews.com/index.php/en/news/kurdistan/260886.

[183] *Ibid.*

[184] Author's interview (2016) with Dindar Zebari, the head of the High Committee to Evaluate and Response to the International Report (Deputy Minister).

[185] Judicial Reform Index for Iraq: Kurdistan Supplement (2006) *American bar association:*

of the highest standards of human rights and civil liberties required of a liberal democracy may be described as 'baby steps' in the right direction, the accompanying mishaps and numerous faltering notwithstanding.

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https://apps.americanbar.org/rol/publications/jri-iraq-kurdistan, p21

Political institutions and performance – instability and corruption

Perhaps the most serious doubts about the KRG's governance and credibility as a democracy lie in its disjointed governance and the political corruption in the KRG that is generally seen as the result of collusion between the KDP and the PUK to plunder the region's treasury. The power-sharing arrangement between the two factions effectively created a divided KRG, with the KDP in control of the governorates of Erbil and Dohuk, while the PUK took control of Sulaimaniyah. Ministerial positions were shared between the two parties in a manner that made it mandatory for each substantive minister of state to have a deputy from the rival party. In practice, however, the ministers and their deputies did not work together, as each minister rather managed affairs under their portfolios in matters affecting the strongholds of their party. The two parties also maintained control of their own Peshmergas, judiciary and separate border controls. The KDP and the PUK also kept as allies rival state powers in the Middle East. The KRG effectively became a divided political authority. As evidence of the rupture in government in the region, the two parties resorted to sending their own delegates and officials to international meetings.[186] If such a dispute was to develop again, it would present a major obstacle to Kurdish statehood. A key issue in the next decade is whether the rivalry between the two parties can permanently be situated in a democratic framework, or whether the parties may fragment peacefully and allow new parties (such as the Goran Party) to raise a challenge for power. Another phase of violent political conflict will effectively block the KRG's aims of becoming an independent state.

Internally reform has attempted to deal with this issue. For example, the consolidation of governance institutions and structures after the 2009 elections has been one of the positive developments in the KRG since its inception as an autonomous region. As an example, the courts and the Ministry of Justice that have been running on parallel lines under the separate control of the KDP and PUK have, since 2006, been unified under the KRG's Ministry of Justice. The Goran Party's emergence in 2009 as the second largest party in the KRG (after the KDP) has also further challenged the PUK's and KDP's power-sharing agreement and its negative effects on the KRG's democracy. The PUK continues to control its own Peshmerga, but with Goran's growing influence and popularity in the region, both the KDP and the PUK might eventually be forced to streamline their politics in the direction of further reforms to the Kurdish political system away from the 'managed democracy' which has been evident since

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[186] Author's Interview (2016) with Ali Hama Salah, Member of Kurdistan Parliament (Movement of Change).

2003.[187]

Nonetheless, the previous absence of a single political authority with consolidated political institutions across the KRG has contributed to the creation of porous accountable systems, which appear to have been exploited fully by the KRG's public officials. With the KRG 'swimming' in wealth derived from revenues from its own oil exports and budgetary allocations from the Iraqi federal government between 2003 and 2014, the attention of the public was less focused on the corruption in the KRG's public sector, particularly as the generous handouts and subsidies to the citizenry became a major vehicle for political patronage. The depth and magnitude of the corruption in the KRG, however, became a subject of public remonstration during the financial crisis when public and media groups began to focus on the misuse of oil wealth, and this spread to the international media.

The greater majority of the participants in demonstrations across the KRG at the peak of the 2014 financial crisis cited political corruption (rather than a fall in the price of oil) as the main cause of the region's economic problems.[188] Reports by affiliate organisations of Transparency International on political corruption in the KRG, lamenting its slide from a supposed fledgling democracy into a haven for 'systematic corruption' where government jobs are given on the basis of party affiliation", would seem to corroborate prevailing public views about the scale of bribery and corruption in the KRG.[189] Academics such as Gunther have also made similar claims, making the allegations that the two major parties were taking US$35 million per month for themselves from the KRG's budget allocation from the federal government. Leaked comments made by US officials obtained from Wikileaks also included a catalogue of allegations of political corruption in the KRG, examples of which were said to include payment of 'kickbacks' to party patrons and directors of government departments responsible for contract awards.[190]

The KRG fares better than the rest of Iraq on the issue of public sector corruption,[191] but that

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[187] Michael Knights (2009). *Managed Democracy Gives Way in Iraqi Kurdistan, Policy Watch 1563 by The Washington Institute*. August 3: http://www.washingtoninstitute.org/

[188] Author's interview (2016) with Hoshyar Abdulla, a member of the Iraqi Parliament and a leader of the Change movement in Kurdistan.

[189] Aras Ahmed Mhamad (2016). *Meritocracy or Kleptocracy: Kurdistan's Political Leadership in Turmoil*. Assyrian International News Agency. http://www.aina.org/news/20160330184727.htm.

[190] Kawa Hassan (2015). *Kurdistan's Politicized Society Confronts a Sultanistic System Carnegie Endowment for International Peace:* Publications Department 1779 Massachusetts Avenue NW, (August 18, 2015). http://carnegieendowment.org/files/CMEC_54_Hassan_11.pdf.

[191] Kurdistan Region of Iraq: Overview of corruption and anti-corruption: U4 Anti Corruption Resource Centre: http://www.u4.no/publications/kurdistan-region-of-iraq-overview-of-corruption-and-anti-corruption.

is irrelevant to the future sustainability of the KRG as a self-contained political unit. There exists a system of power networks in the KRG which are centred on the main parties but also connected to the security and economic sectors. Tackling these corrupt structures will require sustained reforms. The potential risks political corruption poses to the future of the KRG as a viable state are evident, especially in light of the fate of emerging oil-based economies with the history of the KRG's protracted political rivalries. South Sudan's descent into a civil war immediately after independence has thus been blamed on the fact that it entered statehood as an "ill-prepared, oil-dependent, kleptocracy with a history of internecine conflicts", where little regard had been paid to "greater public integrity and monetisation of oil assets."[192]

There is evidence, however, that segments of the KRG's elite recognise the potential harms of political corruption in the region. President Barzani has vowed to fight public corruption with the same fervour demonstrated when the KRG warded off the ISIS attack on Erbil.[193] Some of the measures introduced in this direction include cuts in government subsidies (a way of defunding political hangers-on masquerading as public sector workers[194]), reductions in the amount of monies paid to political parties with MPs in parliament, cuts in the salaries of the top government officials (including the President himself), clearing the region's payroll of ghost workers and instituting broad budgetary reforms,[195] training civil servants in the use of information technology to spot corruption risks[196], the creation of an anti-corruption agency, and a "penal code reform to include anti-corruption, money laundering and asset recovery laws, investigate corruption issues, and to advise on reform, enforcement of asset disclosure laws."[197]

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[192] Philippe Le Billon (2015). '*Oil, Secession and the Future OF Iraqi Federalism'*, Middle East Policy, Vol. 22, No. 1, p. 73.

[193] Massoud Barzani vows to fight corruption with same dedication as KRG has fought IS. (2016) Barzani's interview with al-monitor: http://www.al-monitor.com/pulse/originals/2016/03/turkey-iraq-syria-kurds-massoud-barzani-interview.html

[194] Sarkawt Shamsulddin: (2016) KRG Reforms: Beating a Dead Horse: http://www.nrttv.com/en/birura-details.aspx?Jimare=2505

[195] Reforms, anti-corruption initiatives, and austerity: the Kurdistan Regional Government reaches 'political maturity': https://pgreporter.comon April 16, 2015.

[196] Qubad Talabani, Deputy Prime Minister, Kurdistan Regional Government. Interview with BBC Hard Talk.

[197] Kurdistan Region of Iraq: Overview of corruption and anti-corruption: www.u4.no › Publication.

Conclusion

This chapter has examined the economic and political features of the KRG relevant to its capacity to be a credible independent state. It can be plausibly argued that the KRG exhibits a number of economic and political features and processes which could function as a platform for independence and that these features have been evident for two decades, since the early 1990s. Having made this point, there are important risks to the KRG which may undermine any transition to independence.

The main strength for the KRG economy comes from its oil and gas reserves. These can be a 'resource curse' if they lead to over-reliance on one commodity or lead to political fractures as competing actors seek to gain control of oil revenues. However, since 2003 the KRG has effectively expanded its oil industry, drawing in foreign investment and expanding export channels outside the control of the federal Iraqi state. It is crucial that the revenues from oil be diverted from patronage and towards the support of agriculture and economic diversification such as tourism.

In terms of political structures, since the early 1990s two factors have allowed Kurdish political groups to develop institutions and practices of governance. The first is the Peshmerga security forces and the second is the development of oil revenues. An important precursor to this was the end of the dispute between the two main political parties (the KDP and the PUK) and their associated ethnic and regional supporters. This produced a political agreement which brought stability (though this subsequently contributed to managed democracy and corruption as mentioned below). This political stability is an important variable, differentiating the KRG from other new states such as South Sudan and East Timor, which saw political conflict after independence, and also Bosnia, which to some extent remains a 'frozen' state, dependent on EU and other support to maintain political stability. The emergence and success of a new political party (Goran) is evidence of the KRG's functioning democracy: although the KRG remains characterised by the processes of 'managed democracy', corruption and the repression of civil society voices that criticise corrupt networks, these are traits which also exist in long-term democracies such as Russia and Turkey. Therefore it can be argued that they are not insurmountable obstacles to KRG independence.

Finally, the economic and political problems discussed above may be seen to undermine the

KRG's external viability. The perceived administration paralysis and the general governance problems confronting the KRG have predictably compelled some statesmen and academics to publicly doubt whether the KRG could ever live up to its billing as a real democracy or even manage to maintain order in its territories. Stanfield has recounted numerous statements by leading politicians in neighbouring Turkey that are reflective of a sense of hopelessness about the KRG's ability to maintain order in its territories.[198] The Turkish Prime Minister, for example, has described the KRG as lacking a government capable of maintaining order in the region.[199] This view of the KRG, according to Stanfield, was repeated in a similar sentiment by the President of Turkey.[200] However, an alternative view can be advanced. This rests on evidence of the recent ability of the KRG state to absorb external shocks and pressures. Examples include the resilience and effectiveness of the KRG's public administrative systems in its management of the mass flow of refugees and displaced peoples from the ISIS invasion of Iraq and Syria, the region's survival of a near-total financial collapse following the drastic drop of the price of crude oil in 2014 and the various economic reforms instituted in the region after that, and the actions taken against Islamic State as it reached the frontiers of KRG territory.

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[198] Gareth R.V. Stanfield (2013*). Iraqi Kurdistan: Political Development and Emergent Democracy,* London: Routledge, p. 5-6.
[199] *Ibid.*
[200] *Ibid.*

CHAPTER SIX:

Declaring Statehood: Theory and Practice

Introduction

Kurds in the Middle East have always resented their status as citizens of, variously, Syria, Iraq, Iran and Turkey. Kurds have thus mounted several rebellions against their host states that were created out of the Ottoman Empire. Self-determination has been integral to post-Ottoman Kurdish nationalist politics in the Middle East.[1] In the KRG, this tendency has been replicated by the consistency with which key politicians and state officials from the region have stated the region's case for independent statehood. The actions and public pronouncements of the President of the KRG in particular leave little doubt about the magnitude of seriousness the KRG attaches to its statehood aspirations. President Barzani's call for a referendum on the issue in the latter part of 2016 may prove to be the climax of Kurdish separatist agitations in Iraq.

However, the ability of the KRG to become a recognised sovereign nation state presents a number of difficulties. The previous chapters of the thesis examined the domestic factors which might make statehood problematic. This section deals with the external factors which would present a problem for attaining statehood and its successful development. The main argument here is that the success of Kurdish aspirations in achieving statehood depends on more than their own diplomatic efforts or issues internal to the KRG's political economy. Foreseeably, some existing states within and outside the Gulf region may be apprehensive about the creation of a Kurdish state from the Iraqi state.

In terms of regional politics, the KRG's geographical location and the reaction of its prospective 'neighbour states', for that matter, would necessarily draw an independent KRG state into the geopolitics and ideological rivalries and related security tensions that define the politics of the Middle East in general and the Gulf region in particular. The most powerful states with vested economic and political interests in the Gulf region and the Middle East as a whole may react with approval or otherwise to a unilateral declaration of independence by the KRG from Iraq. The essay will examine the major issues in international relations and international politics likely to be affected by or which may influence how some powerful states

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[1] Author's interview (2016) with Muhammed Ameen Penjweny, the spokesman for the PKK in Kurdistan.

may react to a KRG secession from Iraq.

In terms of international law, this part of the thesis focuses on the legal questions that will arise when the KRG requests recognition as a member of the community of existing states. In both international law and international politics, the reactions and underlying issues that usually arise when a political entity or community of peoples pursues statehood are studied under the subject of 'state recognition'. The essay will discuss in broad strokes the concept of 'state recognition' under international law. For now, however, it may briefly be stated that some exclusive rights and privileges are accorded to states under international law. For example, Article 2(7) of the UN Charter[2] protects existing states from external intervention in their domestic or internal affairs. When and if recognised as a state, the KRG will also obtain the privilege and right to membership of certain important transnational bodies and organisations (e.g. the World Bank, the International Monetary Fund,[3] the United Nations Security Council, [right to petition] the International Court of Justice, [participation in] the Nuclear Non-Proliferation Treaty regime).[4] As illustrated in the cases of Somalia and Afghanistan, the KRG may also enjoy protection of its status as a state even if it temporarily disintegrates into lawlessness or ceases to have a functioning government; once recognised as a state, the KRG would always retain the right and privilege to maintain its sovereignty as a state.[5] These advantages underline the importance of a favourable reaction from existing states to a KRG state in the future.

However, as mentioned, the question is whether existing states would *actually* accord the KRG a positive reception if and when it declares its independence from Iraq. This question obviously cannot be answered in certain terms: unanticipated developments in the global community often compel states to readjust their foreign policies, including their position on new or nascent states. Predictions of how states would react to a particular quest for statehood at a point in the future are not an exact science. This discussion will thus focus on ongoing and past events to gain insights into how particular states may feel about a KRG state being carved out of Iraq. It will also identify the political and legal issues surrounding the difficult issue of KRG statehood

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[2] Christian Hillgruber (1998). '*The Admission of New States to the International Community'*. European Journal of International Law 9, 491-50.

[3] Author's interview (2016) with Falah Mustafa Baker, the Head of the Department of Foreign Relations Kurdistan Regional Government,

[4] William Thomas Worster (2009). '*Law, Politics, and the Conception of the State in State Recognition Theory'*, Boston University International Law Journal, 27(115), p.18.

[5] Editors, Law Review (1967). 'Recognition in International Law: A Functional Reappraisal, University of Chicago Law Review', Vol. 34, No. 4, Article 5. http://chicagounbound.uchicago.edu/uclrev/vol34/iss4/5

and how and why those issues may influence the reactions of some states to a future KRG secession from Iraq.

State recognition in international law and politics

As stated in the introduction, this section is about the probable 'external reaction' that a future KRG state would face. 'External reaction' is meant to be understood in this context as the responses of existing states to a unilateral declaration by the KRG. A 'reaction', in this context, may take the form of an approval or rejection of the KRG's quest for statehood. Within the contexts of international law and international politics or international relations, the reaction of existing states to the creation of new states and the significance of such gestures is covered under the subject of 'recognition of states' or 'state recognition'. 'State recognition' may thus be 'legal' in nature and would refer in such an instance to the situation whereby "one state acknowledges that another state possesses the essential elements of sovereign statehood".[6] One school of thought in international law asserts that "'legal state recognition' can be evaluated with reference to some objective criteria".[7] 'Legal recognition' in this sense amounts to a "declaration that a community fulfills some specific conditions of statehood under international law".[8] 'Legal recognition' is synonymous with *de jure recognition* and thus is conclusive in nature and accordingly irreversible.[9]

State recognition can also be a political act and may take the form of an arbitrary, voluntary, legally non-binding decision by individual states "to send or receive diplomatic envoys, to conclude treaties, etc. between themselves and other states".[10] This form of state recognition "presupposes the legal existence of the state and thus cannot be constitutive of the 'recognised state'.[11] 'Political state recognition' is identical with *de facto* state recognition in that it is 'provisional' or conditional in nature. "Political and de facto recognitions are extended to polities or communities on the verge of attaining statehood".[12] Before the fulfillment of the

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[6] Mark W. Janis (2003). *An Introduction to Modern International Law*. New York: Aspen Publishers, pp. 193-194.

[7] Robert D. Sloane (2002). *The Changing Face of Recognition in International Law: A Case Study of Tibet*, 16 Emory International Law Review, Vol. 107, p. 4. http://www.bu.edu/law/faculty/scholarship/ workingpapers/2006.htm

[8] Hersch Lauterpacht (1944*). Recognition of States in International Law*, The Yale Law Journal *,53(3), p.385.*

[9] John O'Brien (2001*). International Law,* London: Cavendish Publishing, pp. 174-80.

[10] Hans Kelsen (1941). Recognition in International Law: Theoretical Observations, *The American Journal of International Law, 35(4), pp. 605–617.*

[11] *Ibid.*

[12] Charles L. Cochran (1968). *De Facto and De Jure Recognition: Is there a Difference*? The American Journal of International Law 62(2), pp. 457-60.

outstanding conditions required for 'legal' or *de jure* recognition, states may still trade and even establish diplomatic relations with a community seeking to be recognised as a state.[13] *De facto* recognition may also occur tacitly, as when a community aspiring to statehood is granted admission to an international organisation,[14] (e.g. the United Nations). From this perspective, the US's, and the EU's and Turkey's diplomatic missions in Erbil, and the trade relations between Turkey and the KRG, could be said to constitute *de facto* recognitions of the KRG as a state, a prelude to *de jure* recognition. The KRG is generally considered to be a *de facto* state. To achieve irreversible recognition as a state, however, the KRG will have to be legally recognised as such by existing states.

'Legal state recognition' is defined and conceptualised in as many senses as definitions and concepts of the 'state'. Experts agree, however, that existing states play a major role as to which community of peoples eventually attains statehood under international law. Political entities enjoy the exclusive rights and unrestrained privileges that come with statehood only when existing states recognise them as states. The dominant role of states within the context of state recognition has been explained in the absence of internationally legally binding codified frameworks and a universally recognised international body responsible for the regulation of the admission of political entities into the community of existing states.[15] States' status as legal personalities of public international law also justifies their role as the ultimate deciders of which peoples or communities attain statehood under international law.[16] States, however, are not legally obliged to recognise new states.[17] International law imposes no obligation on states to formally recognise new states.[18] States frequently abstain from giving a response to the creation of new states. Nevertheless, the UN has occasionally reminded states of the legal duty not to recognise states that emerge from unlawful processes. The negative obligation 'to not recognise' was invoked to nullify the recognition of entities like Rhodesia, the South African

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[13] James R. Crawford (2006). *The Creation of States in International Law*, 2nd edition. Oxford: Oxford University Press; Jan Klabbers (2013). International Law. Cambridge: Cambridge University Press, pp. 674-90.

[14] Sean D. Murphy (1999). *Democratic Legitimacy and the Recognition of States and Governments*. The International and Comparative Law Quarterly, Vol. 48, No. 3, pp. 545-581.

[15] James R. Crawford (2006). *The Creation of States in International Law*, 2nd edition. Oxford: Oxford University Press. p.70.

[16] Hersch Lauterpacht (1944). *Recognition of States in International Law,* The Yale Law Journal *,53(3), p. 385.*

[17] James R. Crawford (2006). *The Creation of States in International Law*, 2nd edition. Oxford: Oxford University Press. p. 23.

[18] Ralph Wilde and Andrew Cannon (2010). *Recognition of States: the Consequences of Recognition or Non-Recognition in UK and International Law*, *Summary of the International Law.* Discussion Group Meeting held at Chatham House, 4 February 2010. https://www.chathamhouse.org/sites/files/chathamhouse/public/Research/International%20Law/040210il.pdf

Bantustans and the Turkish Republic of Northern Cyprus; this was because their creation was judged to be in violation of some rule of international law.[19] The manner of how the KRG would proclaim its independence from Iraq would thus have to conform to the rules and principles of international law.

The manner in which a state may be created can create some practical problems in the international political system. An entity that pursues statehood through secession literally claims a part of an existing state's territory and population. Many violent conflicts have ensued from such situations. For example, Indonesian-backed militias responded with violence to East Timor's declaration of independence from Indonesian rule in 1999.[20] South Sudan's agitations for independence from Sudan also led to violent clashes between Sudan government-backed militias and South Sudanese forces. Cultural differences, histories of animosity and claims to mineral resources often underlie such secessionist agitations and the resolve by states to prevent the decimation of their territories and separation of their peoples through such processes. The effects and ramifications of state creation and the act of state recognition are not always, if ever, exclusively 'legal' in nature.[21] Still, international law purports to have the authoritative rules for the resolution of problems arising in this domain.

Theories of state recognition

The conceptualisation of 'states' in different senses lies at the heart of the divergence in the views on the legal significance of 'state recognition' under international law. The differing views converge mainly around the declaratory and constitutive theories of state recognition.

The declaratory theory of state recognition

The declaratory theory essentially identifies the existence of states in a set of objectively verifiable set of facts. Typically, proponents of the theory cite the criteria of statehood in the Montevideo Convention as representing those facts: a permanent population, a defined

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[19] Stefan Talmon (2005). *The Duty Not to 'Recognize as Lawful' a Situation Created by the Illegal Use of Force or Other Serious Breaches of a Jus Cogens Obligation: An Obligation without Real Substance*?'. In Christian Tomuschat and Jean-Marc Thouvenin (eds), *The Fundamental Rules of the International Legal Order. Jus Cogens and Obligations Erga Omnes*. Leiden: Martinus Nijhoff, pp. 99–126. http://users.ox.ac.uk/~sann2029/6.%20Talmon%2099-126.pdf

[20] Jose Ramos-Horta: (Fall 1997). *Casualties of Silence: East Timor's Struggle for Self-Determination*: Harvard International Review Published by Harvard International Review, Vol. 19, No. 4 pp. 32-35, 61

[21] William Thomas Worster (2009). *Law, Politics, and the Conception of the State in State Recognition Theory*, Boston University International Law Journal, 27(115), p.117.

territory, a government and the capacity to enter into relations with other states.[22] The European Arbitration Commission on Yugoslavia (the Badinter Commission) also stressed the issues of 'self-determination' and 'commitment to democratic principles' as objective features of valid states.[23] Such 'objective facts or features' constitute the basis of statehood. From this perspective, gestures from governments and state officials purporting to officially recognise an entity as a state are practical acknowledgments of statehood. Communities or entities endowed with the essential, objective features of statehood would in this regard have the same territory-based rights as all states whether they are actually recognised as such by other states. Communities or political entities satisfying the empirical criteria of statehood may thus exercise the right to a defence of territorial integrity and independence, and provision for their conservation and prosperity, and may consequently organise themselves as they see fit, legislate upon their interests, administer their public services, and define the jurisdiction and competence of their courts.[24]

The influence of the declaratory theory on practice in the context of state recognition has been identified in the provisions of some important international law statutes, and also in the judgments of some key cases on the subject of state recognition. In addition to Article 3 of the Montevideo Convention (cited above), reference is made to Article 6 of the Convention[25] in this context. The International Court of Justice (in the Genocide Convention) and the Arbitration Commission of the European Communities Conference on Yugoslavia have also separately asserted that states continue to exist even in the absence of effective governments. In the absence of recognition from existing states, too, courts have imputed to territories and communities the rights and obligations available to states under international law. It was suggested in the judicial statements on the conflict between Yugoslavia and its former republics (Slovenia and Croatia) that the conflict should have been addressed from the onset as an 'international' problem, and not an 'internal issue' requiring a resolution only after two breakaway republics sought recognition as 'states'.[26] In a sense, statehood emerges as a fact

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[22] Amy Eckert (2002). *Constructing States: The Role of the International Community in the Creation of New States.* Journal of Public and International Affairs – Princeton, 13, pp. 19-39.

[23] Cedric Ryngaert and Sven Sobrie (2011*). Recognition of States: International Law or Realpolitik? The Practice of Recognition in the Wake of Kosovo, South Ossetia, and Abkhazia. Foundation of the Leiden* Journal of International Law, doi:10.1017, p. 10.

[24] Convention as signed at Montevideo December 26, 1933. http://avalon.law.yale.edu

[25] "The recognition of a state merely signifies that the state which recognises it accepts the personality of the other with all the rights and duties determined by international law": The Avalon Project Documents in Law, History and Diplomacy. New Haven, CT: Yale Law School, Lillian Goldman Law Library. http://avalon.law.yale.edu/20th_century/intam03.asp

[26] *Ibid.*

from practical developments, rather than as a gift from other states or as emanating from the contents of a legal document.[27] A considerable number of influential legal experts agree with the thrust of the declaratory (Crawford among them).[28] From these perspectives, the KRG is already moving towards being a state. 'Recognition' from existing states would merely acknowledge such a development.

The declaratory theory of state recognition, however, has been criticised on many grounds. Lauterpacht sees a logical contradiction in the claim that 'nascent states' do not need recognition to be 'states' and yet are still entitled to the rights traditionally accorded states only after their recognition as such under international law.[29] That different criteria are cited by different declaratory theorists as objective facts of statehood have also been said to call into question the reliability of the theory and its practical usefulness.[30] For these and other reasons, some experts and practitioners consider the constitutive theory of state recognition a more reliable alternative to the declaratory theory.

The constitutive theory of state recognition

Briefly put, constitutive theory sees new states as actually coming into being only after they have been so 'recognised' by existing states.[31] Oppenheimer ascribes to existing states the exclusive right to create new states through an act of recognition. According to constitutive theorists, it is only through 'recognition' that political entities (communities aspiring to statehood) get a chance to assume the responsibilities and also enjoy the rights accorded to states under international law that come with this.[32] The strength of the constitutive argument further hinges on some notable cases. Reference is thus made to the recognition of Croatia and Bosnia-Herzegovina as states at a time when they clearly lacked the so-called objective criteria

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[27] William Worster (2010). *Sovereignty: Two Competing Theories of State Recognition.* http://www.exploringgeopolitics.org/publication_worster_willliam_sovereignty_constitutive_declatory_stateh ood_recognition_legal_view_international_law_court_justice_montevideo_genocide_convention/

[28] *Ibid.*

[29] Hersch Lauterpacht (1944). *Recognition of States in International Law,* The Yale Law Journal*, 53(3), p. 385.*

[29] William Worster (2010). *Sovereignty: Two Competing Theories of State Recognition*. http://www.exploringgeopolitics.org/publication_worster_willliam_sovereignty_constitutive_declatory_stateh ood_recognition_legal_view_international_law_court_justice_montevideo_genocide_convention/

[30] *Ibid.*

[31] Stefan Talmon (2004). *The Constitutive versus the Declaratory Theory of Recognition: Tertium non Datur?,* British Yearbook of International Law, 75 (1), pp. 101-181.

[32] Hersch Lauterpacht (1944), Ibid., p. 385.

of statehood.[33] The jurisprudence of the Permanent Court of Justice (later replaced by the International Court of Justice) was also founded on the constitutive theory,[34] and the majority decision in the so-called Tadić case, at the International Criminal Tribunal for the former Yugoslavia, is also said to have applied the constitutive theory.[35]

Some international law experts, however, have criticised the theory. Crawford has cited the judgment in the German-Polish Mixed Arbitral Tribunal (that a state's existence and its recognition as such are independent of each other) and the Report of the Commission of Jurists on the Aalands Islands case (wherein existing states' recognition of Finland as a state was said to be factually insufficient to prove that it was a sovereign state) towards the refutation of the suggestion that recognition is the definitive proof or source of statehood.[36]

In short, both declaratory and constitutive theories of state recognition have been found inadequate as explanations for the source and basis of statehood. Worster, for instance, has criticised both theories as lacking normative content.[37]

International law as a whole does not seem to provide a firm guide for the resolution of some major issues arising within the context of state creation in international relations. In its advisory opinion on Kosovo, the International Court of Justice asserted that "that international law contains no prohibition on declarations of independence". This further makes the issue of "state creation and its effects unclear".[38] Again, on the recognition of Kosovo, the Council of the European Union left it to its member states to apply their 'national practice' as opposed to international law. The decision whether to recognise Kosovo was thus subjected to the pattern of national politics.[39] This once again affirmed Lauterpacht's characterisation of state recognition as "mainly a matter of policy".[40] By this, and as already explained, Lauterpacht

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[33] The theory is also said to have been applied in the previous 'Lighthouses case' where 'effectiveness' as a criterion of state was ignored, and where recognition was based on the 'fictive continued sovereignty of the Turkish Sultanate' (see William Worster , 2010), Ibid.

[34] *Ibid.*

[35] *Ibid.*

[36] James Crawford (2007). *The criteria for statehood in international law,* The British Yearbook of International Law. 48(1): pp. 93–182. http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199228423.001.0001/acprof-9780199228423?rskey=2FYerV&result=1.

[37] William ThomasWorster (2009). *Law, Politics, and the Conception of the State in State Recognition Theory.* Boston University International Law Journal, 27(115), p. 1.

[38] Cedric Ryngaert and Sven Sobrie (2011). *Recognition of States: International Law or Realpolitik? The Practice of Recognition in the Wake of Kosovo, South Ossetia, and Abkhazia.* Leiden Journal of International Law, 24(2), pp. 467-490.

[39] *Ibid.*

[40] Hersch Lauterpacht (1944). '*Recognition of States in International Law.*The Yale Law Journal, *53(3), p. 385.*

meant that existing states weigh the decision to extend or deny recognition to aspiring states in accordance with their own interests. State recognition in that sense is subject to the politics of expediency.

Realist politics and state recognition

State creation within the current international political system necessarily rests on the interests of existing states. Under such circumstances, states feel compelled to process the state recognition process using the same policy instruments they traditionally employ within the international political system. The likelihood of any community of peoples attaining statehood is thus better understood from the standpoint of political realism as an instrument of state action within the international political system.

Generally, political realists posit an international political system devoid of a central authority (government) and universally binding normative rules on the conduct of states in international politics. States do not control the system, but they can be very concerned about how the stability of the system or lack of it may affect their interests.[41] Unable to accurately discern each other's intentions, and in a general state of uncertainty of how other states would conduct themselves under different sets of circumstances, states in their individual selves are compelled to think and act primarily in their own self-interests.[42] The politics of expediency (*realpolitik*) follows from this chain of facts about the international political system. Guided by *realpolitik*, states place the pursuit of their interests above strictly legal and moral considerations in the sphere of international politics. Realism and political expediency for that matter are the opposite of political idealism or liberalism as ways of analysing behaviour in the international political system.[43]

According to Dunne and Schmidt, political realism is the most dominant intellectual tool for analysis and policymaking within the realm of international politics.[44] The popularity of the theory for the international politics of the great powers is particularly telling. As Dunne and Schmidt further note: "realism taught American leaders to focus on interests rather than on

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[41]John Mearsheimer (2013). *Structural Realism. In Tim Dunne, Milja Kurki and Steve Smith* (eds). International relations Theories: Discipline and Diversity. 3rd edition. Oxford: Oxford University Press, pp. 77–93.

[42] John J. Mearsheimer (2006). '*Conversations in International Relations: Interview with John J. Mearsheimer (Part II)',* International Relations, 20(2), pp. 231-243.

[43] *Ibid.*

[44] Tim Dunne and Brian C. Schmidt (2008). *The Globalization of World Politics: An Introduction to International Relations*. Oxford:Oxford University Press.pp.86-96

ideology, to seek peace through strength, and to recognise that great powers can coexist even if they have antithetical values and beliefs".[45]

In terms of state recognition, *realpolitik* manifests itself in the conduct of states to the extent to which they extend or deny recognition to aspiring states based mainly on their estimation of how their own interests would be affected in the process.[46] For most states, the decision of whether to recognise a new state is ultimately determined by their own political, economic and security interests.[47] It would be naïve to expect an existing state to welcome the admission of new communities into the family of existing states if the existing state's interests would suffer significant damage in the process. Alternatively, if a state's interests may be expanded or another rival state's power may be weakened by the recognition of a new state, this increases its chances of being so recognised.

Worster, quoting Michael Field, has thus highlighted how national leaders have frequently adopted state recognition as a foreign policy tool and subsequently applied it opportunistically in the international political sphere to further their national interests.[48] Cohen has further commented extensively on the politicisation of the recognition of states within the international community.[49] As she notes:

> the political organs of the United Nations have completely ignored juridical criteria when they have been called upon to assess statehood, and have granted or withheld recognition of statehood solely on political grounds which have borne little relation to community interests.[50]

As an example, Palestine is currently not considered a member of the community of states in spite of the fact that it has been recognised as such by 104 states, constituting more than two-thirds of the United Nations' member states.[51] The refusal of the international community to

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[45] *Ibid.*

[46] Alina Kaczorowska-Ireland (2010). *Public International Law*. 4th edition. New York/Oxford: Routledge, p. 212.

[47] Ralph Wilde and Andrew Cannon, *Recognition of States: The Consequences of Recognition or Non-Recognition in UK and International Law*. London: Chatham House. https://www.chathamhouse.org/sites/files/chathamhouse/public/Research/International%20Law/040210il.pdf

[48] William Thomas Worster (2009). *Law, politics, and the conception of the state in state recognition theory,* Boston University International Law Journal, 27(115), p. 28.

[49] Rosalyn Cohen (1961). *The Concept of Statehood in United Nations Practices.* University of Pennsylvania Law Review, 109(1127), pp. 1127-1171

[50] *Ibid.*

[51] General Assembly Votes Overwhelmingly to Accord Palestine 'Non-Member Observer State' Status in United Nations. Sixty-seventh General Assembly. https://www.un.org/press/en/2012/ga11317.doc.htm

accord statehood to Tibet and Taiwan can also be attributed to the dominant influence wielded by China in contemporary international politics and the fear on the part of the community of states that they might incur China's ire by according statehood to those two entities.

The most extraordinary cases of political expediency on the issue of state recognition, however, involve powerful states using financial inducements to solicit the votes of small states for the recognition or non-recognition of nascent or *de facto* states. Stark examples here include Russia persuading the island state of Nauru to recognise Abkhazia and South Ossetia in exchange for $50 million.[52] Nauru had before that been paid to 'recognise' Kosovo and Taiwan,[53] but after being offered financial resources by China, the island nation later threatened to 'de-recognise Taiwan', only to change its mind again after apparently been paid a higher sum by Taiwan.[54] Similarly, the island of Palau went as far as pleading at the United Nations for Taiwan's recognition as a state, apparently as a *quid pro quo* for various forms of generous assistance from Taiwan.[55]

Furthermore, the USA's and Russia's conduct on the issue of 'state recognition' manifests a consistent understanding of the recognition of states as a tool to advance a variety of political goals. The two states' politics of expediency thus came into collision during attempts by the ex-Yugoslavian republics, Croatia and Bosnia-Herzegovina, to assert their independence. In its resolve to maintain the territorially large state of Yugoslavia as an ally in Europe, Russia opposed the recognition of those republics; the USA, on the other hand, supported the new states as it offered the opportunity to reduce Russian influence in the Balkans.

State recognition, then, is not entirely a matter of power politics: commercial, economic and military interests can be a significant part of the process. The question of whether the KRG will be recognised as a state in the future will thus revolve on more than its satisfying the criteria of statehood. Indeed, the traditional criteria of statehood have been overlooked or conveniently reconstrued in many cases to enable the recognition of some entities as states. Notable examples include the USA's and their allies' governance of post-Saddam Iraq and post-Second World War Germany in ways which factually and effectively implied Iraq's and

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[52] Natalie J. Lockwood (2013). *International Vote Buying.* Harvard International Law Journal, 54(1), Winter, pp. 97-156 www.harvardilj.org/wp-content/uploads/2013/03/HLI104.pdf
[53] Luke Harding (2009). *Tiny Nauru struts world stage by recognising breakaway republics.* The Guardian (14 December 2009). https://www.theguardian.com/world/2009/dec/14/nauro-recognises-abkhazia-south-ossetia
[54] *Ibid.*
[55] Andre Vltchek (2008). *Wooing the Islands: China and Taiwan High Stakes Bid for Pacific Island Support,* The Asia-Pacific Journal, 6(4). http://apjjf.org/-Andre-Vltchek/2727/article.html

Germany's loss of independence and control of their territories. This, however, was not deemed important enough to deny the two countries the right to remain sovereign states. The examples of Taiwan, Somaliland and Tibet can further be cited to buttress the point that satisfying the criteria of statehood does not in itself guarantee outright recognition. State recognition, in short, is a political exercise. For the KRG to receive a positive reaction from states on its future independence, therefore, it would have to make the attempt whilst the context of international politics was beneficial. Most crucially, the recognition of the KRG as a sovereign state will most likely be a question of whether some politically and economically influential states will be able to accommodate the KRG's most important interest (statehood) within their political (i.e. security, ideological and economic) interests in the Middle East.[56]

The next chapters of the discussion will seek to identify the most important states and the interests that may determine the success or failure of the KRG's aspirations to statehood

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[56] Author's interview with Professor Dlawar Ala'aldeen, President of Middle East Research Institute (MERI).

CHAPTER SEVEN:

The Politics of Realism: KRG and the Reactions of Iraq, Turkey AND IRAN

Introduction

It has already been noted that states are the major actors in the international arena and arguably the most important actors in the contexts of state creation and state recognition. The creation of new states brings disparate effects to bear on the economic, political and security interests of existing states. The emergence of a new state can unsettle the regional, geopolitical and internal security interests of one set of states while, at the same time, enhancing the interests of another set of states. The creation of new states may either trigger new rivalries among existing states or accentuate existing ones. Different states may thus react differently to fresh claims to statehood.

It rarely (if at all) happens that a new or aspiring state's failure or success in obtaining recognition as a state is decided by a single fact or issue. The duty of self-preservation owed by states to themselves, the absence of a world government, and binding normative rules in the international political system regulate states in their pursuit of their individual interests. The impact that the creation of new states often has on the economies and security of states may influence the success or failure of an entity's quest for recognition as a state. The politics of self-interest may even be present when some states abstain from voting on the recognition as a state. For example, when France abstained from voting on the recognition of Palestinian statehood, the explanation was given that the "recognition of Palestine as a state might lead to violence in the Middle East".[1] In truth, however, the decision appeared to have been inspired by France's unwillingness to upset the USA and Israel with a positive vote that would have been more in line with France's own foreign policy on the Palestinian-Israeli conflict. The desire to not upset the USA and Israel thus overrode the ethical compulsion to recognise Palestine as a state.

The dominant influence of the politics of expediency in the international political system necessarily complicates the prediction of states' reaction to the creation of new states. This is particularly so because states' interests do not remain static, and are often reconfigured in line

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[1] Haaretz (2011). *France Confirms It Will Abstain From UN Vote on Palestinian State4 November.* http://www.haaretz.com/israel-news/france-confirms-it-will-abstain-from-un-vote-on-palestinian-state-1.393733

with current and expected developments within domestic and international politics.

Nevertheless, it may be possible to anticipate the types of state interests that may be raked up within national, regional and international political settings when a particular community of peoples or a polity attempts to secure statehood status in a certain manner and under certain prevailing social, geopolitical and economic conditions or circumstances. Records on voting patterns at the United Nations on the subject of state recognition offer insights into the basis and purpose of some longstanding alliances on the issue of state recognition. For example, the USA and the Czech Republic have established a policy to recognise or withhold recognition from new states principally to protect the interests of Israel.[2] On the other hand, the ascendency of leftist parties (and, by extension, regimes opposed to pro-American political interests) in Latin America has been behind the dramatic increase in the number of states from the region that currently recognise Palestine as a state.[3] It is also a truth that states that emerge from unilateral secession from existing states almost always are greeted with belligerence by the states they have left.

In sum, then, a study of both peculiar and recurring facts within the domain of state recognition and similar facts about communities aspiring to statehood, among others, can enable a reliable prediction of how some particular states react to the creation of new states under some given circumstances with sub-regional and global political terrains. These tendencies can be channelled towards identification of the states whose interests are likely to be affected by the KRG's independence and statehood, beginning with Iraq.

Iraq and KRG independence

Kurds have been justifying their insurrections against the Iraqi state among others on the basis of the persecution, genocidal attacks, and the deprivation of the linguistic and cultural rights they allege to have suffered at the hands of various Iraqi regimes. The international community has not found any of these to constitute sufficient grounds to support a Kurdish secession from Iraq. Many influential states in the international political system oppose the creation of new states through secession. Conventionally, states advocate and support respect for the territorial

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[2] Max Fisher (2012). *Coalition of the opposing: Why these 9 Countries Voted Against Palestine at the U.N.* (30 November). https://www.washingtonpost.com/news/worldviews/wp/2012/11/30/*coalition-of-the-opposing-why-these-9-countries-voted-against-palestine-at-the-u-n/?utm_term=.c3fc02200715*

[3] Joshua Keating (2011). *Why are so many South American countries recognizing the Palestinian state?* (5 January 2011). http://foreignpolicy.com/2011/01/05/why-are-so-many-south-american-countries-recognizing-the-palestinian-state/

integrity of each other except in exceptional circumstances. The international community would be hesitant if not outright unwilling to recognise a state that ensued from the diminution of the territory of an existing state.

As a constituent part of a supposedly liberal democratic state, the KRG's chances of asserting the right to secede from Iraq on legal grounds are minimal. This would be so even if the KRG asserted its independence on the grounds that its people's social, cultural and political rights have been suppressed by the Iraqi state. Furthermore, it is possible that KRG secession might provoke further destabilisation in the rest of Iraq as a result. It is therefore important that the routes by which the KRG might become independent be set out in more detail.

The existence in international law of a remedial right to secession, if it exists at all, is very tenuous. Article 1 of the Iraqi federal constitution guarantees the unity of the Iraqi state and peoples on the maintenance of a 'system' of government 'that is "republican, representative, parliamentary, and democratic".[4] Article 6 of the Kurdish draft constitution provides for the right to secession in the event of a violation of the 'covenant' under which the KRG supposedly agreed to be part of the Iraqi state. It is submitted that, as an autonomous entity within a liberal federal democracy, the KRG might struggle to articulate a convincing case of abuse of the cultural and political rights of its peoples at the hands of the Iraqi state. It is also highly unlikely that the constitutional court of the Iraqi state would rule at any point in time that the country has ceased to be governed in line with the democratic values enshrined in the constitution and upon which the unity and the inviolability of the state's territory is founded.

Basically, the KRG would need to unilaterally assert its independence through a non-legal process. The Iraqi state has historically responded to Kurdish insurrections with violence (e.g. the Halajba and Anfal campaigns) and attempts at accommodating Kurdish interests. Tellingly, the non-violent responses often happen in periods when the Iraqi state is vulnerable or too weak to oppress the Kurds in armed conflict. The manner of a future Iraqi response state response will depend on the circumstances of the day: if the Iraqi state were powerful enough at such a moment, the KRG would have to expect a violent reaction from the Iraqi state.[5] Otherwise, the Iraqi state can be expected to resort to diplomacy or legal disputes or threats of violence to stop the KRG from leaving the federation.

Whatever means the KRG might choose to assert its independence from Iraq, it is very likely

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[4] http://www.washingtonpost.com/wp-dyn/content/article/2005/10/12/AR2005101201450.html
[5] Author's interview (2016) with Khalid Shwani, the Iraqi President Advisor and Spokesman for the Presidency.

that Iraq would not react favourably to the territorial change ensuing from any such move. Such a reaction from the Iraqi state would be in line with an established tradition in the context of state recognition, whereby independence proclamations are almost always rejected by states likely to be drastically affected by the independence declaration as a rump state. The negative reaction may be registered in the form of a protest through diplomatic channels. Most frequently, however, states react immediately with violence to attempts at secession by any of their members. It is not uncommon or unusual for states to attack some of their peoples, provinces or regions on the mere suspicion that such entities may be contemplating secession to form their own state. Serbia (against Croatia, Slovenia Bosnia Herzegovina, Kosovo, Montenegro), Sudan (South Sudan), Nigeria (against Biafra), Russia (against Chechnya), Indonesia (through state-backed militias), and Ukraine (against Eastern Ukraine) have all used different degrees of violence in attempts to preserve their territories from secessionist groups within their fold. Likewise, KRG's secession would, to Iraq, entail the loss of physical territory. This would most likely push the Iraqi state towards contemplation of a violent reaction to a KRG independence proclamation in the foreseeable future.

However, secession, from the perspective of the Iraqi state, would entail far more than the loss of physical territory; the federal state would literally be forfeiting its most economically valuable region. The most significant facts about the economy of the KRG have been highlighted in other parts of this thesis. To reiterate, the most salient macroeconomic indicators of the KRG (budget, economic growth, GDP),[6] the region's GDP per capita (PPP) of US$4,500 in 2010, for instance, was ranked higher than 41 of the world's independent states.[7] The KRG's crude oil reserves (computed at being between 50 and 80 billion barrels)[8] means it has been ranked in the top ten countries with proven oil reserves.[9] The KRG's natural gas deposits are also put at over five trillion cubic metres,[10] which also makes the KRG one of the leading producers, and, potentially, Europe's main supplier of natural gas in the foreseeable future. Significantly, too, the KRG is blessed with substantial water resources and arable land, rare geographical features for a region in the Middle East.[11] Thanks to its favourable climatic conditions and vegetation, the KRG accounts for approximately 28 per cent of Iraq's arable

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[6] The details are to be found at discussion on the Economy of the KRG in the section on the KRG's internal capabilities.
[7] http://www.kurdistaninvestment.org/economy.htmlis
[8] Iraqi Kurdistan has the world's eighth largest oil and gas reserves: *The Ekurd Daily*: 30 March, 2015. http://ekurd.net
[9] *Ibid.*
[10] KRG Plans 10b cm in natural gas exports to Turkey in two years. http://www.hurriyetdailynews.com/
[11] Kurdistan Fact Sheet: http://www.kurdistaninvestment.org/fact_sheet.html

land, in spite of the fact that as a geographical region, it constitutes just eight per cent of the country's total land mass.[12] The KRG's land mass includes "mountains, steppes, and pastures that also form important parts of the so-called Fertile Crescent.:[13] A significant part of that comprises about 1,521 million hectares of land with easy access to steady, rain-fed water courses that also are conducive to the cultivation of a wide variety of vegetables. These favourable conditions enable the relatively easy cultivation of Middle Eastern staple crops, such as wheat, barley and fruit.[14] The abundance of food and high crop yields in the region underscores the KRG's reputation as the 'bread basket of Iraq'.[15] Iraq, in sum, would be losing a significant source of its food security and substantial aspects of its economic strength if the KRG were to break away from the federation: This is all the more reason why the Iraqi state would not be receptive to a declaration of independence by the KRG.

It should also be noted that Iraq might lose much more physical territory to the KRG in the event of a successful secession by the latter in the current circumstances. At the time this thesis was being written, Kurdish Peshmerga had seized and brought Kirkuk and surrounding towns and villages under the control of the KRG. The disputed oil-rich city and nearby towns and villages had been in the firm grip of the Iraqi state until 2014 when the Iraqi forces stationed there fled the city in the face of advancing fighters of the Islamic State. Since occupying the city, the Kurds have facilitated the return of Kurdish families expelled from the city by Saddam Hussein in the 1980s as part of the Baathist Party's Arabisation plan, which was aimed at claiming the city for Iraq's Arab majority. Kurds now constitute the majority in the city and would most certainly be instrumental in the eventual transfer of the city to Kurdish ownership in the scheduled referendum the Iraqi state obviously wants to avoid[16]. Kurdish independence, especially if asserted unilaterally, might make the referendum unnecessary. The potential loss of such an economically valuable city, together with the possible loss of disputed territories around Kirkuk (they "run from Sinjar in the northwest next to the Iraq-Syria border, down to Baladruz in the southeast adjacent to the Iraq-Iran border, Arab, Kurdish, Turkmen, Christian, Ezidi and Shabak"[17]), alone would certainly trigger a strong if not violent opposition from the

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[12] Mohammed Ahmed (2016). *Iraqi Kurds and Nation-Building*, Published by Palgrave MacMillan. page

[13] Anna Laurent (2010) Recovering a Garden of Paradise in Iraqi Kurdistan: The Death of Farming in the Land Where Agriculture was Born pp. 1-5 (http://www.annalaurent.com/

[14] Anna Laurent (2010) Recovering a Garden of Paradise in Iraqi Kurdistan: The Death of Farming in the Land Where Agriculture was Born. pp. 1-5(http://www.annalaurent.com

[15] http://www.kurdistaninvestment.org/agriculture.html

[16] Author's interview (2016) with Khalid Shwani, the Iraqi President Advisor and the Spokesman for the Presidency.

[17] Gareth Stansfield and Liam Anderson: Kurds in Iraq: The Struggle Between Baghdad and ErbilI. Middle East

Iraqi state to a future KRG state.[18]

All of this, however, assumes that Kurdish agitation for independence would meet with the resistance of 'the rest of Iraq', made up principally of the country's Arab majority[19]. This assumption rests on the fact that the Iraqi state has hitherto been suppressing Kurdish separatist agitations with a united Arab front. But this has been true only because the state institutions, including the army, had, until quite recently, been dominated by the Arab majority even if controlled by the Sunni elite. The army's responses to rebellions against the Iraqi state could thus be said to have been dictated by an overriding powerful ethnic solidarity. This fact made the Kurds and Shiites common victims of the Iraqi state until the creation of the current liberal, federal political dispensation. And so, even if the Iraqi state continues to be dominated by a single ethnic group (the Shiites in this case) under the current formally multi-ethnic government and parliament compositions, it may rightly be conjectured that a rebellion against the state might evoke a similarly sectional response from the Arab majority. But as ISIS's successes in Mosul and Fallujah showed, many Sunnis are averse to a unified Iraqi state. The reverse in the economic and political fortunes among the Shiite and Sunni Arab communities seems to have impaired the previously collective passion for maintenance of the territorial integrity of the Iraqi state. Perversely, therefore, Kurds may be able to use the Sunni opposition to any splintering of the Arab majority front in a manner that would certainly weaken the Iraqi state's concentration and ability to militarily oppose or crush a secession in the foreseeable future. As the agitation of the pro-Arab Sadr Army also shows, the Shiite front itself may be splintered by historically separatist forces in Basra and other Shiite elements opposed to Iran's influence in Iraqi political affairs[20]. With a reasonable degree of Machiavellianism, the KRG could parlay its cooperation with such elements under the current political dispensation to deepen such fissures and, through that, weaken the ability of the Iraqi state to oppose KRG independence in the near future. It would be even better, from the perspective of Iraqi Kurds, if the KRG cooperated with the separatist communities in the country in the creation of a state of affairs mirroring the current division of Iraq into three 'separate polities': Mosul (under the control of ISIS), the KRG (control of Kurdistan) and the Baghdad-based central government.

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[18] Gareth Stansfield and Liam Anderson (2009). Kurds in Iraq: The struggle between Baghdad and Erbil, *Middle East Policy Council* (Spring) 36(1). http://mepc.org/.

[19] Author's Interview (2016) with Dr Mahmoud Ali Othman, a leading member of the Iraqi National Assembly.

[20] Author's interview (2016) with Arif Qurbany, the former adviser to Jalal Talabani.

Under such circumstances, an adverse reaction from the Iraqi state to Kurdish independence would have no practical significance.

The issues here are numerous: secession relies on the correct context of politics. In the currently volatile Iraq, such conditions may not last for a sufficient length of time to allow a stable secession to occur. Furthermore, secession implies that, even in the correct context, the Iraqi state would not oppose such secession with force. Finally, and this is dealt with in the next section, the reactions of regional states also have to be taken into account, even if the domestic context is favourable.

Turkey and the prospect of KRG independence

International law has been described as being not only the law of the system of nation-states, but also as reflecting and serving its overall purposes – peace and stability.[21] Similarly, states' decision as to which entity ultimately is recognised as a state in the eyes of the law is, as already stated, driven largely by *realpolitik*, principally towards the protection and advancement of existing states' interests. States protect and advance their interests in the context of state recognition from their own foreign policy perspectives. But state interests sometimes converge, at times along the lines of ideology, and at other times in patterns where developments in geo- and regional politics affect their common or even separate economic and security interests. Thus, although some states (e.g. Turkey and Saudi Arabia) are perceived to be relatively passive about the emergence of the Islamic State in the Middle East, it can be said with a great degree of certainty that all the states in the Middle East would react negatively to an ISIS quest for statehood were the jihadists formally ask to be recognised as a state.

The rise of Islamic State (IS) shows *in extremis* the problems that the KRG would have in attaining statehood, even though the KRG differs in its politics, stability and longevity compared to IS. It could be argued, however, that the home states of Kurds in the Middle East perceive Kurdish nationalism as having the same destabilising effects as the Islamic State. From the perspective of the states in the Gulf Region, the Kurdish quest for self-determination, especially in the post-Ottoman era, has been a source of anxiety. Some of the nation-states in the Middle East, including those traditionally opposed to each other, have collaborated at certain times to either persecute Iraqi Kurds or check their agitation for self-determination[22].

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[21] Louis Henkin (1995). *International Law: Politics and Values*. Developments in International Law, 18,
[22] Author's interview with Muhammed Ameen Penjweny, the spokesman for the PKK in Kurdistan.

Thus, under the auspices of the Saadabad and Baghdad Pacts of 1937 and 1955, Turkey, Iraq and Iran sought to prevent a Kurdish state from emerging in the Middle East.[23] The strategy involved separating the various Kurdish communities from each other to prevent Kurdish agitation at self-determination in any of the four states in question spilling over into the others.[24]

Having made this point, states in the same geographical region or which face internal problems tend to give both coherent and contradictory responses to fresh claims to statehood in their region. That happens because, as already stated, the emergence of new states often enhances the interests of one set of states while destabilising others. States with historically separatist populations occupying parts of their territories with significant natural resources also tend to be highly sensitive, if not averse, to fresh claims of statehood, regardless of where these might originate. This is explained in the so-called demonstration effect or spill-over effect, that is, the fear that a successful secession in one part of the world would encourage new ones in other parts. These phenomena and the cross-ethnic affiliations between Kurds in Iraq and populations in Syria, Iran, Turkey and Iraq explain the heightened and disproportionate interest these states have historically taken in Northern Iraqi Kurds' agitation to achieve statehood. The selection of Turkey and Iran as a focus for the study of the external reaction of existing states to future KRG independence is justified on these facts. Syria is omitted from the discussion because it is currently in turmoil and thus would not be in a condition to articulate a meaningful response to a future KRG state in the Middle East. However, the argument is that there could be a space for Kurdish statehood, but it would have to coincide with a space regionally.

Turkey would prove no exception to the general points made in the previous section about regional state apprehension of Kurdish independence. It is argued here that Turkey has been consistent in opposing Kurdish independence but has, at the same time, undertaken measures to customise a future KRG state in accordance with its political tastes in case it cannot stop its emergence.

The modern Turkish state, unlike the predominantly Arab and Persian states in the Gulf Region, has since its inception been a secular state. Like all the major states in the Middle East, however, it has policies and national ideologies that mimic the rest of the Middle East in its

[23] Ali-Fuat Borovali (1987). *Kurdish Insurgencies, the Gulf War, and Turkey's Changing Role.* Conflict Quarterly: https://journals.lib.unb.ca. pp.29-45

[24] Michael M. Gunter (1992). *Foreign Influences on the Kurdish Insurgency in Iraq.* Conflict Quarterly (Fall) https://journals.lib.unb.ca/. p.7

marginalisation of its ethnic minorities and the persistent resolve to control the political, and sometimes economic, events in its sphere of influence.[25] Turkey's ideological foundations have been a significant factor in the volatile Kurdish–Turkish state relations. The salient issues in this context relate not only to Kurds in Turkey being the country's most significant ethnic minority (their numbers are put at approximately 17 million), but that Kurds in Turkey also have a long history of separatist agitations against the Turkish state.[26] From that perspective, Turkey's standard attitude to a KRG state formed out of secession from Iraq would mirror the responses states with separatist minorities traditionally give to states that emerge from secession. Kosovo's independence, for example, evoked sentiments of disapproval from Azerbaijan, Georgia, Moldova and Russia – states which, at the time, were battling separatist tendencies among minorities within their territories.[27] Similarly, states such as Cyprus, Greece, Romania, Slovakia and Spain, which have also been contending with statehood agitation among some of their populations, voted against the recognition of Kosovo.[28] Turkey, likewise, has never wavered in its opposition to an independent Kurdish state in Northern Iraq basically from fear that it would embolden its own Kurds to follow the same course.

A major factor in Turkey's traditional stand on Kurdish independence in the Middle East has been how its own nationalism clashes in concept and purpose with that of its Kurdish citizens. In the immediate aftermath of the collapse of the Ottoman Empire, Kurds had shelved their own statehood ambitions to fight alongside Turks against the allied forces to the extent of assisting them in the Armenian genocide.[29] This helped to secure the modern Turkish state. Ataturk, regarded as the founder of the modern Turkish state, had promised his then Kurdish allies autonomous political status within the emerging Turkish state[30]. However, he later reneged on the idea, and instead instituted a set of policies aimed at suppressing the cultural identity and political aspirations of Turkey's non-Turkish minorities[31]. Prominent among those policies was the fiction that Turkey was a culturally and ethnically monolithic state. Kurds were described as 'mountain Turks' in the process.[32] The strictness with which the Turkish establishment upheld these fictions was matched in consistency by the resolve with which the

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[25] Author's interview (2016) with Muhammed Ameen Penjweny, the spokesman for the PKK in Kurdistan.
[26] *Ibid.*
[27] Ninon Kemoklidze (2009). *Journal of International Law and International Relations*,5(2), pp. 117-140.
[28] *Ibid.*
[29] Author's Interview (2016) with Muhammed Ameen Penjweny, the spokesman for the PKK in Kurdistan.
[30] *Ibid.*
[31] *Ibid.*
[32] Ceng Sagnic (2010). *Mountain Turks: State ideology and the Kurds in Turkey*. Information, Society and Justice, Volume 3, pp. 127-134.

Turkish state has over many decades suppressed the language and culture of the Kurdish people. The Turkish state's economic marginalisation, the human rights abuses against Kurds, and its intolerance of all forms of protests eventually led the country's Kurdish minority to adopt a radical, violent quest for self-determination. The Partiya Karkaren Kurdistan (PKK), or Kurdistan Workers' Party, led by Abdullah Ocalan, emerged from these circumstances in 1978.[33] Six years after its formation, the PKK took up arms against the Turkish state.[34]

The violent hostility between the Turkish security agencies and the PKK ceased temporarily after the Party of Justice and Development (APK) government of Recep Tayyip Erdogan introduced a set of seemingly conciliatory reforms aimed at ending suppression of the Kurdish peoples' cultural identity.[35] Most notably, the APK legalised the use of Kurdish as a language as a medium of instruction and broadcast.[36] The reforms temporarily ended the hostilities between the PKK and the Turkish state. Later, however, the then Prime Minister Erdogan used the supposed threat posed by the ISIS to Turkey as an excuse to attack PKK areas in the border between Turkey and Syria.[37] The perceived intention was to create a permanent buffer zone in Syria to prevent any future collaboration between Turkish and Syrian Kurds on the formation of a Kurdish state from territories currently under the ownership and control of the Turkish and Syrian states. This has been the catalyst for the resumption of the conflict between the PKK and the Turkish state.[38]

With some few interruptions and ceasefires in between, the conflict between the Turkish state and the PKK has, as already stated, been going on for nearly four decades now, long enough for the conflict to develop some fixed and recurring features. The most significant include the lack of consensus between the military establishment and the civilian political class on how to deal effectively with the PKK, and the ambivalence with which the Turkish state has approached efforts to resolve the so-called Kurdish problem in Turkey. Turkey's Kurdish groupings and populations have never contemplated giving up their quest for full recognition

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[33] Author's Interview (2016). With Muhammed Ameen Penjweny. The Spoke's Man for the PKK in Kurdistan
[34] *Ibid.*
[35] Güneş Murat Tezcür. (2009). *Kurdish Nationalism and Identity in Turkey: A Conceptual Reinterpretation,* European Journal of Turkish Studies, Vol. 10, p. 1.
[36] Evren Balta-Paker (2005). *Ceasefire This Time,* Middle East Research and Information Project. http://www.merip.org/published August 31, 2005.
[37] Author's Interview (2016) with Muhammed Ameen Penjweny the spokesman for the PKK in Kurdistan.
[38] See, for example, Constanze Letsch, Turkey steps up bombing of Kurdish targets in Iraq. https://www.theguardian.com/world/2015/jul/29/turkey-launches-biggest-attack-kurdish-militants, Wednesday 29 July, 2015.

of, and respect for, their cultural identity and political rights. The Turkish military establishment and the PKK fighters also seem to see setbacks to their operations and loss of colleagues as loss of pride and, hence, it adds to their compulsion to respond to such setbacks with attacks of their own. Put together, these strands of the narrative make it unlikely that hostilities between the two factions will end in the foreseeable future. Turkey's Kurdish problem may thus remain a live issue and hence an influential factor for a future KRG state.

The Kurdish people's attitudes to the borders between the various Kurdish communities in the states in the Gulf Region created by the Sykes-Picot agreement also bring complications to bear on relations between the Turkish state and the KRG. Although Kurds have, since the disintegration of the Ottoman Empire, articulated their quest for self-determination independently within their host states, the sense of a common political destiny remains strong among them. Kurds in the Middle East generally see themselves as common victims of the rigid exclusionary state ideologies propagated by the dominant ethnic groups of their various home states. This has contributed to the emergence of a strong sense of solidarity among Kurds in a manner that makes them feel compelled to offer sanctuary to their kinsmen and women fleeing persecution in their own home states. KRG received the refugees from the ISIS-Syrian conflict and the ISIS violence with this sense of obligation[39]. Where necessary, Kurds have not hesitated to take up arms to fight alongside their compatriots in other countries. Thus, Mustafa Barzani (father of the current President of the KRG, Mahmoud Barzani) and his forces joined those of the short-lived Republic of Mahabad against Iranian state forces. Similarly, Turkish Kurds not only rallied to prevent would-be ISIS fighters from crossing into Syria to fight against Kurds in Kobane, many of them actually crossed into Syria to defend the city from the ISIS onslaught. These shared sensibilities among Kurds also fuel their disdain for the Sykes-Picot Treaty that gave birth to the modern Gulf states. Kurds have a related psychological disregard for the national borders that cut through the land mass occupied by them across Turkey, Syria, Iran and Iraq, and which Kurds traditionally consider as constituting their homeland.

The states in the Gulf region have historically read a threat to their security and sovereignty in the Kurdish shared sense of victimhood and the fluidity, which then move across the borders of the states in the Gulf region. The graveness of this perception among the Middle Eastern

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[39] Author's interview (2016) with Falah Mustafa Baker, the head of the Department of Foreign Relations, Kurdistan Regional Government.

and Gulf states is captured in how Turkey, Syria and Iran managed to set aside their differences to ratify the treaties of Saadabad and Baghdad in 1937 and 1955 to keep in check the revolts Kurds had been carrying out across various territories.[40]

The PKK's strategic uses of Kurdish Northern Iraq and the Turkish state's longstanding policy of intrusion in the KRG's affairs is a microcosm of the aforementioned Kurdish disregard for the state borders that separate their communities in the Gulf region on the one hand and, on the other, the Gulf states' apprehension about the security imperatives that ensue from that attitude. The PKK's militaristic uses of the KRG's land mass to bolster the effectiveness of its actions against the Turkish state have been the main factor for the entanglement of the KRG's own political future with the Kurdish question in Turkey. Since the inception of the PKK and its adoption of armed resistance against the Turkish state, Northern Iraq has been commending itself as being a second home to the group's fighters. Besides the moral support from the local populations and the conduciveness of the region's mountainous ranges to guerrilla combat, Northern Iraq as part of a sovereign state provides a perfect hideout for the PKK's weapons, training grounds for their fighters, and strategic bases to launch attacks against Turkish forces. The PKK's perception of the strategic importance of Northern Iraq to its campaign was discernible from when Ocalan at the inception of the group sought the tacit support of Iraqi Kurdish political leaders not only to establish training bases in the region, but also to launch attacks against Turkish security forces from Northern Iraq.[41]

About the same time, the PKK and the KDP, the major political force in Northern Iraq at the time, entered into an agreement to undertake a "joint struggle against the fascist Turkish state and Iraqi regime."[42] With the probable intention of goading Turkey, Saddam Hussein occasionally allowed Northern Iraq to be a sanctuary to the PKK and granted them permission to operate a party office in Iraq (in return Turkey allowed the Iraqi state to use Turkish soil to export the oil by pipe line to Jihan port).[43] Needless to say, the PKK has been relating to the territory and people of Northern Iraq with a sense of entitlement. Thus, even when dislodged from their bases in that part of Iraq, Northern Iraq is where PKK fighters return after each of

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[40] Lawrence G. Potter and Gary G. Sick (2004). *Iran, Iraq and the Legacies of War.* New York: Palgrave Macmillan, pp. 20-21.

[41] Evren Balta-Paker (2005). *The Ceasefire This Time.* Middle East Research and Information Project. http://www.merip.org/published August 31, 2005

[42] Zana Azadi, KDP and Its War On The Kurds: http://kurdishquestion.com/oldsite/index.php/insight-research/analysis. (16th May 2014)

[43] Author's interview (2016) with Falah Mustafa Baker, theead of the Department of Foreign Relations, Kurdistan Regional Government.

the many ceasefires between the PKK and the Turkish state.[44] To a large extent, therefore, the KRG features in the PKK's perceptions as a 'second' if not a 'natural' home.

Turkey's policy response to the PKK presence and strategic use of the Northern Iraqi territory for its military operations is defined broadly by the perception of Northern Iraq as a 'no man's land', a lawless land mass, the affairs and security of which Turkey ought to control and even customise to its political, security and economic interests. Essentially, therefore, Turkey relates to Northern Iraq in a manner indicative of a disregard for the territorial sovereignty of the Iraqi state. The central plank of the Turkish state's policy on Northern Iraq is militaristic in nature. For as long as the PKK has existed, Turkish troops have made it a habit to defy international law in entering and leaving Northern Iraq as and when they see fit.[45] This sometimes happened with the tacit consent of Saddam Hussein, ostensibly as a means to check rebel activities among Iraq's own Kurds.[46] The Turkish state has occasionally extended its incursions into Iraq beyond the pursuit of the PKK's fighters. Turkey has been maintaining ground troops in the KRG zone throughout the emergence of the KRG as an autonomous region. This and the training programmes run by Turkish army units for Iraqi forces fighting the ISIS have been understood by the KRG, the Iraqi government and security experts as part of a grand plan by Turkey to maintain control of developments in the KRG.[47] In Turkey's plans, however, the intention to stifle the PKK's attacks against Turkish security forces at their source remains the main preoccupation.

It has been asserted that Kurdish independence in the foreseeable future would depend not only on what happens in Northern Iraq, but also on Turkey's acquiescence and preparedness to act as the 'guarantor' of such a state'.[48] The point here is that Turkey would never endorse or approve KRG independence unless it was satisfied that a sovereign Kurdish state would not contribute in any way to the impairment of its internal security. Underlying such a sentiment is Turkey's awareness of, on the one hand, the PKK's threat to the ideological foundations of Turkey's sense of nationhood and the physical security of the country's majority Turkish populations, and on the other, the KRG's tolerance of, or support for, the PKK presence in

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[44] Evren Balta-Paker (2005). *The Ceasefire This Time*. Middle East Research and Information Project. http://www.merip.org/published August 31, 2005

[45] Turkish troops enter north Iraq. http://news.bbc.co.uk/1/hi/world/europe (22 February, 2008).
Evren Balta-Paker (2005). *The Ceasefire This Time*. Middle East Research and Information Project. http://www.merip.org/published August 31, 2005

[47] Nicky Ashdown, Turkish Incursion into Iraq Intensifies: http://www.jewishjournal.com/

[48] Hussein Ibish (2013). Turkey finds a new solution to Kurdish independence. http://www.thenational.ae/thenationalconversation/comment/turkey-finds-a-new-solution-to-kurdish-independence.

Northern Iraq to the enhancement of this threat.

The KRG political leadership seems to understand these concerns and has accordingly sought on several occasions to balance the solidarity with the PKK cause with an understanding of Turkey's apprehensions. Among other things, therefore, the KRG has sought to broker peace between the two warring factions.[49] There has been little success achieved in this direction, and the KRG political class, especially those representatives in the ruling KDP, has employed a variety of strategies and measures aimed at making the PKK feel unwelcome in Northern Iraq. These include discrediting the PKK's 'brand of revolutionary socialism', portraying them as damaging the prospects of peace between the Turkish state and the PKK and Turkish Kurds in general, and accusing the PKK of 'fomenting trouble in Kurdistan'.[50] In an apparent attempt to curry favour with Turkey, the KRG has occasionally sought not only to delegitimise the PKK presence in Northern Iraq, but also to expel it from the region entirely.[51] Thus, it is important to examine the counter tendency whereby the Turkish state sees the KRG as a viable partner.

Counter tendency: Turkish–KRG co-operation

Kurdish political activists in the Middle East consider such actions by the KDP-led KRG government a betrayal, and have thus accused the KDP, the KRG's major political party, of antipathy in the realisation of pan-Kurdish political freedom in the Middle East, and also for allegedly taking the side of the enemies of Kurds in the Middle East.[52] The perception is rife among large sections of Kurds that the KDP-led government of the KRG has been seeking to please the 'enemies' of Kurds (Turkey, especially) at the expense of other Kurds.[53] The PKK, for its part, has been insisting on a supposed right to operate from Northern Iraq. That argument was recently justified on the basis that, when the Yazidis were attacked by ISIS, the KRG's response was criticised as being lukewarm.[54] The PKK has also supported the KDP's political opponents (the Goran Party), with the aim of weakening KRG internal opposition to its (PKK's) presence in Northern Iraq. The KDP's response has been to influence, albeit without

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[49] See, for instance, KDP-PKK Must Resolve Differences in Interests of Kurdish Cause.
http://rudaw.net/english/kurdistan/

[50] Othman al-Mukhtar: One Nation, Many differences. https://www.alaraby.co.uk

[51] See, for example, Ayes Sahin: KRG tells PKK to Vacate Qandil Mountains, Abide by Reconciliation.
http://www.dailysabah.com (July 6, 2015)

[52] Zana Azadi, *KDP and Its War on the Kurds*: http://kurdishquestion.com/oldsite/index.php/insight-research/analysis

[53] See, for example, HPG Commander: KDP as responsible as ISIS for Shengal massacre:
https://en1kurdipost.wordpress.comth August, (4th August,2016)

[54] See, for example, PKK to KDP: 'We are going to stay': http://rudaw.net

much success, Kurdish political groupings in Syria, ostensibly with the aim of diluting the PKK's influence on Kurdish political opinion in the region (PYD). The KDP has even gone so far as to express public solidarity with Turkish political and economic aims in Turkey. For instance, President Barzani met with President Erdogan in the Kurdish parts of Turkey, the stronghold of the PKK, to celebrate what the two presidents described as "the brotherhood of Turks and Kurds".[55] More recently, President Barzani went out of his way to congratulate the 'Turkish people' and President Erdogan for crushing the coup of July 15, 2016.[56] The gesture emanated from the awareness that the KDP-led KRG and the APK government of Turkey needed each other to succeed in their different and yet convergent domestic political and foreign policy agendas. But President Barzani's statement was made in defiance of the fact that the Turkish state was at the time cracking down on Turkish and Syrian Kurds. It reinforced the perception that the KRG, under the leadership of President Barzani, would not prioritise the pursuit of any pan-Kurdish cause at the expense of its own longstanding ambition of statehood. Indeed, the KRG went on to accuse the PKK of trying to sabotage the KRG economy and has held the PKK responsible for attempts to blow up the Ceyhan pipeline through which the KRG exports its oil to Turkish ports.[57]

The KDP's public denunciation of the PKK's socialist ideological leanings, coupled with the PKK's interference in Iraqi Kurdish politics against the KDP's interests, seemed to have calmed Turkey's fears about the prospects of KRG autonomy, providing the PKK with carte blanche to operate unrestrained in Northern Iraq. According to Romano, Turkey seems to have seen the effectiveness in leaving the KRG to check the PKK's activities in Northern Iraq. This, it seems, forced on Turkey a rethink of its initial hostility to KRG political autonomy. Turkish disquiet at Kurdish occupation, and claims to ownership of oil-rich Kirkuk, also seem to have been allayed by the oil deals sealed between it and the KRG.

In return, this relationship has led the Turkish state to withdraw to some extent from its policy described above – that of taking an interest in and overall veto on security issues in Northern

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[56] Umut Uras (2013). Kurdish leader makes historic Turkey visit. http://www.aljazeera.com/indepth/features/2013/11/kurdish-leader-makes-historic-turkey-visit-201311208312697500.html

[57] Pipeline sabotaged by PKK costing KRG $14m a day in losses: minister. http://rudaw.net/english/kurdistan// (23/2/2016)

Iraq and the pursuit of the PKK into that region in defiance of the Iraqi state and political groupings in Northern Iraq. Especially since 2007, when then Prime Minister Erdogan managed to shake off the controlling influence of the Turkish military establishment on the country's foreign policy, Turkey has increasingly been in favour of a cordial relationship with the KRG. Turkey has since then demonstrated a relatively receptive attitude to autonomous KRG political status in Iraq, despite of public pronouncements by leading Turkish state officials to the contrary. Thus, although the resolve to deny the PKK a safe haven in Northern Iraq remains a priority in Turkey's policy on Iraq, the coercive pressure on the KRG to evict the PKK from Northern Iraq seems to have been relaxed. Since 2007, the KRG has rather featured in Turkey's general policies on Iraq as a partner on many fronts. It represents part of a general shift from the earlier dominant security perspective that informed Turkey's approach to issues relating to Iraqi Kurdistan. Turkey's current approach to the KRG revolves around a focus on the KRG as the entry point or facilitator to Turkey's geopolitical, economic, security and narrow sectarian policy goals in the Middle East and Gulf region. Turkey has thus employed several mechanisms to influence or, where necessary, dictate the direction of political, security, economic and diplomatic issues in Iraq as a whole, and in the KRG in particular, including a relatively relaxed resolve to rid Northern Iraq of the PKK. Therefore, Turkey has pursued a set of policies on the back of friendly relations with the KRG. These include attempts at gaining increased access to KRG's oil and gas to reduce dependence on Iranian and Russian energy resources, countering Iranian influence in Iraq (sectarian) and the promotion of inclusive policies on behalf of Turkmen in Iraq.[58]

Until the change in this stance towards the KRG, Tukey had committed itself to "the preservation of Iraq's territorial integrity, and to ensuring Iraq's internal political stability, security and prosperity, and its re-integration with its neighbours and the international community".[59] However, with Iraq coming under substantial Iranian influence after the overthrow of the Baathist regime, and with a friendlier KRG emerging from the same process, Turkey has had to revise its policy on Iraq and Kurds in Northern Iraq. Thus, from 2003 onwards, Turkey has abandoned its long-arm diplomatic policy towards Iraq and the KRG, and has seized on every opportunity to influence Iraqi-related issues which Turkey perceives to be of critical importance to its principal interests. Turkish state diplomats thus have mediated

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[58] Inc. IBP (2015). *Turkey Recent Economic and Political Developments Yearbook* Volume 1; strategic information and developments. International Business Publications, US: Washington DC.p251

[59] Relations between Turkey and Iraq: http://www.mfa.gov.tr/relations-between-turkey-and-iraq.en.mfa

between Syria and Iraq to avoid an escalation of tensions arising from bomb attacks in "downtown Bagdad in August 2009 blamed by Iraqi state officials on Syria and Islamists".[60] Park has further elaborated on instances of Turkish state involvement in Iraqi politics and the related aim of encouraging Sunni inclusion in Iraqi politics, ultimately as a means to counteract Iranian influence in Iraqi politics.[61] In the same period, Turkey cultivated relationships with all the key factions in Iraqi politics, and even encouraged close cooperation with the pro-Iranian Prime Minister, Nouri al Maliki. The driving policy aim, according to Turkish official sources, was to "encourage power-sharing, good governance, economic reconstruction, and stability in Iraq, not to favour one faction over another".[62]

Having helped the KRG thus to consolidate its *de facto* state status, Turkey has been wrapping its security concerns in the KRG around a partnership with the KDP-led government. This has often been carried out in a partisan, intrusive way against the interests of the KDP's main political rival, the pro-Iranian PUK led by Jalal Talabani. In 2009, politicians drawn largely from the "opposition PUK accused Turkey of meddling in the KRG's internal issues", the same 'offence' that caused the break in relations between Bagdad and Turkey.[63] Turkey, however, has so far managed to weather the opposition to its close partnership with and favouritism expressed towards the KDP and has in the process deepened its diplomatic presence in the KRG. It was significant thus that Turkey was one of the first states to establish a consulate in Erbil in 2010. Most importantly, Prime Minister Erdogan paid an unprecedented visit to the KRG capital to commemorate the opening of the region's international airport built by a consortium of Turkish-companies,[64] which highlights the closer economic as well as political and security relationships between Turkey and the KRG.

The instrumental role of the Turkish consortium in the construction of Erbil International

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[60] Baghdad car bombs blamed on Syria and Islamists by Iraqi government.https://www.theguardian.com/world/2009/dec/08/bagdad-car-bombs-iraq

[61] Bill Park (2005). *Turkey's Policy Towards Northern Iraq: Problems and perspectives mounting a legal claim to any part of Iraq.* London: Routledge, p.29.

[62] *Ibid.* pp. 29-30. Other principal factors in Turkey's rapprochement towards the KRG (away from a commitment to the unity of Iraq, among others) include Prime Minister Nouri Maliki's sectarian (pro-Shiite) policies and related marginalisation of Sunnis, America's support for Kurdish autonomy, and Turkey's resolve to reduce its energy dependence on Russia and chronically destabilise Iraqi. It has further been argued that Turkey has had to change its attitudes to Iraqi Kurds to satisfy the pre-conditions for its admission into the EU. Aylin ş Görener (2008). Turkey and Northern Iraq on the Course of Raprochement (Policy Brief, SETA Foundation for Political, Economic, and Social Research, June). http://arsiv.setav.org/

[63]How Turkey lost its influence in Iraq. http://www.al-monitor.com /

[64] Christina Bache Fidan (2016*). Turkish Business in the Kurdistan Region of-Iraq.* Turkish Policy Quarterly, Winter 2016. http://turkishpolicy.com

Airport and the visit of the prime minister of Turkey to the KRG to commission the project is illustrative of the role Turkish businesses have been playing since 2003 in the KRG economy. Until Northern Iraq achieved political autonomy and subsequently became a *de facto* state, Turkish trade interests in Iraq focused on arrangements and relations with the Iraqi state. Trade relations between Turkey and Baathist-controlled Iraq were defined at the time by a heavy Turkish dependence on Iraqi hydrocarbon products, on the one hand, and, on the other, by the export of foodstuffs and mining products from Turkey to Iraq.[65] Northern Iraq featured in these trade relations mainly as a transit route for goods transported between the two countries.[66] The relative peace in Northern Iraq, coupled with the KRG's proximity to Turkey, and the withdrawal of the Iraqi state from Kurdistan in 1993, however, put the Kurdish region in the auspicious position of profiting economically from the sanctions imposed on the Iraqi state after Iraq's invasion of Kuwait. Much of the economic activities taking place in the Kurdish region within the 13-year duration of the sanctions revolved around the smuggling of goods to and from both territories.[67] By 2015, however, Turkey was officially exporting to Iraq a wide range of goods (e.g. |textiles and clothing, intermediary goods, and consumer goods such as cars and household appliances").[68] The KRG's share of the total trade between Iraq and Turkey[69] is estimated to be 65 per cent, indicating that the KRG has eclipsed the rest of Iraq as Turkey's main trading partner in Iraq.

Turkish companies have also been using the KRG to 'warehouse' made-in products meant to be re-exported to the rest of Iraq and beyond. It partly explains the dramatic increase in volume of Turkish exports to the KRG from just US$1.4bn in 2007 to US$8bn in 2013. That made the KRG Turkey's third largest export market.[70] The substantial Turkish involvement in the Kurdish regional economy is further evidenced by the fact that goods made in Turkey at one point constituted 80 per cent of goods sold in the KRG.[71] Indeed, Turkish companies are

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[65] Merve Özdemirkıran (2015). Soft power and the challenges of private actors: Turkey-Kurdish Regional Government (KRG) relations and the rising role of businessmen in Turkish Foreign Policy. *European Journal of Turkish Studies [Online], 21, 2015, p.5*

[66] Author's interview (2016) with Saro Qadir, the president of the Institute for Research Development of Kurdistan.

[67] Lee Jones (2015). *Societies Under Siege: Exploring How International Economic Sanctions* (Do Not) Work. Oxford University Press, p.150.

[68] Merve Özdemirkıran, (2016). *Soft power and the challenges of private actors: Turkey-Kurdish Regional Government (KRG) relations and the rising role of businessmen in Turkish Foreign Policy.* European Journal of Turkish Studies [Online], 21, 2015, p.5

[69] *Ibid.*

[70] Soner Cagaptay, Christina Bache Fidan and Ege Cansu Sacikara *(2015). Turkey and the KRG: An Undeclared Economic Commonwealth.* http://www.washingtoninstitute.org

[71] Robin Mills (2016). *Under the Mountains: Kurdish Oil and Regional Politics:* Oxford Institute for Energy Studies paper: WPM 63 p.8.

influential in the KRG local economy and are found across all the major sectors of the region's economy, including the banking and finance, infrastructure, oil and natural gas sectors. Turkish official reports break down Turkish corporate involvement in some of the most lucrative aspects of the KRG's economy as follows: "about five Turkish banks, 17 Turkish schools, and 600 Turkish construction companies".[72]

One of the most significant areas of economic co-operation is in the energy sector. This is particularly important since Turkey has always known the KRG's ability to achieve these aims would boost its chances of attaining statehood and potentially embolden Turkish Kurds in taking a similar course. Consequently, Turkey had until 2006 been stridently against the KRG bypassing Bagdad to develop its oil industry or export Kurdish oil through Turkey. For instance, trucks bringing oil products from Bagdad were allowed to enter Turkey officially from Iraq only if they had on them a special designation from the Iraqi federal government.[73] But Turkey also realised that the rapid growth and expansion of its economy implied increased energy needs. It thus felt the need to look for fresh sources of oil and gas supplies, a situation made even more critical by unreliable supplies from Iraq and Iran[74] and the over-politicisation of Russia's energy policy under Vladimir Putin. Northern Iraq, with its autonomous status and political detachment from the Iraqi state, had many aspects about it that commended it as the most ideal partner for Turkey. The KRG had vast oil and gas reserves that, when developed, could be transported to Turkey at the lowest possible cost. Turkey also stood in a good position to extract profits by allowing the KRG to use its territory and ports to sell its oil and gas to the rest of the world.[75] Turkey thus looked the other way when in 2002 one of its major oil companies, Genel Enerji (which had been doing business in the KRG even under Saddam's Iraq), teamed up with a consortium of Turkish businesses to sign a contract with the KRG to develop the rich Taq Taq field.[76] At about the same time, Turkey, ignoring protests from Bagdad, entered into an agreement with the KRG to construct oil and gas pipelines from the

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[72] Marianna Charountaki (2012). *Turkish Foreign Policy and the Kurdistan Regional Government:* Perceptions, Winter 2012, Vol. 17, No. 4, pp. 185-208. http://sam.gov.tr

[73] Bilal A Wahab (2014). *Iraq and KRG Energy Policies, Actors, Challenges and Opportunities.*The American University of Iraq Sulimani. p.33.

[74] Massimo Morelli and Costantino Pischedda (2014). *The Turkey-KRG energy partnership: assessing its implications.* Middle East Policy Council. Vol. xxi, No. 1: http://www.mepc.org/journal/middle-east-policy-archives/turkey-krg-energy-partnership-assessing-its-implications?

[75] *Ibid.*

[76] Robin Mills (2016). *Under the Mountains: Kurdish Oil and Regional Politics:* Oxford Institute for Energy Studies paper: WPM 63 p.8.

KRG through Turkish soil.[77] The KRG's official reports on its oil exports suggest that it exported as much as 10,151,944 barrels of crude oil (an average of 350,067 barrels per day (bpd)) in February 2016 through the Ceyhan pipelines.[78] That was in spite of more than two weeks of downtime in the use of the pipelines caused by sabotage attacks. With the KRG envisaging control of the rich Kirkuk oil fields and looking to develop more oil and gas fields in its territory. Finally, the KRG is expected to export 10 bcma of gas to Turkey by 2019-2020 and twice that much in the early parts of 2020[79]. That deal represents both a climax to the energy partnership between the two entities and a guarantee of Turkey's gas needs for many decades to come.

It is worth mentioning that the Baathist-controlled central government of Iraq left Northern Iraq economically underdeveloped. Apart from agriculture, there was hardly any settled economic activity or sector providing employment to the inhabitants of the region. To a large extent, therefore, the KRG's economy, even though still relatively underdeveloped, has made great strides since 2003, and Turkish capital can thus be said to have contributed significantly to the increased diversity, volume and complexity of the KRG economy. The products and services and skills Turkish companies have been bringing to the KRG currently constitute the pivot of the KRG's economy. The KRG's infrastructure, treasury and peoples have also benefitted immensely from Turkish participation in the KRG's economy. It can even be argued that Turkey has contributed to the re-creation of the KRG economy and even the KRG physical infrastructure far more than the Iraqi state.

There are indications that Turkey and the KRG are consciously creating between them long-lasting economic inter-dependences to protect their long-term economic and political interests from perceived 'threats' from some third countries within and outside the Middle East. This is especially the case since the KRG's forward-looking, relatively liberal policy on the development and export of its oil and gas resources[80] contrasts with the instability in the rest

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[77] Bill Park (2012). *Turkey, the US and the KRG: Moving Parts and the Geopo. litical Realities:* Insight Turkey Vol. 14, No. 3., pp. 109-125.

[78] The Kurdistan Regional Government (KRG) today publishes the monthly crude oil export report for February 2016. http://mnr.krg.org/index.php/en/press-releases/550-krg-publishes-monthly-export-report-for-february-2016.

[79] Kurdistan Region of Iraq: *Reforming the Economy for Shared Prosperity and Protecting the Vulnerable*. Published by World Bank. p64: http://documents.worldbank.org/curated/en/229971468195834145/pdf/106109-WP-P159972-KRG-Economic-Reform-Roadmap-post-Decision-Review-PUBLIC-v1-05-29-16-2.pdf

[80] Bill Park (2012). *Turkey, the US and the KRG: Moving Parts and the Geopolitical Realities.* Insight Turkey, Vol. 14, No. 3, pp. 109-125.

of Iraq. The features of the strategic relationship manifest themselves most strongly in the deals the Turkish state and Turkish businesses have established with the KRG towards the development, production and export of the KRG's oil and gas products. The collaboration between Turkey and the KRG in this context can be subsumed under the politics of pragmatism and self-interest that drove the two entities to accommodate each other's long-term political and economic interests in Northern Iraq. In the case of the KRG, it was, and still is, about the search for solutions to the difficulties that come with being a land-locked quasi-state, and the urgent need for a steady source of revenues to enable a reduction of the region's financial dependence on Baghdad.

Conclusion

Turkey's attitudes to Iraqi Kurdish political and economic aspirations-have moved from rigid hostility to the KRG's independence to one of accommodation, which has been most evident in the area of economic development. This has been in spite of Turkey's awareness of what an economically strong and political stable KRG would mean for the unity of Iraq as a country and how that might adversely affect Turkey's ability to contain its Kurdish populations and their seemingly rebellious streak. But, as has been explained above, both Turkey and the KRG, with their liberal, pro-western political and economic outlook, face some common threats and challenges in the Middle East, which, in their calculations, can be overcome only by collaboration between the two entities on several political and economic fronts.

The KRG's and Turkey's economic partnership has the substantial potential to enhance the KRG's long-held dream of statehood. Turkey is aware of how much its support for the KRG economy has boosted the KRG's political detachment from Baghdad and the achievement of its long-term ambition of independence from Iraq. This is despite the fact that Turkey continues to claim publicly to be committed to the maintenance of the territorial integrity of Iraq.[81]

This has been most conspicuous in Turkey's pivotal role in the KRG's evolution into a major oil-producing region. In defiance of Iraqi protests, Turkey appears willing to accommodate the KRG's takeover of the rich Kirkuk oil fields and consequently relaxed its own claims to that city. All these, when put together with the dominant role played by Turkey in the creation of the KRG economy and the dominant role of Turkish companies across all sectors of the KRG

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[81] See, for example, Nurbanu Kizil, Turkey supports Iraq's territorial integrity more than any other country, PM Davutoğlu says. http://www.dailysabah.com/ (15 December, 2015, Istanbul).

economy, clearly reveal a resolve on the part of Turkey to help the KRG to assert its economic independence. Indeed, the adviser to the Prime Minister and Vice President of Turkey's Strategic Research Institute, Mesut Özcan, has made it clear that the KRG's ambitions are incidental to the main policy driving collaboration with the KRG:

It is a fact that Turkey has been prioritising economic relations with the KRG. But this is not proper for the relations with the KRG. This is the path Turkey is pursuing in its new foreign policy. In recent decades, security was the first priority, but now the economy plays a bigger role.[82]

Despite the above, there are important restrictions on Turkey accepting a fully independent and sovereign KRG. It may be the case, for example, that Turkey seeks a vassal state reliant on Turkish protection in the north of Iraq as the best outcome from the destabilisation caused by the 2003 US invasion.[83] The KRG in its turn acknowledges this fact and appears prepared to accept it as the possible outcome of the close cooperation with Turkey. This is to be deduced from the public pronouncements of key politicians from the region on the implications of the close economic cooperation between the KRG and Turkey. In an interview with *Time* magazine, the current KRG Prime Minister, Nechirvan Barzani (seen by many as the likely successor to Masoud Barzani) demonstrated a pragmatic understanding of what the implications of the KRG's close economic relations with Turkey are for the region's independence aspirations:

> First of all, we have to convince at least one country around us. Without convincing them, we cannot do this. Being land locked we have to have a partner, a regional power to be convinced and internationally, a big power to be convinced to support that. That 'door of hope' is Turkey. And if that door, that hope is closed, it will be impossible for us not to surrender to Baghdad.[84]

This matter-of-fact explanation of the KRG's dependence on assistance for the development of the region's economy was echoed in a statement by a key KDP politician, Safeen Dizayee. Asked why the KRG did not mind depending so massively on Turkish economic support, he

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[82] Yusuf Selman Inanç (2015). *Turkey Confronting Taboos, Now it is the KRG's Turn, Reveals Conference.* http://www.dailysabah.com/mideast/2015/01/27/
[83] *Bill Park (2012). Turkey, the US and the KRG: Moving Parts and the Geopolitical Realities. Insight Turkey, Vol. 14, No. 3. p. 23*
[84] Henri J Barkey (2011). *Turkey and Iraq: The Making of a Partnership.* Turkish Studies*, Vol. 12*, No. *4, pp. 663-674*, (*December*), p. 9

stated: "Even if tomorrow when there is a Kurdish independent state in Iraq, it would be a dependent independent [country] whether on Turkey, Iran, Syria or Iraq."[85]

Effectively then, both Turkey and the KRG are agreed that some type of a KRG state in the future is inevitable, but that any such state would have to be dependent on the political will and economic support of the Turkish state.

Iran's response to KRG independence

Introduction

It has already been asserted that existing states usually recognise or deny recognition to aspiring states based on the assessment of the actual or potential capacity of aspiring states to enhance or impair existing states' interests. Just as an existing state may refuse to recognise a new state because it may see its interests being adversely affected by the emergence of that state, states battling secessionist movements within their territories may also reject the statehood aspiration of an entity seeking statehood through secession from an existing state. A state whose ideological or military ally stands to lose valuable natural resources or territory of geopolitical and strategic military value would most likely refuse to recognise a new state that might be created from the ally state. A KRG secession from Iraq, it is therefore argued, would bring these issues to bear on the Iranian state's relations with its Kurdish populations and on Iran's geopolitical and regional (Middle Eastern) interests, and hence its reaction to an independent KRG state in the Gulf region. In terms of security, economics, geopolitical considerations and sectarian interests, the KRG and the Iraqi state may mean just as much to Iran as to Turkey, and for reasons that may not be significantly dissimilar. Needless to say, Iran has approached the KRG's statehood aspirations and its possible fallouts in ways not too dissimilar from Turkey's (as discussed in the previous chapter).

Like all states in the Gulf region, Iran has maintained a longstanding hostility to Kurdish nationalism, whether pursued within Iran or elsewhere in the Middle East. Besides crushing Kurdish revolts within its own borders on several occasions, Iran has, when necessary, collaborated with rival states in the Gulf region to curtail Kurdish efforts at self-determination in the Middle East. Under the auspices of the Saadabad Pact in 1937 and the Baghdad Pact in

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[85] *Ibid.*

1955, Iran joined Turkey and Syria[86] to prevent 'transnational Kurdish challenges' to the territorial integrity of the states in the Gulf region. More recently, several senior Iranian politicians, while reiterating Iran's opposition to a future KRG state, condemned the KRG leadership for pushing for the secession of Kurdish Northern Iraq from the Federal Republic of Iraq.[87] The discussion in this section focuses on the various security, economic, geopolitical and sectarian considerations driving Iran's resolve to see the Iraqi state remain in its current form. The discussion begins with a focus on what Iraq as a geographical space and state means to Iran.

The significance of Iraq to Iranian state interests

The perception entrenched among statesmen and experts on the Middle East is that Iraq is dysfunctional.[88] Since its inception, the Iraqi state has been plagued by rebellions and insurrections against its authority and territorial integrity. The absence of a common sense of nationhood among its diverse ethnic and religious groups has been a source of violent friction, not only between sections of the population but also between the Iraqi and segments of Iraq's ethnic and religious communities.[89] Part of the problem lies in the lack of diffusion of political power through the major segments of the country's populations. Political power in Iraq has been concentrated among elites from sections of the Iraqi populace.[90] This has combined with the concentration of economic development in the national capital to leave large sections of the Iraqi populace politically and economically marginalised, creating disaffection and occasional violent reactions against the country's governments.[91]

The historical rivalry between Iran and Iraq as a source of multiple risks to Iranian state security, The chaos and violence in Iraq often spill over into neighbouring countries. Like Turkey, Iran has had to deal with the effects of political violence between groups in Iraq and the Iraqi state. One of the most devastating wars the state has had to deal with in modern times began within an attack on Iran by the Iraqi armed forces in 1980. Understandably, therefore,

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[86] Author's Interview (2016) With Professor Dlawar Ala'aldeen, President of the Middle East research Institute (MERI)

[87] Kurdish Congress Condemns Iranian Interference in Independence (2014) (http://rudaw.net/english/kurdistan/12072014)

[88] Tiffiany Howard(2014). *Failed States and the Origins of Violence: A Comparative Analysis of State Failure As the Root Cause of Terrorism and Political Violence*. Routledge: London and New York, p.5

[89] Author's Interview with Professor Dlawar Ala'aldeen, President of the Middle East Research Institute (MERI)

[90] Author's interview (2016) with Ali Bapir, the leader of Kurdistan Islamic Group

[91] Toby Dodge (2013). *State and society in Iraq ten years after regime change; the rise of a new authoritarianism,* International Affairs, Vol. 89, No. 2, pp. 241-257.

Iran views major political upheavals and economic problems in the country with apprehension. As Ali Mehkri observed: "Iran can neither ignore Iraq nor keep itself aloof from what goes on politically in a country that it shares 912 miles of borders with".[92] Mindful of its proximity to Iraq, and cognisant of the presence in Iraq of political organisations, sects and ethnic groups with affiliations in Iran, and most importantly, the enduring rivalry between the two countries, Iran's perception of Iraq is as a security and geopolitical risk that requires active monitoring. The roots of Iranian apprehension of Iraq's troubling territorial proximity reach deep into the past.

Iran and Iraq have a long history of rivalry, which has resulted in a variety of volatile issues in and about Iraq that quite often converge into serious threats to Iranian state security. The histories of these ancient kingdoms and empires have influenced contemporary Iraqi–Iranian relations. According to Potter et al., the conquests and supposed grandeur of the Mesopotamian empires and their counterpart in present day Iran inform the "constructs of intellectuals, government propagandists" and are often used to justify territorial claims and feelings of moral and cultural superiority over each other.[93] Iraq and Iran have been making opportunistic use of their links to their historical empires and kingdoms to either burnish their national image or lay claim to resources in the Gulf region. The preamble of Iraq's federal constitution, for example, establishes the country's greatness on its status as a descendant state of Mesopotamia.[94] Iran, on the other hand, once claimed right of access to the Persian Gulf on the basis that the gulf was given that name by one of its ancient monarchs.[95] The modern Iranian state also bases its perception of itself as a major power on historical narratives stretching back to the 'glorious reign' of the sixth-century Persian monarch, Cyrus.[96]

The most potent modern or contemporary significance of the rivalry between the kingdoms and empires in ancient 'Iraq' and Persia, however, has its roots in the early role of Iranian rulers in the evolution of Shia Islam as the main rival of Sunnism in Islam. As is well known, Shia Islam emerged from violent circumstances with the murder by Sunni adherents of its first two leaders, Ali, the son-in-law of the Prophet, and Hussein, the son of Ali. The bloody split within

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[92] Ishtiaq Ali Mehkri (2005). *Religion and Politics in Iran-Iraq Relations*. Pakistan Institute of International Affairs Pakistan Horizon, Vol. 58, No. 4. pp. 33-41.

[93] *Ibid.*

[94] Iraqi Constitution. http://www.iraqinationality.gov.iq/attach/iraqi_constitution.pdf.

[95] Joseph Kostiner (2009). *Conflict and Cooperation in the Gulf Region.*First ed. Springer Science & Business Media .p. 19

[96] Christin Marschall (2003). *Iran's Persian Gulf Policy: From Khomeini to Khatami*, Routledge Curzon: New York, London, p.3.

the heart of Islam and the ensuing mutual mistrust and animosity between the two sects later seeped into the Middle East's nationalist politics, beginning with the Safavid dynasty's adoption of Shiism as the Persian state religion in the sixteenth century.[97] The most significant fact about this event is that it organised Shia Islam into a political party,[98] and it provided Persians with an ideological shield against the forceful annexation of their empire by the Ottomans.[99] The Savafid factor also provided Persians with an avenue to adapt Islam to the cultural values of Persia, as a contrast to the Islam practised by Arabs and the Bedouins in the Middle East.[100] It exacerbated prevailing tensions between Sunnism and Shias Islam. Also, whereas all post-Safavid dynasty rulers of Iran have been Shia, the Ottoman Empire and indeed many of its daughter states, Bahrain, Qatar, Kuwait, Saudi Arabia, Turkey and Iraq (until the overthrow of Saddam Hussein) have had Sunnis as rulers.

It is also germane to the politicised sectarian rivalry between the power centres of the two states that Shia Islam's second largest adherent populations and two of its three holy sites, Najaf and Kabalar (the other being Qom in Iran), are in Iraq. The important religious and political influence wielded by the ayatollahs and leading Shia religious scholars (*ulamas*) in Najaf within Shia Islam communities also generates a cross-influence of political and religious ideas and related tensions between Iran and the predominantly Shia parts of Iraq. Ayatollah Khomeini, the architect of Iran's Islamic Revolution and initiator of the current constitution of the Iranian state, trained in Najafu where he also transmitted the initial revolutionary messages against the Shah's regime.[101] Shia Islam's large populations in Iraq, the location of Shia holy and seminary sites in that country, and the elevated legal and religious roles of the ayatollahs within Shia Islam, have frequently combined to embroil Iran in conflicts between Iraq's Shia Arab majority and the country's Sunni political and religious elite. The significant Shia presence in Iraq also enables Iran to extend its sphere of influence across Iraq, and for that matter closer to predominantly Sunni states (e.g. Saudi Arabia and Turkey) in the Middle East.[102] Iran has consolidated its influence in Iraqi political affairs by facilitating cross-border pilgrimages among Shias[103]. Iran's financing of the airport project in Najaf was largely aimed

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[97] Michael Eisenstadt (2015). *The Iran Primer, United States Institute of Peace*.http://iranprimer.usip.org/resource/iran-and-iraq

[98] Jasim M. Abdulghani (1984). *Iran and Iraq: The Crisis Years*. Baltimore: The Johns Hopkins University Press, p. 2.

[99] *Ibid.*

[100] *Ibid.*

[101] Dina Esfandiary and Ariane Tabatabai (2015). *Iran's ISIS policy*. Chatham House. The Royal Institute of International Affairs. Vol. 91. pp. 1-16

[102] *Ibid.*

[103] Author's Interview (2016) with Khalid Shwani, the Iraqi President Advisor and the Spokesman for the

at easing Iranian Shia access to the religiously and politically significant city.

Iran, in short, does not judge issues relating to the Shia presence in Iraq from an entirely religious perspective, or as a separate issue from its internal politics, and understandably so. Major political and religious developments in Najaf and Karbalar in particular and Iraq as a whole ultimately hamper or advance Iran's internal and external interests. Iran has historically seized on opportune moments to influence the religious and political affairs in Iraq. Iran remains the major financier of Shia learning centres in Najaf and Karbala, and has influenced not only the selection of ayatollahs in Iraq, but also the delineation of their clergy powers.

Likewise, Sunnis also assess events in Shia parts of Iraq in tandem with developments in, and reactions from, Iran. As will be explained later in this thesis, one of the factors behind the eight-year war (1980-1988) between Iran and Iraq was attempts by Ayatollah Khomeini to export the Islamic revolution to Iraq.[104] Sunni resentment at the manner in which Shah Pahlavi literally bullied Iraq to accept Iranian control over the Shatt al-Arab waterway in 1975 has also been cited as a factor in that war. This event was significant for Iran's internal and external security interests, and for its future relations with Iraq. It marked a turning point in state power relations in the Gulf region. Iran was perceived at that time to have acted according to its superior military might and status as a self-appointed gendarme of the Gulf region to muscle its way into control of the disputed waterway.[105]

Iran's perceived bullying of Iraq, and Ayatollah Khomeini's attempts to export the Islamic Revolution to Iraq and other predominantly Arab states are related in the sense that they were all perceived to have upset the balance of security in the region[106]. Peace and stability in the post-colonial Gulf region have come to depend on the power balance between the region's major economies and states, mainly Iraq and Iran and, to a lesser extent, Syria and Saudi Arabia. Given the over-politicised relations between the two main sects in Islam, peace in the region came to depend on the absence of religious imperialism on both sides. In a state of power equilibrium among the major military powers in the region, states in the region have felt no need to act on their fear or distrust of their traditional political and ideological rivals. A

Presidency,

[104] Joseph Kostiner (2009*). Conflict and Cooperation in the Gulf Region*.First ed. Springer Science & Business Media, p. 47.

[105] Lawrence G. Potter and Gary G. Sick (2004). *Iran, Iraq, and the Legacies of War*.Palgrave Macmillan, http://www.palgraveconnect.com/pc/doifinder/view/10.1057/9781403980427 . p19

[106]Joseph Kostiner (2009). *Conflict and Cooperation in the Gulf Region*. Springer Science & Business Media, p. 47.

détente evolved between Iran and Iraq in these circumstances. When both states were under monarchical rule, and as allies of the West, they even collaborated on crushing Kurdish revolts in the region.[107]

The historical mutual suspicion and distrust between Sunni and Shia elements in the two countries, however, was to be rekindled, first by the overthrow of King Faisal in 1958, and, subsequently, by the emergence of the Baathist party as a leading advocate of Pan-Arabism in the Middle East. According to Kostiner: "Iraq's call for Arab unity and revolutionary ideology also threatened Iran's Shah … a monarchical ruler of a non-Arab nation seeking regional prominence".[108] Feeling threatened by Iraq's evolution into being the focal point of Pan-Arabism in the Gulf region, Iran tried to weaken Iraq by supporting Kurdish insurgency against the Iraqi state.[109] To buy off Iranian cooperation with and support for the Kurds, Iraq relinquished its claims to the Shat Al Arab waterway in favour of Iran.[110]

Similarly, when the Islamic Revolution was perceived to have resulted in the weakening of the Iranian army (through a transfer of its power and influence to pro-revolutionary militias), Iraq saw it as an 'opportunity' to attack the Islamic state. Iraq received moral support and financial assistance from members of the Gulf Cooperation Council which themselves felt threatened by Khomeini's religious imperialism.[111] The long duration of the war (eight years), and its disastrous effects on the Iranian economy, together with the loss of hundreds of thousands of lives, left Iran concerned about future threats to its borders.

Since the overthrow of Saddam Hussein, and with it the emergence of Shias as the major power bloc in Iraq, Iranian influence in Iraqi politics has been particularly pervasive. Iran's intrusion into Iraqi political affairs increased massively after the withdrawal of US troops from Iraq in 2010[112]. Security and political stability in Iraq has been a major focus of Iranian interference in the affairs of post-Baathist Iraq. Before and during the transition to majority rule under Iraq's

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[107] Author's Interview (2016) with Hoshyar Abdullam, a member of the Iraqi Parliament and member of the Leadership of Change movement in Kurdistan

[108] Joseph Kostiner, (2009). *Conflict and Cooperation in the Gulf region*: First ed., Springer Science & Business Media, p. 19.

[109] *Ibid.* p.40.

[110] Brad Martsching (1998). *Iran-Iraq War and Waterway Claims*. TED Conflict Studies, Case number 21, May. ww1.american.edu/ted/ice/iraniraq.htm

[111] Nader Habibi (2010). *The Impact of Sanctions on Iran-GCC Economic Relations*. Crown Centre for Middle East studies.(*Middle East Brief*, November , No. 45 *). pp.1-10* http://www.brandeis.edu/crown/publications/meb/MEB45.

[112] Author's interview (2016) with Khalid Shwani, the Iraqi President Advisor and the Spokesman for the Presidency.

current federal constitution especially, Iran was reported to have sent thousands of fighters from its Revolutionary Guard Corps[113] to counter-attack Shia targets in Baghdad and beyond. Iran was also accused of sending some of its operatives to Iraq to 'influence votes' ahead of the elections that ushered the Shia into majority rule.[114] Tapping into its relations with the Shia majority in the country, Iran helped to finance Shia political groupings in Iraq, and, most importantly, also brokered peaceful settlement of intra-Shia political squabbles. These helped to secure power for Prime Minister Nouri Al-Maliki and his Shia-led government.[115] As a reflection of its commitment to keep Iraq stable and under the current dominant influence of its Shia allies, Iran has also assisted Shia militia groups with finance and logistics, and has pursued the same mix of economic and political strategies with which Turkey asserted a strong presence in the KRG. Especially since 2013, Iran has increased its trade with Iraq, partly as a means to tether key parts of the Iraqi economy to Iran. Iranian economic activities in Iraq are also aimed at reducing the Islamic republic's dependence on trade with Middle Eastern allies of the West – the United Arab Emirates and Turkey. The grander aim here is to minimise Iran's vulnerability to Western economic sanctions.[116] Iran has thus broadened its trade with Iraq to include a wide variety of goods particularly vital to Iraq's economy: "cement, tiles and ceramics, dairy products and electricity".[117] Notably, too, Iran has been encouraging Iranian corporate investment "in Iraqi infrastructure projects in order to increase the two countries' economic and political interdependence".[118] Iranian economic investment in Iraq has been so intensive that in 2013, just two years after the lifting of sanctions against the Islamic State, trade between the two countries had reached US$12 billion.[119] That made Iraq one of the top five trading partners of Iran.[120] Slightly more than half of Iranian exports to Iraq, too, consisted of non-oil products (construction materials, vehicles, and food items.) during this period.[121] Iraq thus represents an easy and relatively cheap avenue for Iran to diversify its export sector.

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[113] Lionel Beehner and Greg Bruno (2008). *Iran's Involvement in Iraq.* Council on Foreign Relations, March 3. http://www.cfr.org/iran/irans-involvement-iraq/p12521

[114] *Ibid.*

[115] Lazar Berman (2016). *The Iranian Penetration of Iraqi Kurdistan.* Jerusalem Centre for Public Affairs, Israeli Security. Regional Diplomacy, and International Law. *http://jcpa.org/article/the-iranian-penetration-of-iraqi-kurdistan, Vol. 16, No. 3.*

[116] Dina Esfandiary and Ariane Tabatabai (2015). *Iran's ISIS policy.* https://www.chathamhouse.org/ International Affairs, Vol. 91.

[117] Najmeh Bozorgmehr (2015). Iran eyes Iraq trade decades after war: http://www.ft.com/cms (October 28).

[118] Dina Esfandiary and Ariane Tabatabai (2015). *Iran's ISIS policy*: https://www.chathamhouse.org/ International Affairs, Vol. 91.

[119] Najmeh Bozorgmehr (2015). Iran eyes Iraq trade decades after war: http://www.ft.com/cms (October 28).

[120] Dina Esfandiary and Ariane Tabatabai (2015). *Iran's ISIS policy*. https://www.chathamhouse.org/ International Affairs, Vol. 91.

[121] Tamer Badawi (2016). *Iran's Iraqi Market*: Report by Carnegie Endowment For International Peace. http://carnegieendowment.org. sada/64187

With the envisaged completion of the 37,400-hectare free trade zone between Iran and Iraq (financed by Iran), trade between the two neighbours is expected to rise to about US$20 billion in 2020.[122] Most crucially, too, Iran envisages exploiting its proximity to Iraq and the chaotic state of Iraq's oil and gas industry to bolster a national treasury adversely affected by the US-led sanctions against the Islamic State.[123] As reported by Bloomberg, Iran would be exporting about seven million cubic metres of gas each day to feed electricity plants in Iraq. That, together with the planned gas exports to Basra, would bring Iran's total (gas) exports to Iraq up to 70 million cubic metres a day by 2017.[124]

As already suggested, Iraq's invasion of Iran in 1980 and the support it garnered from the predominantly Sunni states forced a radical policy 'rethink' on Iran. Memories of the human lives and billions of dollars Iran lost in the war still drive the Islamic republic's resolve to ensure that Iraq remains in control of the predominantly Shia political establishment. Iran has felt vindicated in this context by recent attempts by Sunni state and non-state actors in the Middle East to undercut Iranian interests and the Shia political dominance in post-Baathist Iraq.[125] The discussion has already touched on Turkey's support for Sunni political groups and individuals in Iraq and its (Turkey's) mediatory role among Iraqi Sunni groups aimed at helping to maximise their participation in the governance of Iraq.[126] Turkey's proxy politics in Iraq has as a general aim the intention to check Iranian influence in Iraq's politics.[127] Any doubts about Turkey's main intentions have been dispelled by its opposition to the government of Al Maliki and the sanctuary it granted to the former Iraqi Vice-President, Tariq-Al Hashemia, a Sunni fugitive from Iraqi justice. With the dismantling of the hegemony of the Sunni Baathist elite, Sunni elements within and outside Iraq have been labouring under the urge to reconfigure Iraq's notorious sectarian power politics in their favour. The ISIS incursion into and seizure of parts of Iraq has been the most poignant reminder of the risks posed to Iranian security in this context. As an offshoot of the Salafi sect in Sunni Islam, the ISIS is deemed to have the sympathies, if not the direct support, of Sunni populations in Iraq and possibly some Sunni states as well.[128] ISIS's avowed aim to establish a Caliphate across the Middle East and the

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[122] Najmeh Bozorgmehr (2015). Iran eyes Iraq trade decades after war: http://www.ft.com/cms (October 28).

[123] Hashem Kalantari and Sam Wilkin (2016). Iran Says Gas Exports to Iraq to Start in Next Month After Delay: August 15. http://www.bloomberg.com/news/articles/2016-08-15

[124] *Ibid.*

[125] Author's interview (2016) with Arif Qurbany, the Former Advisor to Jalal Talabani.

[126] Author's interview (2016) with Khalid Shwani, the Iraqi President Advisor and the Spokesman for the Presidency

[127] *Ibid.*

[128] Author's interview (2016) with Muhammed Ameen Penjweny, the Spokesman for the PKK in Kurdistan

intense brutality with which it has been going about that has received much publicity in the international press. The destruction of Shiaa Islam, however, is perceived to be a subplot to their agenda. That was corroborated by the ISIS' attacks on Shia holy sites and mosques in Bagdad.[129]

In conclusion, Iraq's past relations and its geographical proximity to Iran have historically been factors in Iran's perception of Iraq as a risk it must manage by active control of affairs there. Iraq also faces many issues and political actors that impinge directly on security, the economy and sectarian interests. The eight-year war with Iraq and the ISIS's intrusion into Iraq have been stark reminders to Iran of the type of dangerous political actors and threats that can emanate from that country. Having gained control of the territory via its alliances with the current politically dominant Shia populations in Iraq, it is doubtful whether Iran would allow Iraq to be dismembered by a future KRG secession from Iraq,[130] knowing that such an event would most likely trigger a similar quest by the Sunni populations in that country.

Iranian security and the KRG in more detail

Iraq's loss of territory to its Kurds in particular is probably too great a risk to be entertained or accepted by Iran. This section will consider the fraught historical relations between Kurds and Iran. There are a number of security issues that would lead Iran to block Kurdish statehood.

Iran, the Kurds and Israel

A significant part of Iranian antipathy to a future independent Kurdish state in this regard is founded on the historically cordial ties between Kurds and Israel. It informs the lingering fear among the Iranian political establishment that an independent KRG state would allow its territory to be used as a buffer zone by Israel, Iran's arch rival in the Middle East.[131] Israel has been accommodating to Kurdish migration and cultural presence in, the Jewish state. Both Israel and the KRG host populations from both ethnic groups. Most crucially, the Jewish state has historically counted Kurdish Northern Iraq among the 'periphery states' in the Middle East

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[129] Harry Cockburn (2016). Isis claims fresh bomb attack at Shia holy site north of Baghdad: http://www.independent.co.uk/. Friday, 8 July.

[130] Author's interview (2016) with Dr Mahmoud Ali Othman, a leading member of the Iraqi National Assembly.

[131] Author's interview (2016) with Arif Qurbany. Former Jalal Talabani Advisor

Israel believes it must have on its side to check Persian–Arab hegemony in the Middle East.[132] The Jewish state has thus provided Iraqi Kurds with arms and humanitarian assistance on different occasions, most notably during the Kurdish insurrection against the Baathist state.[133] Particularly since the inception of the KRG as an autonomous region, there have been reports of a significant Israeli presence in Iraq. Some media outlets have even reported sightings of Israeli spies training Kurdish intelligence and antiterrorism personnel, and infiltrating Kurdish parts of Iran from their base in Northern Iraq.[134] Israeli statesmen have also been most vocal on the KRG's supposed right to statehood.[135] Some political commentators construe Israel's support for KRG's independence as part of an agenda to secure Israel's energy needs and its sphere of influence on Iran's borders.[136] Many of the claims about the KRG's current and future relations with Israel are based on limited news. However, there have also been reports from[137] reputable news outlets about Israel looking to depend on the KRG for much of its future energy needs,[138] and revelations about the KRG using Israel as a decoy to hide its oil exports from Iraq.[139] These would seem to corroborate suspicions that Israel has an eye on Kirkuk's vast oil reserves.[140]. In Iran's case, the risks inherent in the KRG's ambitions for independence and the close relations it has been cultivating with Israel may be exacerbated by the KRG also being an ally of Turkey and the USA, Iran's main geopolitical and ideological rivals in the Middle East. KRG independence may thus result in three of Iran's major rivals having possible military bases and intelligence personnel right at Iran's borders.

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[132] See, for example, Howard Patten (2013). *Israel and the Cold War: Diplomacy, Strategy and the Policy of the Periphery at the UN.* London: I.B. Tauris & Co.

[133] Ofra Bengio (2014). *Surprising Ties between Israel and the Kurds.* Middle East Quarterly, Vol. 21, No. 3. http://www.meforum.org/3838/israel-kurds

[134] Jamal Khosravi, Jalal Kalhori and Loghman Hamehmorad (2016). *The Presence of Israel in Iraqi Kurdistan and its Security Challenges for Iran's National Security*. Journal of Politics and Law, Vol. 9, No. 7, p1.

[135] Deepak Tripathi (2014). Why Israel is backing Kurdish independence (8 July 2014). http://www.middleeasteye.net/

[136] David Sheppard, John Reed and Anjli Raval (2015). Israel turns to Kurds for three-quarters of its oil *supplies*: http://www.ft.com/cms/(August 23, 2015).

[137] Author's interview(2016) with Arif Qurbany, former advisor to Jalal Talabani

[138] *Ibid.*

[139] Dmitry Zhdannikov (2015). Exclusive: How Kurdistan bypassed Baghdad and sold oil on global markets (Tue Nov 17, 2015): www.reuters.com.

[140] Mission Creep (2004). Kurdish Life 51 , Summer 2004: 23. http://go.galegroup.com.ezproxy3.lib.le.ac.uk/

Iran and the Kurdish diaspora

Iran's apprehension about a future KRG state is further accentuated by the Islamic republic's variant of the so-called 'Kurdish Problem' in the Middle East. The 'Problem' is defined, on the one hand, by the politicisation of the ethnic identity of Kurds in the Middle East around a strong sense of nationhood deriving from their territorial connectivity and numerical ability to form a state of their own, and, on the other, by the haphazard division of Kurds across four Middle Eastern states (Iraq, Iran, Syria and Turkey) in a manner that has reduced them to oppressed minorities in their host states. The situation of Kurds in these four states is exacerbated by the tendency on the part of élites from those states to define their sense of nationhood on the linguistic and cultural identities of their dominant ruling ethnic groups. These partly explain the strong sense of nationalism with which Kurds, since the collapse of the Ottoman Empire, have striven to achieve a state of their own.[141] In addition to creating political parties which participate in the mainstream politics of their host states, Kurds have been forming resistance movements ready and willing to use violence against their hosts to attain their political aims[142]. Prominent among these are the PKK (in Turkey), the YPG (in Syria), the PJK and the KDPI (in Iran) and, until the creation of the KRG, the KDP and PUK (in Iraq). Such groups are often branded terrorists by their host states, acting sometimes in conjunction with the international community.

Iran's view of its own Kurdish problem is mediated to a large extent by its apprehensions about the emergence of a Kurdish state north of its border with Iraq. As has been the case with Turkey, the fear is that an independent Kurdish state in any part of the Middle East would rekindle secessionist agitations among their own Kurds and possibly among other historically secessionist ethnic minorities[143].

Iranian Kurds, although constituting the Islamic republic's second largest minority group (their numbers are put at about six million[144]) have historically found themselves at the margins of the social, economic, cultural and political lives of mainstream Iranian society. The oppression

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[141] Author's interview with Adnan Osman, member of the political leadership of Goran (Movement of Change)
[142] Author's interview (2016) with Muhammed Ameen Penjweny, the Spokesman for the PKK in Kurdistan
[143] Author's Interview (2016) with Dr Asso Hassanzadeh, Member of the Leadership of Kurdistan Democratic Party of Iran.
[144] Michael M. Gunter (1996). *The KDP-PUK Conflict in Northern Iraq.* Middle East Journal, Vol. 50, No. 2. p3.

of Iranian Kurds can be attributed to attempts by the Persian political élite to define the soul of the Iranian nation-state on the cultural and linguistic identity of the Persian majority. It literally implied a suppression and even denial of the distinctive cultural and linguistic identity of the country's minority groups[145]. One of the consequences of Iran's Persian-centric state ideology involved attempts by the Shah to ban written and spoken Kurdish in public places and the wearing of Kurdish traditional clothes in the predominantly Kurdish regions. It marked a key point in Kurdish dissatisfaction with the Iranian state.[146] Instructively, the first Kurdish state in the Middle East, the Republic of Mahabad, was created on Iranian territory in 1946. Significantly too, the Republic of Mahabad's rag-tag army included Kurdish fighters from Northern Iraq. Mustafa Barzani, the father of the current President of the KRG was prominent among the commanders in the army of the republic.[147]

The Republic of Mahabad lasted less than a year, but it left a lasting impression on the Iranian political establishment and Kurds in the Middle East. Kurdish nationalists still invoke the history of the Republic of Mahabad as an inspiration. It was also at this period, in 1946, that Kurds formed their first political party in the Middle East, the Kurdistan Democratic Party (KDP),[148]

Successive Iranian regimes more or less continued with oppressive policies towards Kurds. The Islamic Revolution in 1979, for instance, ushered in a sustained and coherent attack on the cultural identity and general human rights of the Kurdish peoples[149]. The Kurdish people's support for the revolution and expectation of closer relations with the central government conflicted with the Ayatollah Khomeini's agenda to establish a Persian-centric Iranian state to be governed from Teheran on theocratic principles. Thus, despite constitutional guarantees of non-discrimination and non-repression of minority communities, the new Islamic republic sought from the first to rein in any ideology or cultural or political philosophy that challenged the newly established hegemony of the Islamic state. A few weeks after the revolution, Iranian military operatives attacked a group of Kurds celebrating the festival of Newroz in the city of Sanandaj. This was the first of several attempts by the newly-created Islamic republic to exert

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[145] Author's interview (2016) with Dr Asso Hassanzadeh, member of the leadership of Kurdistan Democratic Party of Iran.

[146] *Ibid.*

[147] *Ibid.*

[148] Michael M. Gunter (1996). *The KDP-PUK Conflict in Northern Iraq.* Middle East Journal, Vol. 50, No. 2 pp. 224-241

[149] Author's interview (2016) with Dr Asso Hassanzadeh, Member of the Leadership of Kurdistan Democratic Party of Iran.

absolute control over the Kurdish regions and the cultural identities of the peoples.[150]

Iran's relatively moderate post-Khomeini governments has promised to implement a raft of reforms with the aim of improving relations with the Kurdish peoples. President Mohammad Khatami, in particular, has made several overtures to the Kurds, including an express promise to permit the use of Kurdish as the language of instruction at universities in Kurdish areas. That promise and many others made at the time were never fulfilled with the rise of the ultra-religious government of Ahmadinejad. Amnesty International's reports from the 2000s to the present indicate that the Iranian state, despite public pronouncements by its leaders to the contrary, has been suppressing the rights of Kurds.[151] As one report reads, Iranian Kurds, like all minorities in Iran, are "systematically discriminated against, particularly in employment, housing, access to political office, and the exercise of cultural, civil and political rights."[152] Some Kurdish leaders have been executed for demanding respect for Kurdish rights.[153] The entrenched discriminatory treatment of Kurds and the deprived economic conditions in Kurdish parts of Iran have thus contributed in recent times to inflaming Kurdish resistance to the Iranian state. In particular, as a result of the disproportionate adverse effects on Kurds of the recently lifted international economic sanctions against Iran, Kurdish armed groups have been threatening to relaunch their violent campaign against the Iranian state. President Rouhani, sensing the growing frustration in the Kurdish regions, has promised to treat Kurds in Iran fairly, and to speed up the industrialisation of Kurdish areas in Iran.[154] That might be a bit late, as relations between Kurds and the Iranian state continue to worsen. However, in 2014, the KDPI was reported to have clashed five times with Iranian security forces.[155] Similarly, the PJAK attacked and killed 20 Iranian Revolutionary Guards in 2015. Since then there have been more such attacks on Iranian targets within and outside Kurdish parts of Iran.[156] Significantly, too, Iran has responded to the attacks by bombing supposed PJAK and KDPI bases in the KRG.[157] Effectively then, the mistreatment of Iranian Kurds and their armed resistance to the

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[150] Author's interview (2013) with the former leader of Iranian Kurdistan Democratic Party, Abdullah Hassan Zadah

[151] Amnesty International Publications (2008). *Iran: Human rights abuses against the Kurdish minority*: p. 3. http://www.crin.org/

[152] Annual Report, Iran (2015/2016). *Discrimination – ethnic minorities*: Amnesty International Report: 2015/2016: https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/

[153] *Ibid.*

[154] Press release of the Presidency of the Islamic Republic of Iran, May 31, 2016: http://www.president.ir/en/93838

[155] Why Iranian Kurdish party is stepping up fight against Tehran. http://www.al-monitor.com

[156] Kurdish PJAK rebels kill 20 Iranian revolutionary guards in eastern Kurdistan. http://ekurd.net/pjak-kills-20-iranian-revolutionary-guards-2015-08-08

[157] Mewan Dolamar, Iran must respect Kurdistan sovereignty, and stop bombing. http://www.kurdistan24.net/

Iranian state necessarily embroils the KRG in Iran's so-called Kurdish problem. The use of the KRG's territory as bases by the KDPI and the PJAK render it impossible, if not unwise, for Iran to exclude the KRG from its assessment of the risks posed to the Iranian state security by Iranian Kurdish armed groups. These considerations are certainly a factor in recent statements by senior Iranian state officials reiterating the Islamic republic's might no longer help the KRG.

Moreover, the Iranian state and the KRG have also demonstrated a reasonable ability to accommodate each other's interests in the Middle East. As an example, Iran, sensing a threat to its own interests in the ISIS attacks on Kurdish parts of Iraq, responded promptly to the KRG's appeal for help to combat ISIS. The KRG, already fearing an invasion of its capital by ISIS, and with the West's reluctance to supply weaponry as requested by President Barzani, responded favourably to Iran's overtures. Iran supplied the KRG's Peshmerga with arms and logistics not only to stave off the imminent attack on Erbil,[158] but also to dislodge the jihadists from parts of Northern Iraq they had already seized. Some news media reports even suggested that Iranian Revolutionary Guards fought alongside the Kurdish Peshmerga against the ISIS. Iran's willingness to arm and fight alongside the Kurds to maintain peace in Kurdish Northern Iraq could be interpreted as proof of its and the KRG's ability to accommodate each other's existence in the Middle East. This may sustain an expectation of a positive Iranian reaction to KRG independence in the foreseeable future.

Furthermore, Iran has been moving to establish closer, warmer ties with the KRG. The presence of diplomatic missions from both entities in each other's territory is one indication of that. Realising too that KRG independence in the foreseeable future is inevitable, Iran has been seeking to participate in the KRG's energy sector. Accordingly, it has signed a deal with the KRG that, beginning in 2017, will enable the KRG to transport oil through Iranian pipelines to Iran.[159] Iran's motivations in this context could probably be the same as a strategic Turkey's, that is, creating a KRG economic dependence on Iranian infrastructure. Such a deal, however, will also strengthen relations between the two entities, and, most importantly, open a new avenue for cooperation between the KRG and Iran. It is also to be noted that Iran has a longstanding relationship with the PUK, a major political force in the KRG, and that it can leverage this relationship to customise the KRG's independence and its security and

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Friday, 12 August 2016.

[158] Kurdistan thanks Iran for help against IS'. http://www.kurdistan24.net/en/news/a735cf3c-b765-4067-a0d4-7a9de2786811/%E2%80%98Kurdistan-thanks-Iran-for-help-against-IS%E2%80%99

[159] Iran offers Kurdistan region oil shipment through Persian Gulf (10/3/2016) http://rudaw.net/english/business/10032016

geopolitical implications to its taste. Significantly, the KRG has in recent months promised to prevent Iranian Kurdish insurgent groups from using the KRG as a base to attack Iranian targets. This assurance, if carried through, might suffice as a *quid pro quo* for Iranian support of the KRG's independence in the foreseeable future.[160]

Iran and the KRG's economy

Attention should also be focused on how KRG independence may affect Iraq's economy. As is presently evident, since the overthrow of Saddam Hussein Iran has coupled aspects of its economy to Iraq's. Much of the potential adverse impact a KRG might have on Iraq's economy may thus extend to Iran's as well. The significance of the KRG as an economy to the Iraqi state has already been discussed and may be reiterated here. The KRG, to begin with, is blessed with more substantial water resources and arable land than most parts of Iraq and many parts of the Middle East.[161] The KRG's s favourable climatic conditions and vegetation largely account for the location in the KRG of about approximately 28 per cent of Iraq's arable land, despite the fact that the KRG as a geographical region constitutes just eight per cent of the country's total land mass.[162] The size of the KRG's (budget, economic growth, GDP),[163] the region's GDP per capita (in 2010 it was ranked higher than 41 of the world's fully independent states),[164] its crude oil reserves (estimated at between 50 and 80 billion barrels[165] and ranked in the top ten countries with proven oil reserves)[166] its natural gas deposits (which also make the KRG one of the leading producers, and potentially, Europe's main supplier of natural gas in the foreseeable future)[167] all suggest that a KRG secession in the foreseeable future would imply Iraq's loss of its most economically valuable region.

Iraq, in sum, would lose an important aspect of its food security if the KRG were to break away from the federation. Economically, this would weaken the Iraqi state significantly. An economically broken Iraq under the dominant rule of its Shia majority might look to Iran for

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[160] Karim Sinjari , Minister of the Interior for the Kurdistan Regional Government, met with Ali Shamkhani , Secretary of the Supreme National Security Council of Iran. Border security a 'redline' Tehran tells KRG delegation: (08/2016) http://rudaw.net/english/kurdistan/140820168

[161] Kurdistan Fact Sheet: http://www.kurdistaninvestment.org/fact_sheet.html

[162] M Ahmed (2012). *Iraqi Kurds and Nation-Building,* Palgrave MacMillan.

[163] The details are to be found at page 11 of the Discussion on the Economy of the KRG in the section on the KRG's internal capabilities.

[164] Kurdistan Board of Investment, Kurdistan's Economy. http://www.kurdistaninvestment.org/economy.htmlis

[165] Iraqi Kurdistan has the world's 8th largest oil and gas reserves: The Ekurd Daily, March 30, 2015. http://ekurd.net

[166] *Ibid.*

[167] Kurdistan Board of Investment. Agriculture. http://www.kurdistaninvestment.org/agriculture.html

financial assistance. Given the favourable nature of Iraq's current democratic or political landscape for Iran, it may feel obliged to help. This obviously is conjecture. It may, however, be said with a reasonable degree of certainty that an economically weakened Iraq would amount to a shrinking of Iran's export market. The risks posed by a future KRG independence of Iran's economy are further highlighted by the fact that 80 per cent of Iran's exports to Iraq pass through the KRG.[168] Conceivably, then, Iran may perceive a threat to its economic interests in a KRG that is independent from Iraq.

Conclusion

Iran's relations with the KRG have become increasingly complex, particularly since 2003. There have been signs of cooperation, most recently, in response to the expansion of Islamic State in the region. Furthermore, the PUK has always been pro-Iranian. Nevertheless, Iran's response to the KRG's call for assistance may amount to more than a pragmatic approach to a common threat and, similarly, the application of a realist framework towards Iranian–KRG relations appears to show limited prospects for the Iranian state to recognise any move to independence for the KRG. There are a number of reasons for this. The first is the prospect that this would ignite Iran's own Kurdish minority to agitate for independence. The second is that an independent KRG would be another state that Iran cannot control. Although Iran's position in the Middle East has been strengthened since 2003 – it is influential in Iraq and increasingly Syria – it would not wish for a KRG state, which it assumes would be aligned with the USA or Turkey. The move towards Kurdish statehood would in all likelihood rest on Turkish support and acquiescence (with the Turks viewing the KRG as a bulwark against Iran) and support of the USA. This will be addressed in the next chapter.

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[168] Iran's Iraqi Market.(2016) Report by Carnegie Endowment For International Peace.
  http://carnegieendowment.org/sada/64187.

CHAPTER EIGHT:

How the UNITED STATES as a Great Power Might React to Future KRG Independence

Introduction

It was argued in the early parts of this thesis that the intrinsic unpredictability of the international political system necessarily compels states to pursue policies primarily aimed at the protection, enhancement and advancement of their interests and, where permissible, those of their allies as well. It was further asserted that these behaviours replicate themselves within the context of state recognition: specifically in the tendency on the part of existing states to recognise new states only when they are convinced that doing so would not be inimical to their own interests.

These observations can also be used to assess the probable reaction the USA might have to a future KRG state. The USA features in this discussion as a 'great power'. Among the factors deemed to influence the chances of proto-states achieving recognition through secession, Brigit Coggins[1] identifies 'great powers'[2] and their interests as the most decisive ones. In this thesis, the term 'great power' is used in one sense as a reference to "the states with the most military power or the few major players in international politics with the military capabilities to support their foreign policies effectively".[3] A 'great power' in this context, however, possesses all the resources and capabilities that enable a state to wield overwhelming influence in international politics. The term, as used in this thesis, may therefore be understood in the same sense as terms such as 'major powers' and superpowers' in certain contexts. The thesis adopts the contemporary perception of the USA as the only great power within international politics at the moment.[4] The empirical basis of this perception will be explained presently. For now, however, the thesis agrees with the argument that the superior influence the great powers wield within the context of state recognition derives mainly from how their stand on aspiring states' quest for recognition often serves "as a focal point that initiates a cascade of legitimacy

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[1] Bridget Coggins (2011). *Friends in High Places: International Politics and the Emergence of States from Secessionism.* International Organization, Vol. 65, No. 3, pp. 433-467.

[2] The term is used interchangeably with terms like 'dominant power' 'major power', 'superpower' to describe states that wield the most influence in the international political system.

[3] David A Baldwin (2012). *Power and International Relations.* p2*:* http://www.princeton.edu/~dbaldwin/

[4] See, for example, Christopher Layne (1993): *The Unipolar Illusion: Why New Great Powers Will Rise,* International Security, Vol. 17, No. 4 Spring, pp. 5-51.

throughout the system's remaining members".[5] These viewpoints are vindicated in the manner the Balkan states (Croatia, Bosnia, Slovakia and Kosovo), South Sudan and the ex-Soviet republics attained independence; their recognition by the USA and the European Union was undoubtedly the most decisive factor in their attainment of statehood.

This section also examines how and why the USA as a great power may react to a future secession of the KRG from Iraq, and in the process create the critical mass for the extension or denial of recognition to the KRG by other influential states.

Why the USA is a 'great power' in this context

The concept of great powers was defined above, partly with a stress on states' military capabilities. Within the international political system, however, states rely on a more varied set of powers, strategies, mechanisms and resources to persuade and compel other states to go along with their stand on issues.[6] According to Corbetta et al., great powers derive much of their influence over other states from the fact that states generally expect them to exert a superior influence on the course of international affairs.[7] States require more than superior military capability to wield such an influence in contemporary international politics. The world has moved on from the periods of multi-polarity (1815-1945) and bipolarity (1945-89) to the current era of unipolarity (1989 to the present) in the international political system. Unlike in the eras of multi-polarity and bi-polarity, in the current era of unipolarity, great power status is assessed with a major emphasis on states' possession of much more than substantial economic and military strength. The concept of 'national power', which measures the power status of states in terms of their superior (or lack of) 'military power, economic power and psychological power',[8] provides a more expansive measure of the power and magnitude of influence individual states must wield to qualify as a great power in contemporary international politics. To qualify as such, a state requires "an extensive foreign policy agenda, a wide range of international interests, the ability to project power globally and to be recognised for it".[9] States

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[5] Bridget Coggins (2011). *Friends in High Places: International Politics and the Emergence of States from Secessionism*. International Organization, Vol. 65, No. 3, pp. 433-467.

[6] Renato Corbetta, Thomas J. Volgy, Keith A. Grant, Ryan G. Baird (2008). *Major Powers, Major Power Status and Status Inconsistency in International Politics* (paper prepared for delivery at the 5th Convention of the Russian International Studies Association, Moscow, MGIMO University, September 26-27): www.u.arizona.edu/~volgy/major_power_status.doc.

[7] *Ibid.*

[8] National Power: Its Elements: http://cms.gcg11.ac.in/attachments/article/259/NATIONAL%20POWER.pdf

[9] Renato Corbetta, Thomas J. Volgy, Keith A. Grant, Ryan G. Baird (2008). *Major Powers, Major Power Status and Status Inconsistency in International Politics* (paper prepared for delivery at the 5th Convention of the

auch as Japan and Germany are considered merely potential great powers because they do not possess the required military strength to exert any coercive influence on all states in the international system.[10] Russia is also categorised as such because it lacks the economic strength of a great power.[11] China's capacity to attain great power status is likewise projected into the future on the same basis.[12]

The USA, by dint of its immense economic strength and its strategic economic alliances with European and other Western states, is the only country in the world capable of applying both unrivalled military and economic and diplomatic influence to bear on other states. As Allison and Blackwill noted, "relative to any potential competitor, the US is more powerful, more wealthy, and more influential than any nation since the Roman empire."[13] The USA remains the only country in contemporary politics with the wherewithal to create and maintain alliances and also bring substantial economic strength to bear on other influential states to persuade them to recognise or withhold recognition from aspiring states. The size of the USA economy and its unmatched resilience puts it in the unique position not only to be able to apply economic sanctions and embargos on 'dissenting states', but also to enable it to provide financial aid, humanitarian assistance and favourable trade terms to a significant number of influential members of the international community for appreciable time periods. The pervasiveness of the culture of 'vote buying' within international politics[14] further puts the USA in a more favourable position than any other state to exert the greatest influence on the admission of new states to the international political system. These points justify the focus on the USA as the source of the great power factor that may determine whether the KRG attains recognition as an independent state.

It is also worth noting that the USA, more than any other state, currently maintains a close relationship with the states in the region whose interests would directly be affected by KRG secession from Iraq. These include the Iraqi state (its current constitution and national politics as a whole were shaped directly and substantially by USA intervention in their affairs in 2001), Iran (it has since 1979 been battling the USA presence in the Middle East and its support for

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Russian International Studies Association, Moscow, MGIMO University, September 26-27). www.u.arizona.edu/~volgy/major_power_status.doc

[10] National Power: Its Elements: http://cms.gcg11.ac.in/attachments/article/259/NATIONAL%20POWER.pdf.

[11] *Ibid.*

[12] *Ibid.*

[13] Graham T. Allison and Robert Blackwill (2000). *America's National Interests*. Presentation by the Commission on America's National Interests, July 2000: belfercenter.ksg.harvard.edu/files/amernatinter.pdf.

[14] See, for example, Natalie J. Lockwood (2013). '*International Vote Buying*'. Harvard International Law Journal, Vol. 54, No. 1.

Israel), Turkey (a member of NATO and a strategic ally of both the USA and the KRG), and the KRG (its federal constitution owes its creation to USA influence) and the KRG (its creation was engineered by the USA through the creation of the safe corridor around Northern Iraq in 2003). These facts, while highlighting the USA's connections with the major political and economic stakeholders within the context of KRG's striving for independence, also capture the magnitude and depth of the USA's influence on and interests in the Gulf region. The magnitude of political and diplomatic manoeuvring the USA would bring to bear on the KRG's quest for recognition as a state in the foreseeable future should be expected to be as dominant and overbearing as the USA's 'interests' that would be affected directly by a KRG secession from Iraq.

World history is also replete with instances of one superpower backing down to prevent conflict escalation when defied by a rival power on an issue of major importance within the international political system. Reference may be made in this context to how the Soviet Union backed out of a confrontation with the USA during the Cuban crisis, and how the USA did the same when the USSR invaded Czechoslovakia in 1968. This tendency on the part of the two states prevented their foreign policy differences from plunging them into a full-blown war. Such a tendency may be read into the way the USA and Russia – the world's two greatest military powers – have responded to each other's intransigent stand on the recognition of states. Thus, although Russia was strongly against the independence of Bosnia, Croatia, and Slovakia from Yugoslavia, it eventually gave in to the USA's and its allies' unyielding stand on the recognition of these three former republics of Yugoslavia. From these, it may be concluded that the USA and Russia (the USA's traditional ideological enemy and opponent in many contexts within international politics) need not agree on the KRG's quest to become a member of the international community of states. Thus, although Russia remains an influential player within the international political system, USA recognition of the KRG as a state would be enough to guarantee its statehood. This further justifies the exclusive focus on the USA in the evaluation of the great power factor regarding the KRG's prospects of attaining recognition as a state in the foreseeable future.

The next section examines why the USA has maintained a longstanding presence and interest in the Middle East since the collapse of the Ottoman Empire. The primary aim of this section is to uncover the issues and interests sustaining the USA presence in the Middle East. The remainder of the essay will seek to evaluate how a KRG state would adversely or positively affect those issues and interests and how that may make the USA recognise or reject the KRG

as a state in the future.

USA interests in the Middle East and Gulf region

It is a theoretical proposition of realism that states conduct themselves in international politics on the axiom of "permanent state interests against ephemeral, opportunistic or transient alliances and enemies".[15] The USA's 'national interests', although subject to change in intensity and order of importance, would thus constitute the most stable and, accordingly, the most reliable mirror for the prediction of how it would react to a future secession of the KRG from Iraq.

The most important 'national interests' of the USA, and hence the main drivers of its foreign policy, have thus been identified as the 'interests' of "survival, economic prosperity and military dominance of other states".[16] Each of these interests is important to the USA. But it is also true that the USA would be unable to attain any of its 'national interests' without substantial financial resources. This necessarily places the USA's 'economic interests' at the pinnacle of its 'national interests'. The role crude oil has played in international politics and in the USA's and its allies' economic dominance of the global economy, the abundance of crude oil in the Middle East, and the geopolitical tensions that arise in the context of the USA's and its allies' obsession with, and dependence on, Middle East oil together explain the unrivalled importance of the region in general and the Gulf region to the USA's national interests.

The US Department of State has, over the years, highlighted the significance of oil supplies from the Middle East and the Gulf region to the USA's vital economic interests and those of its allies and the duty that imposes on the USA to defend some countries (Kuwait, Saudi Arabia).[17] Successive US presidents have also acknowledged the overriding significance of the Gulf region and the Middle East in general to the USA's and its allies' 'national interests'. While addressing the American people in 1980, US President Jimmy Carter, in emphasising the overriding importance of the Persian Gulf to the USA and its allies, stressed the USA's readiness to use military force when necessary to repel attempts by any country to deny the USA access to oil in the Persian Gulf.[18] President Obama has also highlighted how the balance

[15] Joseph Grieco, G. John Ikenberry, Michael Mastanduno (2015). *Introduction to International Relations: Enduring Questions and Contemporary Perspectives.* London: Palgrave MacMillan, p.430.

[16] John J. Mearsheimer (1994/95). *The False Promise of International Institutions*. International Security, Vol. 19, No. 3. pp.5-49

[17] *U.S. interests in the Middle East* (1980). Department of State Bulletin, December, Vol.80, No. 5, p.56.

[18] Paul Jabbe (1980). *U.S. Interests and Regional Security in the Middle East, Daedalus,* Vol. 109, No. 4, pp.

of the global economy hinges on oil supplies from the Middle East and the USA's commitment to the 'free flow of energy' from the region.[19] The USA's obsession with the Middle East and the Gulf region's oil reserves stems, on the one hand, from the historical contribution of oil to the USA's status as a world economic and military power, and on the other, the security issues this obsessions leaves in its wake. The Middle East, it should be noted, accounts for more than half of OPEC's oil production.[20] Four of the world's leading oil producers – Iraq, Iran, Kuwait and Saudi Arabia – are also found in the Persian Gulf. Herein lies the USA's heightened interest in the Middle East as an oil-producing region.

Black has elaborated how oil's ascendancy over coal as the major means of energy brought about a revolution in key technologies and products in the USA, and how that fuelled the rapid expansion of its economy and military might and ultimately made the USA economy and way of life dependent on products either derived from crude oil or powered by petroleum and gas.[21] Oil thus "changed the diet, clothes, neighbourhoods, jobs of Americans, their fun and indeed everything about the US society".[22] As Black further notes about US society, "oil empowered the middle class and helped the USA attain the world's greatest standard of living by, not least of all, helping Americans overcome very basic limits on the human condition".[23]. Painter has also detailed the role of oil in the modernisation of the US war fleet and how the USA's relatively easier access to oil enabled it and its allies to assert their superiority over the likes of Japan and Germany in the First and Second World Wars.[24]

Oil thus fuelled the social and economic transformation of the USA and also enabled it to assert its global economic and military superiority in the international political system. It enabled the USA to oversee the economic regeneration of Western Europe after the Second World War. All of this was made possible by the USA's status as the world's leading producer of oil.[25] Americans came to take it for granted that they would always have access to cheap oil. The love for big cars in the USA was emblematic of the smugness cheap access to petroleum engendered in the American social consciousness. But by the late sixties, the USA's production

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[19] 'Obama Describes core US Interests in the Middle East'. States News Service, 24 September, 2013.

[20] http://www.opec.org/opec_web/en/data_graphs/330.htm

[21] Brian C. Black (2012). *Petroleum and American Conspicuous Consumption*. Journal of American History pp.40-50.

[22] *Ibid.*

[23] Ibid

[24] David S. Painter (2012). *Oil and the American Century*. Journal of American History, Vol. 99, No. 1, pp.24-39.

[25] *Ibid.*

of crude oil was being outstripped by its internal demand for petroleum products.[26] The situation accentuated the importance of the Middle East and the Gulf region in particular to the USA's national interests.

Long before the USA's status as the leading producer of crude oil began to be assailed by its own seemingly boundless internal demand for crude oil products, the leading Western countries in the early part of the twentieth century – France, Britain and the US – had correctly identified the Middle East's oil-rich potential. The Gulf region's capacity for the production and export of petroleum was established by the discovery of oil in Iran (1908) and Iraq (1927), and subsequently in Bahrain, Kuwait, Qatar, Saudi Arabia, Oman, Abu Dhabi and Dubai between 1908 and the late 1930s.[27] Together with a host of French and British companies, the USA, under President Roosevelt, helped US leading oil companies of the day to gain concessions in the Gulf region. The USA secured access to the crown jewel in the oil-rich Gulf region, oil in Saudi Arabia. The relationship between the two countries was thus established on the expectation of US military support for the Saudi monarchy and state in return for cheap oil supplies from Saudi Arabia.[28] That has since enabled the USA and its allies to maintain their insatiable demand for oil. The Saudi monarchy, in turn, has benefitted from American security support, and has, as a result, managed to survive domestic opposition to the House of Saud's monopoly of political power and external threats to the Saudi nation. The added impetus to Saudi–USA relations has been their mutual intense opposition to the Soviet Union in the Cold War era, and Iran in more recent times. The USA and the Western powers in general have demonstrated their commitment to securing the Middle East and the Gulf region as a source of their economic dominance, not only through strategic alliances with key states in the region (e.g. by admitting Turkey into the world's strongest military alliance, NATO) but through the provision of military aid and arms sales to countries such as Egypt and Saudi Arabia. Most significantly, the USA, like the United Kingdom, has on more than two occasions considered it necessary to send troops to the Gulf to undertake operations geared mainly or partly to secure their access to the region. An instance of this has been construed from the USA invasion of Iraq in 2003.[29] The USA's military interventions and general security policy as it relates to

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[26] *Brian C. Black* (*2012*). *Oil for Living*: *Petroleum and American Conspicuous Consumption*. The Journal of American History, Vol. 99, pp.40-50.

[27] E. Roger (2008). *One Hundred Years of Middle Eastern Oil.* Middle East Brie, No. 24. http://www.brandeis.edu/crown/publications/meb/.

[28] David S. Painter (2012). *Oil and the American Century*. Journal of American History, Vol. 99, No. 1, pp.24-39.

[29] Joshua Rovner and Caitlin Talmadge (2014). *Hegemony, Force Posture, and the Provision of Public Goods: The Once and Future Role of Outside Powers in Securing Persian Gulf Oil.* Security Studies, Vol. 23. pp.548-

energy supplies from the Middle East have thus been geared principally to the protection of friendly oil-producing states and regimes and to keeping global oil prices stable.[30]

Painter has, however highlighted the contradiction, on the one hand, in the USA's continued provision of moral support and arms to Israel and, on the other, its reliance on Middle Eastern oil (sourced from states that oppose the ideology of Zionism).[31] Despite the internal divisions among Arab and Islamic states in the Middle East, they are opposed in differing degrees to the expansionist policies of the Jewish state, especially as it relates to Palestine. The Islamic world has resented the USA's support for Israel in its conflict with Arab states in the Middle East. In 1973, the Arab and predominantly Muslim states seized on the energy vulnerabilities of the Western and USA economies, and imposed an embargo of oil sales to the USA.[32] OPEC also cut down on its production of oil, and demanded higher royalties and shares in oil revenues from Western oil companies. At the time of the embargo, the Gulf states alone were producing 30 per cent of the world's oil.[33] Led by Saudi Arabia, the Middle Eastern oil-producing countries rallied the Arab world in protest against the USA's decision to extend $2 billion worth of military aid to Israel in the Yom Kippur War (which pitched Israel against a host of Arab states). The embargo and subsequent cuts in production had a series of effects on the global economy. Most notably, the price of oil rose by 300 per cent (from US$2.90 to US$11.65 per barrel).[34]. At the global level, the lasting effects of the embargo were reflected in the compulsion felt by car companies to produce energy-efficient engines as opposed to big cars.[35] The search for alternative sources of energy (mainly solar, wind, bio and hydro) became a constant feature on the agenda of energy policymakers. The embargo plunged the global economy into a recession and increased the rates of unemployment and inflation in the industrialised world.[36]

The Arab oil embargo on the USA has been analysed in terms of its domestic and external effects. The higher oil prices, long queues at the petrol pumps and cuts in industrial output in

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[30] Toby Craig Jones (2012). *America, Oil, and War in the Middle East*. Journal of American History, Vol. 1, pp.208-218.

[31] *David S. Painter (2012). Oil and the American Century.* Journal of American History, Vol. 99, No. 1, pp.24-39.

[32] Fiona Venn (2013). *The Oil Crisis*, Routledge, p.7

[33] E. Roger Owen (2008). *One Hundred Years of Middle Eastern Oil.* Middle East Brief. Middle East Staudy. No. 24. http://www.brandeis.edu/crown/publications/meb/ p1

[34] Toby Craig Jones (2012). *America, Oil, and War in the Middle East.* Journal of American History, Vol. 1, pp.208-218.

[35] Bob Vavra (1973). *The Oil Embargo Transforms the World.* National Petroleum News**,** November 1, 2000

[36] Fiona Venn (2013). *The Oil Crisis*, *London:* Routledge, p.154.

the USA's short-term industrial output can be cited as examples of its short-term 'domestic effects'. More significantly, however, the embargo brought to the fore the risks posed by the USA's and the Western world's dependence on foreign oil. From the 1970s to the present, therefore, US Presidents have highlighted the need for the USA to wean itself off oil from unfriendly states (notably, those in the Middle East), and possibly, entirely from petroleum-related products. President Obama, however, has been the only president to have taken decisive steps towards addressing the USA's dependence on foreign oil. Besides promoting efficient use of energy in industrial processes and the production of oil through new technologies (e.g. fracking), Obama has introduced legislation, the New Alternative Transportation to Give Americans Solutions Act of 2011 (H.R. 1380), "to provide federal support for a natural gas fuelling structure for autos", ostensibly to reduce the demand for petroleum in the USA.[37] The upshot of these efforts and policies has been a massive increase in US oil production. In 2015, for example, the USA managed to achieve a daily average production of 9.2 million barrels.[38] Besides significant improvements in the energy efficiency of household gadgets and appliances, the cost per dollar use of petroleum and gas in US industrialised settings has also gone down substantially. Indeed, but for the slump in global oil prices, the USA would have achieved energy self-sufficiency in the short to mid-term.

Still, Middle Eastern oil remains an issue of heightened importance to the US economy and geopolitical interests, and may even increase in magnitude in the coming years. This, in the first place, is because President Obama's policy on US energy self-sufficiency, even though an improvement on previous US presidents' efforts, is not considered thorough enough to make a significant difference in the long run.[39] Secondly, the USA still depends on the Middle East for about five million barrels of its total daily petroleum consumption,[40] and that, considered in tandem with the USA's obsession with economic growth and its insatiable appetite for fossil-fuel-dependent automated goods, may continue into the foreseeable future. According to the International Energy Agency, global oil consumption will increase by 60 per cent by 2030.[41] It is not unrealistic to expect energy consumption in the USA and Western Europe to rise in corresponding levels. China's and India's economies are expected to grow significantly within

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[37] *Stephen Barlas (2012). Financial Executive,* Jan-Feb, Vol. 28**,** No. 1, p.40 (4).

[38] Benjamin Synder (2015). U.S. oil production reaches all-time high amid depressed crude prices. http://fortune.com

[39] Michael Graetz (2011). Energy Déjà Vu: *Obama Must Break with Failed U.S. Policies*. http://e360.yale.edu/feature

[40] *Ibid.*

[41] Gal Luft: *Dependence on Middle East energy and its impact on global security:* Institute for the Analays of Global Security (IAGS). http://www.iags.org/ pp1-10

the same period, and will lead to the entire Asian continent having to import 80 per cent of its petroleum needs.[42] The USA and its Western allies can thus expect stiff competition for access to global oil reserves in the coming decades. Oil production by non-OPEC countries, however, is projected to peak in the next ten years against a simultaneous rise in oil production in the Middle East in general and the Gulf region in particular.[43] This simply means that the USA, and indeed the rest of the world, will come to depend substantially on oil from the Middle East. The USA and the Western world may have the scientific and technological expertise to diversify their energy consumption significantly away from dependence on oil and other hydrocarbons. The incentive to do so, however, is weakened by the awareness that it would lead to a collapse of the Middle East segment of the global economy, which, incidentally, is very lucrative for the Western and US car, telecommunication and arms industries. To put the significance of the Middle Eastern economy for the USA and the Western world in perspective, between 2010 and 2015, the value of Saudi imports of US-made "fighter aircraft, helicopters, naval vessels, missile defense systems, missiles, bombs, armoured vehicles, and related equipment and services' was put at $100 billion."[44] For such lucrative deals to continue into the future, there would have to be a viable, prosperous Saudi Arabia and Middle East. Oil production and exports from the region to the industrialised world would be central to the maintenance of such prospects.

As the current crisis in Syria and Yemen, and the ISIS menace, also clearly shows, peace and political stability will not be achieved in the Middle East any time soon. The seemingly inflexible US support for Israel and the Saudi monarchy remains the tinderbox that it has always been, which acts as a spur for the sustenance and instigation of old and new anti-Western, anti-US terrorist insurgencies in the region. The predicted USA's and the global economy's future increased dependence on Middle Eastern oil may potentially exacerbate the security situation in the region. The USA and the Western world will need reliable partners in the Gulf region capable of assisting in the USA's efforts to ensure a steady flow of oil from the region and, where possible, help combat the sporadic terrorist and armed insurgencies from non-state actors in the region. The KRG fits the bill better than any other political entity in the region. As already highlighted in other sections of this thesis, the KRG has substantial petroleum and gas reserves. A KRG state would thus make available to the USA, Israel and

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[42] *Ibid.*

[43] *Ibid.*

[44] Christopher M. Blanchard (2016). *Saudi Arabia: Background and U.S. Relations*. Congressional Research Service. https://www.fas.org

Europe significant oil-related resources currently perceived to be under the legal ownership of Shia-controlled Iraq, which is heavily under the influence of the anti-USA, anti-Western Islamic republic in Iran. With regard to security, the KRG would also be an ideal and probably more willing partner than any of the political entities currently encamped on the side of the USA in the Middle East[45]. With the possible exception of Turkey, no US ally in the Gulf region matches the KRG's Peshmerga's combat pedigree. The USA found proof of this in the bravery with which the Peshmerga warded off the ISIS in the latter's attack on Erbil and other territories in the KRG. With limited assistance from Iran and other Western countries, the Peshmerga are still holding their own against the jihadists, and have even gone further to join the anti-ISIS coalition seeking to recapture Mosul from the jihadists. All of these factors, together with the KRG's close relations with Israel, would make an independent KRG state a minimiser of the USA's resource and military risks in the Middle East.

The question, therefore, is whether the USA would see the KRG as such and whether the KRG would fit into the USA's grander plans in the Middle East. What is salient to this issue is the magnitude of flexibility the USA may be willing to bring to bear on its traditional stand on the issue of secession on the one hand, and, on the other, its historical attitudes towards Kurds in the Middle East in general and those in Iraq in particular. The USA's longstanding policy opposition to the creation of new states by secession is informed by three considerations: the fear of 'spillover', that conflict would spread to neighbouring states because of, or in the absence of, a particular US policy; 'the demonstration effect', the perception that a negative international precedent would be established; and, finally, the impact of domestic pressure exercised by ethnic lobbies through Congress.[46] The stringent standards encapsulated in the three points reflect the USA's traditional opposition to state creation by secession. Given the magnitude of influence wielded by the USA within the contexts of international politics and state recognition, therefore, it has not been surprising that, until the 1990s, the only state perceived to have emerged successfully from secession without the support of the USA has been Bangladesh, which seceded from Pakistan in 1968.[47]

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[45] Author's interview (2016) with Saro Qadir, the president of Institute for Research Development of Kurdistan.

[46] Evelyn Farkas (2003). *Fractured States and U.S. Foreign Policy: Iraq, Ethiopia, and Bosnia in the 1990s.* New York, US: Palgrave Macmillan.

[47] John Robert Victor Prescott and Gillian D. Triggs (2008). *International Frontiers and Boundaries: Law, Politics and Geography,* Leiden: Martinus Nijhof Publishers, p.75

The USA's longstanding aversion to state creation by secession, according to Farkas,[48] explains the hesitancy with which the USA initially approached the recognition of the former Soviet republics, which asserted their independence from the USSR in 1991. Rather than recognise secessionist entities, the USA, at least initially, considered it more acceptable to help maintain the territorial integrity of a Cold War enemy under the leadership of the relatively liberal, reform-minded Mikail Gorbachev. The USA eventually recognised the breakaway ex-Soviets republics, but only after Russia, the successor state of the USSR, itself had accepted their secession. The USA adopted the same policy approach when Lithuania, Estonia and Latvia[49] sought to reassert their independence from the Soviet Union. Similarly, the USA went along with the recognition of the former republics in Yugoslavia only after intense pressure from its allies in the European Union, and only after it became apparent that recognition of the seceding republics was the only means to avert an escalation of the ongoing humanitarian crisis. USA advocacy for a South Sudan state could be said to have been inspired by similar considerations. In the words of Brandon J. Wiechert, "the United States helped to usher in South Sudan's independence, after it was determined that the South would never be treated fairly by their northern Islamist oppressors".[50] The USA's recognition of Eritrea may thus be considered an exceptional case, but even with that it may be argued that Eritrea's independence represented a reclaiming of abducted sovereignty, and was thus not an act of secession *per se*.

The overarching point thus far is that the USA is traditionally averse to the creation of states

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[48] Evelyn Farkas (2003). *Fractured States and U.S. Foreign Policy: Iraq, Ethiopia, and Bosnia in the 1990s.* New York: Palgrave Macmillan.

[49] 'In response to the Lithuanian declaration, the State Department spokesperson explained that the U.S. government would not offer recognition because, "U.S. practice has been to establish formal relations with the lawful government of a state once that government is in effective control of its territory and capable of entering into and fulfilling international obligations." The U.S. government also responded extremely cautiously to the subsequent declarations, which emanated from the republics of the former Soviet Union during and after the August 1991 coup attempt. On September 4, 1991, Secretary of State James Baker issued a series of principles that would guide U.S. policy toward Soviet secessionist republics. The principles urged the Soviet leadership and the heads of the republics to uphold internationally accepted principles, including democratic values and practices and the principles of the Helsinki Final Act; to respect existing internal and external borders, allowing for change only by peaceful means; to support the rule of law and democratic processes; to safeguard human rights, including minority rights; and to respect international law and obligations, especially the provisions of the Helsinki Final Act and the Charter of Paris. 10 In a later statement, Baker also called upon the republics to adhere to responsible security policies, free trade and free market economics, and democratic political practices. Nonetheless, throughout the period of uncertainty from 1990 to 1991, the USA appeared more concerned with the means that were employed to change borders, not the partitions in and of themselves. The USA was most interested in its relationship with the Soviet Union and in keeping Gorbachev in power. Washington recognized the new states after Moscow had signalled that it would not oppose the dissolution of the: Evelyn Farkas (2003). Fractured States and U.S. Foreign Policy: Iraq, Ethiopia, and Bosnia in the 1990s. New York: Palgrave Macmillan, p.9.

[50] Brandon J. Weichert (2016). *Saving South Sudan: Taking a Pre-Failed State Toward Successful Statehood* (Online Journal of Institute of World Politics, July 28). https://theweichertreport.com/

by secessionist agitations. The underlying motivation, as explained by Farkas, is the USA's sensitivity to the demonstration effect of successful secessionist agitations, that is, the fear that recognising one ethnic state may embolden separatist movements to also secede from their home states. Viewed from the perspective of US interests and foreign policy in the Middle East, the fact that Kurds are spread across four states in the Middle East, together with their restless agitation for political autonomy in each of those states, amply spell out the risks the USA may perceive in giving a favourable response to Kurdish strivings after independence in any country in the Middle East. The US policy approach to Kurdish issues in the Middle East is informed by its acceptance of the post-Ottoman state arrangements in the region as the status quo the unravelling of which, it is perceived, could plunge the security situation in the oil-rich Middle East region and the global economy as a whole into severe crisis.

The US policy on Kurdish self-determination in the Middle East thus betrays a consistent exploitation of Kurdish nationalism as a means to achieve other perceptibly higher or more important 'interests'. That was also the case when a Kurdish state could have been created in the Middle East without the question of 'secession' arising in the process. Under the banner of the self-determination mantra of Woodrow Wilson, the USA had supported the stipulation in the Treaty of Sevres, by which a predominantly Kurdish state was supposed to be created out of the then defunct Ottoman Empire in 1920. The USA, however, looked the other way when the provision for a Kurdish state in the Treaty of Sevres was superseded by the Treaty of Lausanne, which guaranteed the creation of the new Turkish state. The solidarity with Western interests as captured in the Treaty of Lausanne thus trumped the imperative of a Kurdish state in the Middle East.

In the ensuing years, the USA's default opposition to secession, the pursuit of stability in Iraq and the Middle East and the fear of the Soviet Union/Russia gaining a footing in the Middle East converged into a policy outcome in which Kurds were treated as pawns in a more complex engagement with countries and state-actors considered more important to the USA's interests in the region. Between 1969 and 1975, therefore, the USA used Israel and Iran as conduits to encourage Iraqi Kurds to take arms against the Baathist Iraqi state. The Kurds under Mullah Barzani had their eyes on greater autonomy and self-determination within Iraq. In the plans of the USA, however, the carefully measured military and financial assistance to the Kurds was aimed at weakening a rival of a pro-USA state (Iran) and one of the leading advocates of Pan-Arabism, which was also being courted by the Soviet Union. The USA also saw the Kurdish rebellion against the Iraq as a mechanism to distract the Baathist state from a participation in

the Arab military coalition against Israel. When the Shah managed to secure concessions from Iraq over the Shyatt Al-Arab Water, and with the defeat of the Arab states in their war against Israel, the USA abandoned the Kurds to their fate. It enabled the Baathist state to successfully crush the Kurdish rebellion.

The next major episode of US-Iraqi Kurdish interactions emerged from an interaction of the USA's response to Saddam Hussein's invasion of Iraq, on the one hand, and its perfunctory policy response to the protection of Kurds from attacks from Saddam Hussein's forces. It led to the creation of the Kurdistan Regional Government. The USA is generally credited with the creation of the KRG autonomous region, which now is generally perceived to be a *de facto* state. That would seem to contradict the USA's longstanding opposition to Kurdish self-determination and autonomy in the Middle East. The facts, however, suggest that the USA did not mean to create an autonomous Kurdish region, let alone one that would evolve into a *de facto* state.

After the Gulf War in 1991, Iraqi Kurds, together with the Iraqi Shia majority, responded positively to President Bush's call on the Iraqi people to rebel against Saddam Hussein and the Baathist Regime. For two weeks, the rebels (Kurds and Shias) routed the Iraqi security forces, ransacked army garrisons and seized control of the administration of several Iraqi towns and cities.[51] Kurds saw in the unravelling of the Iraqi army the chance to finally liberate themselves from the tyranny of Baathist and predominant Arab rule. According to US state officials of the day, however, President Bush's call (for insurrection against Saddam Hussein) was not actually meant for the Shias and Kurds; the expectation rather was that disgruntled senior Sunni army officers would seize on the chaos in the country and the prevailing disaffection against Saddam Hussein to force him to step aside as head of state. According to Collin Powell, the then Chairman of the Joint Chief of Staffs, "it was never part of the USA's objectives to change the form of government of the Iraqi people."[52] The USA thus did nothing to stop the imminent reprisals against the Kurds and the Shias. Apart from Collin Powell's subtle hints to Saddam that the USA might tolerate a restrained suppression of the rebellion, the USA's most senior army officer in charge of the international coalition against Saddam, General Norman Schwarzkopf, permitted the Iraqi forces to put it down with helicopter gunships and armoured

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[51] Faleh A. Jabar (2016). *Why the Uprisings Failed Middle East Research Project, Spring.* published in MER176. http://www.merip.org/

[52] Evelyn Farkas (2003). *Fractured States and U.S. Foreign Policy: Iraq, Ethiopia, and Bosnia in the 1990s.* New York: Palgrave Macmillan, p. 9.

vehicles.[53] It led to a mass of executions and the destruction of Kurdish and Shia villages and habitats, and, most significantly, a humanitarian crisis encapsulated by the mass flight of Kurdish refugees to Iran and Turkey. Only then did the USA intervene in the crisis and agree to establish a security corridor around Iraqi Northern Kurdistan (now KRG), after intense pressure from Turkey, which feared an exacerbation of its own Kurdish problem with the influx of the refugees. The Iraqi state withdrew its forces and even administrative institutions from the Kurdish region and, in the process, enabled the Kurds to put in place their own administrative and security structures. This largely enabled Kurds to achieve the *de facto* autonomous political status that was to be guaranteed under the post-Saddam federal constitution.

As already stated, the KRG's *de facto* state status emerged from the leadership acumen of the Kurdish political class and the various forms of assistance Iraqi Kurds received from other states and international organisations. It was, however, not the intention of the USA at any point to create a *de facto* state out of Iraq. Collin Powell put it succinctly in blunt terms: "The war aims had nothing to do with rearranging Iraq and they had nothing to do with establishing a Kurdish regime".[54] The half-heartedness and tokenistic forces with which the USA enforced and supervised the security corridor around the KRG betrayed its policy intentions on the future of Iraq. When withdrawing US troops from the region, senior USA army officers refused to guarantee Kurds any future protection by the USAa Assisting the Kurds in their request was interpreted by the US general in charge of the US forces in the region, General Shalikashvili, as interference in the internal affairs of Iraq.[55] The principal policy aim of the then US Secretary of State, George Baker, at the time was "to avoid the Lebanonization of Iraq, which we believed would create a geopolitical nightmare".[56] The USA, even after helping to destabilise Iraq, still wanted to see it territorially intact.

Since the overthrow of Saddam Hussein, and with the Iraqi state under the significant influence of the Iranian state, the USA remains committed to preventing the territorial disintegration of Iraq[57]. Briefing the US Congress in 2013, Brett McGurk, Deputy Assistant Secretary of State

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[53] L.I. Meho and M. Nehme (2004). *The Legacy of U.S. Support to Kurds: Two Major Episodes*. In L. I. Meho, The Kurdish question in U.S. foreign policy: A documentary sourcebook. pp. 11-22. Westport, CT: Praeger Publishers.p.12. http://staff.aub.edu.lb/

[54] Evelyn Farkas (2003). *Fractured States and U.S. Foreign Policy: Iraq, Ethiopia, and Bosnia in the 1990s.* US: Palgrave Macmillan, p.9.

[55] *Ibid.* p.31.

[56] *Ibid.* p.39.

[57] Author's Interview with Dr Mahmoud Ali Othman, a leading Member of the Iraqi National Assembly.

for Iraq and Iran, stated that the US commitment to its 'core interests in Iraq' included among others, "maintaining a unified and federal Iraq, supporting increases in production and export of oil resources, promoting Iraq's strategic independence and regional integration et cetera".[58]

Obviously little has changed about the USA's foreign policy on the Middle East and Iraq. Political stability in the post-Ottoman nation-states in the region and a steady, uninterrupted supply of oil from the Gulf region remains the central planks of US policy in Iraq. The USA may be interested in the cultivation of close, diplomatic and military cooperation with the KRG, but it is doubtful whether it would want the KRG to secede from Iraq. Indeed, the USA has been wary of providing the KRG's Peshmerga the type of armoury that might put the KRG in a position to secede from Iraq with force. That was even so during the peak of the ISIS attacks on territories in the KRG, and when Erbil, which has a substantial US presence, was threatened by the Islamists. The USA therefore ensured that arms provided by third states to the KRG were routed through Baghdad. The obvious intention there was to give the Iraqi state the power to decide which arms eventually reached the Kurds. It has also been argued that the USA agreed to launch air strikes in defence of Erbil and other Kurdish targets only when the Kurds agreed to help defend Iraq, and also to adopt diplomacy in their independence movement from Iraq.

In sum, then, the USA's policy on Iraq and the Middle East suggests that it may not react favourably to a future Kurdish state. This may change, however, depending on Turkey's and Saudi Arabia's support for a future Kurdish state, which may also be precipitated by how much the Iraqi state comes under the influence of its arch-rival, Iran.

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[58] *U.S. Foreign Policy Toward Iraq: Brett McGurk, Testimony*. November 13, 2013
http://www.state.gov/p/nea/rls/rm/217546.htm

CHAPTER NINE:

Introduction

The achievement of statehood by a separatist political entity often triggers comparisons between itself and other secessionist entities. In such contexts, much emphasis is often placed on the perceived similarities and differences between the cases of the newly created state and the secessionist entities aspiring to statehood. For instance, Rubin, commenting on the tensions in Northern Iraq since the KRG's attainment of *de facto* statehood, predicated that the KRG would, upon the achievement of independence, end up like "South Sudan, Kosovo, Timor-Leste,[59] and Eritrea" because, as he wrote, each of those states "won independence after years of struggle, but then squandered liberty after descending into dictatorship or lawlessness because leaders fought over resources, resisted the separation of powers, or refused to disentangle the security forces from parties or personalities."[60]

The issues that influence the recognition of individual states differ in their detail. But the creation of new states often provoke commentaries predicated on the expectation of same application of the law on external self-determination in relation to separatist groups sharing the same political profile and predicament as the newly created states. This may sound reasonable, but, as already asserted by Lauterpacht, the recognition of states is more a 'matter of policy' than law.

The discussion in this section of the thesis attempts a comparison of the KRG's case for statehood with those of Kosovo and East Timor along the main themes outlined in this thesis. The aim is to use the cases of the two states as a context to assess the validity of the arguments usually articulated for and against the KRG's right to statehood. Should East Timor's and Kosovo's success stories be a source of hope for the KRG? East Timor was a country under Portuguese colonial administration but which later fell under illegal Indonesian occupation. As a result, East Timor sought independence in accordance with the fundamental provisions in the United Nations Charter of 1945[61] on self-determination. The KRG, on the other hand, cannot be said to be under external or colonial occupation such that the application of the UN Charter

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[59] Timor-Lester is the name East-Timor adopted after independence from Indonesia. Both names are used in this dissertation to refer to the same state.

[60] *Ibid.*

[61] The UN Charter of 1945 and the Human Right Charter of 1945 are used interchangeably throughout this chapter.

on Human and Peoples Rights (as it relates to alien domination) to assess the KRG's case for self-determination would be required. The question, however, is whether the recognition of Kosovo under circumstances that depart from prevailing norms can also provide a context for the KRG to seek independence on the same grounds as East Timor on a *sui generis* argument.

It is also worth exploring whether the KRG can assert the same right to remedial external secession as Kosovo. There are sharp contrasts between the KRG's case and that of Kosovo. But there are also similarities between Kosovo's and the KRG's struggle for external recognition, especially in their profiles as victims of state repression. The essay draws on the cases of Kosovo and East Timor to examine the doctrines of earned sovereignty, self-determination, genocide as they affect or support the KRG's demand for secession and external recognition.

The impact of nationalism (on the question of self-rule) has been described as the most dominant force of political authority in contemporary times.[62] The thesis thus examines the justification of the KRG's, Kosovo's and East Timor's cases with reference to the issues that influenced their secessionist nationalism. The nationalism of self-determination is discussed first in this chapter.

The political and legal impetus for the nationalist agitation for self-determination

The KRG

Nationalism, according to Pamir, is the most potent ideology in nation state building.[63] It is argued, therefore, that the power of nationalism derives in this context partly from its capacity to immunise its patrons from the restraining effects of basic truths about themselves and others. Nationalist narratives are often constructed with myths and factual embellishments. In many instances, communities and groups whose identities have been shaped by 'external influences', and whose group identities conform to constructivist conceptions of 'ethnicity' and 'nationhood', are still able to maintain a primordialist perception of themselves as a 'nation' to further apply a similar concept of 'nationalism' towards the pursuit of emancipatory ends.

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[62] B. O'Leary (1997). *'On the Nature of Nationalism: An Appraisal of Ernest Gellner's Writings on Nationalism'.* British Journal of Political Science, Vol. 27, *No. 2. p. 191.*

[63] Peri Pamir (1997). *'Nationalism, Ethnicity and Democracy: Contemporary Manifestations'.* International Journal of Peace Studies, Vol. 2, No. 2.

The thesis has touched on the murkiness in the notion of a distinct Kurdish identity alleged to derive from ancient ancestral ties and supposedly kept intact from external influences. A related fiction is the strand within Kurdish nationalist narratives that ties Kurdish identity and nationhood exclusively to the territory on which Kurds aspire to create their future independence state. Iraqi Kurdistan has its own minorities (e.g. Turkmen, Christians, Jews, Assyrian and Arabs) who could also claim ancient links to those parts of Northern Iraq they currently occupy.

But Kurds, just like the dominant ethnic groups in the Middle East, leave out this fact in the conceptualisation of the ideal Kurdish nation-state. The emphasis, rather, has always been on the predicament of Kurds as victims of state oppression in Northern Iraq. That effectively blots out of Kurdish nationalist history the experiences and aspirations of non-Kurdish minorities. This may call into question the moral consistency in Kurdish attempts at asserting the right to self-determination on the basis of their being an oppressed people.

The fact, however, is that nationalist narratives in ethnically and religiously pluralistic societies are mostly constructed around the experiences of dominant groups. It helps to put the inherent unfairness in the Kurdish nationalist narratives in perspective. The primordialist conceptualisation of Kurdish ethnicity and related senses of nationhood and nationalism have been a potent part of Kurds' resolve to free themselves from the dysfunctional and historically repressive Iraqi state.

If Kurdish independence eventually leads to the benefit of all its population, then it would have served a useful purpose, in spite of its inherently exclusionary rhetoric. Such an eventuality would justify the fabricated link between an exclusive link between Kurdish ethnic identity and territorial sovereignty of the envisaged independent Kurdish state in Northern Iraq.

The failure of the Great Powers to grant Kurds a nation-state within their own territory after the dissolution of the Ottoman Empire provided the first modern context for Kurds to implicitly link their ethnic identity to claiming ownership of the land mass that constitutes Northern Iraq. Kurdish disappointment at the non-implementation of the Kurdish nation-state promised in the Treaty of Sevres manifested itself in violent anger at the incorporation of Kurdistan into an Iraqi state dominated by Arabs.

The early revolts against Iraqi colonial state were a marker of Kurdish assertion of ownership of the territory constituting Northern Iraq, and which was being passed on to the control of the

dominant Sunni Arab ruling class. From this perspective, thus, the early Kurdish revolts could be described as a resistance to the wrongful colonisation of Kurdish peoples and territories through a collapse of Kurdish distinct identity into the Arabised national ideological concept presided over by the Sunni Arab ruling elite that was handed control of the new state by the British colonial authorities.

Kurdish ethnic identity continues to bridge Kurdish opposition to being part of Iraq and the resolve to establish a Kurdish state in present day Northern Iraq. Identity politics thus has helped to establish the legitimacy of the Kurdish resolve to maintain exclusive ownership of Kurdistan from the Arab majority whose link to Northern Iraq came arose unjust colonial meddling in the post-Ottoman state creation process in the Gulf region.

Iraq would evolve from its initial colonial status into a post-colonial monarchy, a dictatorship under a military junta, and eventually a Baathist-controlled state. Kurdish politics reacted to these changes with the same sense of themselves as 'outsiders' sharing a distinct ethnic identity, in spite of the fact that the majority of the Kurds were Sunnis, just like Iraq's ruling elite. The accompanying resolve to secure for themselves ownership of Kurdistan never waned. Mustafa Barzani symbolised the vitality of Kurdish identity politics, but also its violent rejection of Kurdish absorption into the Iraqi state.

Although Mustafa Barzani's party (Kurdish Democratic Party) could not secure a separate Kurdish state, his inflexible resistance to Iraq's Arab-dominated regimes sufficiently captured the Kurdish choice of rebellion as the standard posture towards the Iraqi state. Successive Iraqi regimes, in their unwillingness to accede to Kurdish wishes for political autonomy, increasingly adopted repressive measures in their dealings with Kurds. It is from this narrative that Saddam Hussein took the repression of Kurds to unprecedented levels. The ensuing brutalities included "summary arrests and executions, nerve gas bombardments from the air and destruction of hundreds of Kurdish villages, and burial of large numbers of Kurds in mass graves".[64]

Following an unsuccessful Kurdish insurrection against the Iraqi state after the First Gulf War in 1991, Saddam would once again turn on the Kurds with more violence and mass killings. The severity of the attacks compelled the international community to impose a no-fly zone over the greater parts of Kurdistan. The Kurdistan Regional Government and its current *de facto*

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[64] Iraq's Crime of Genocide (1993) *The Anfal Campaign Against the Kurds.* Human Rights Watch Report. http://www.hrw.org/reports/1993/iraqanfal/

state status evolved from that event. Most importantly, it hardened Kurds' resolve to capitalise on the wide political latitude emanating from their autonomous status to build a state of their own. Fabricated nationalist rhetoric thus secured for Kurds a safe haven from serial Iraqi state repression.

Kosovo

The contrived homogenisation of whole societies towards the pursuit of self-determination was also largely true of Kosovan nationalist politics. Kosovo's population has been multi-ethnic for nearly all its modern existence. Various reports put the Kosovo Albanian composition of the total country's population at between 77 and 90 percent.[65] But besides its Albanian Muslim majority, Kosovo's estimated two million people included Serbs, Roma, Ashkalia, Egyptians, Bosniaks, Turks, Gorani and Croats.[66] Also worth noting is that Albanian Kosovans, just like Iraqi Kurds, have, over many centuries, been religiously pluralistic. As Demjaha et al. note: "Albanian Kosovans were basically divided into three religions: Islam, Orthodoxy and Roman Catholicism. The muslim majority comprising of Sunnis and Bektashi Moslems played a pioneering role in Albanaian nationslist politics.[67] But in seeking to maintain a united nationalist front, Kosovan Albanian elites tapped into the secularism of western enlightenment to deemphasise Kosovan Albanian pluralistic identities. The focus, instead, was shifted to common linguistic and supposed common ancestral affiliations. Kosovan nationalism thus came to assume a monolithic ethnic complexion. Albanian Kosovans further traced their ancestry to the ancient Illyrians who preceded Serbs as inhabitants of the land mass that came to constitute the Province and later the state of Kosovo.[68] This also took the origins of Kosovan nationhood to as far back as the 13th century when the Serbs conquered Kosovo and established the monasteries that were to constitute both the heart of the Orthodox Faith and the crux of Serbian national history.

By linking Albanian Kosovan identity to the Illyrians, Kosovan intellectuals managed to cast Serbs as usurpers in the Kosovan nationalist narrative. Throughout the history of Albanian

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[65] See for example, John C. Sigler III, *A Look at Albanian Nationalism and the KLA:* http://www.kosovo.net/sigler.html January 3, 2017.

[66] Kosovo (Minority Rights Group): http://minorityrights.org/country/kosovo// January 3, 2017.

[67] Agon Demjaha and Lulzim Peci (2013). *What happened to Kosovo Albanians: The impact of religion on the ethnic identity in the state building-period: policy paper* No. 1/16. p 1010 http://www.kipred.org/repository/docs/What_happened_to_Kosovo_Albanians_740443.pdf.

[68] John M. Fraser (1998). '*The Kosovo Quagmire: What Are the Issues? Should We Care?',* International Journal, Vol. 53, No. 4, p 3

Kosovan nationalism, the main enemy has always been Serbs, presumably because the presence of religious institutions and symbols of Serbian nationhood in Kosovan territory represented in the Kosovan mind a longstanding Serbian agenda to challenge Kosovan claim to exclusive dominion over Kosovo.

The various acts of repression meted out to the Albanian majority by Serbs over many decades came to represent the major narrative in the Kosovan quest for statehood. This further helped to focus attention on Serbs as the arch enemy. It also accounts for the attacks on Serbian populations in Kosovo by the Kosovo Albanian organisations, the League of Prizren in the 19th century[69] and the Second Prizren League after the Second World War.[70] For the same reasons, Kosovans were never reconciled to the idea of their territory being part of a Yugoslavia under Serbian domination. But Kosovans endured it partly because the Communist Party under Tito's leadership kept in check the Serbian influence over the various Yugoslavian provinces. Slobodan Milosevic's revocation of Kosovo's autonomous status, however, rekindled Kosovan Albanian resentment for Serbian domination. It led to the proclamation of the Kosovan Republic under the leadership of Ibrahim Rugova of the Democratic League of Kosovo (LDK). Serbia's aggressive response compelled Kosovan nationalists to abandon their unilateral pacifism through the creation of the Kosovo Liberation Army (KLA) and subsequent attacks on Serbian politicians and institutions in Kosovo. It is the opinion of a significant number of political commentators that the violent reprisals by the Serbian forces and militias against the KLA's attacks were the catalysts for NATO's intervention in Kosovo and the eventual recognition of Kosovo as a state.

Kosovans could list a substantial number of brutal actions, violence and suppression meted out on them by Serbian-dominated regimes. The most notable ones included the prohibition of use of Albanian as language of instruction and communication in official contexts in different decades, the Serbification of predominantly Kosovan Albanian areas[71] (i.e. passing laws offering land and tax exemptions for Serbs willing to move to Kosovo, resulting in confiscation of some Albanian-owned lands), "summary executions, including a massacre of twenty-three children, arbitrary detentions, regular beatings, widespread looting, and the destruction of schools, hospitals, and other civilian objects during the Serbian government's three-month

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[69] Zhidas Daskalovski (1999). *Towards an Integral Theory of Nationalism? Case Study Kosovo.* International Journal on Minority and Group Rights, Vol. 6, No. 4, pp. 483-507

[70] *Ibid.* p. 9.

[71] Zhidas Daskalovski (1999). *Towards an Integral Theory of Nationalism? Case-Study: Kosovo* . International Journal on Minority and Group Rights, Vol. 6, No. 4 (1999), pp. 483-507

campaign of 'ethnic cleansing'[72] and, ultimately, Serbian revocation of Kosovo's autonomous status within the Yugoslav Federation.

These facts, while generally framing Kosovan discontent at being part of Serbia, also provide some of the salient issues that prompted Kosovans to eventually assert the legal right to external self-determination. Just as it was with the Kurds, a carefully constructed nationalism combined with grim historical experiences yield a nationalist spirit that secured Kosovans freedom from oppression.

East Timor

Until East Timor (also called Timor-Leste) achieved independence in 2002, its history had been defined by nearly four centuries of colonial rule under Portugal, and to a lesser extent, two-and-a-half decades of Indonesian occupation during which the populations of the Island nation would experience political violence in horrific magnitudes[73]. Portugal's administrative rights over East-Timor were affirmed in United Nations General Assembly Resolution 1542 (XV) of 15 December 1960, whereby East Timor was designated as a non-self-governing territory under Chapter XI of the UN Charter, and Portugal was give the simultaneous recognition 'as the administering power'.[74]

East Timor has been described as "a case of delayed decolonisation".[75] East-Timorese 'nationalism' under Portuguese colonial rule, if the relatively tepid opposition to colonial rule could be described as such, was remarkably different from that of the KRG and Kosovo, most notably in the absence of a common sense of nationhood and a unified and coherent nationalist response to Portuguese rule.[76] Like Kosovo and the KRG, East Timor was and is an ethnically heterogeneous society. According to Stating (quoting Forman), East Timor "manifests an ethnic heterogeneity which characterises the entire region from the Philippines to Australia and from the islands east of Papua New Guinea to the Malagasy Republic".[77]

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[72] Kosovo (1999). 'Ethnic Cleansing' in the Glogovac Municipality. Human Rights Watch. http://www.refworld.org/docid/3ae6a85d0.html

[73] Jose Ramos-Horta (1997). *'Casualties of Silence: East Timor's Struggle for Self-Determination'.* Harvard International Review, Vol. 19, No. 4, pp. 32-35, 61.

[74] *Ibid.*, p. 297.

[75] Armin Von Bogdandy, Rüdiger Wolfrum, Christiane E. Philipp (2005). *Max Planck Yearbook of United Nations Law.* Martinus Nijhoff Publishers, Volume 9, p. 297.

[76] Sven Gunnar Simonsen (2006). '*The Authoritarian Temptation in East Timor: Nation building and the Need for Inclusive Governance'.* Asian Survey, Vol. 46, No. 4, pp. 575-596.

[77] Rebecca Strating (2014). '*Contested Self-determination: Indonesia and East Timor's Battle Over Borders,* International Law and Ethnic Identity'. The Journal of Pacific History, Vol. 49, No.4, p. 6.

In addition to its original inhabitants Atoni (or Vaiquenos in Portuguese), East Timor is made up of people whose ethnic identity includes some Melanesian, Portuguese, Indo-Malay and Chinese influence.[78] To this was added the complexity of East Timor's politically autonomous and separated traditional communities, each of which also was structured on class differences. Much unlike the KRG and Kosovo, however, the impetus for a common national identity never manifested itself among East Timorese under Portuguese colonial rule. This probably was that the people thought of themselves as members of their traditional ethnic communities first. The elite, who could have led in the crafting of a common national identity, had their economic interests welded to the Portuguese colonial economy. Indeed, the various insurrections against the Portuguese in East Timor were led mostly by tribal leaders and the elite classes in the various East Timorese tribal communities. The insurrections were also mostly in protest against policies perceived to be inimical to elite economic and political interests. In the main, therefore, the East Timorese as a collective could be said to have acquiesced to colonial rule.

Instructively, the main factor to East Timorese Independence in 1975 was not some nationalist activism on the part of some nationalist leaders; rather, it came as a change in Portuguese colonial policy, itself a major consequence of the change in regimes in Portugal in 1974.[79] Coming into the end of Portuguese rule, therefore, the East Timorese could be said to have 'imagined' themselves as a community of peoples partly, if not mainly, in colonial terms. Accordingly, when after the departure of the Portuguese colonialists, Indonesia attempted to assert legal ownership East Timor through supposed cultural links between the Indonesian and Timorese people, the response of Timorese leaders was that East Timorese culture was a synthesis of Melanesian and 400 years of Portuguese cultural influences.[80]

A major difference between the KRG's and the East Timorese sense of the nation-state was that the latter's was framed in civic as opposed to primordial terms, specifically as a direct consequence of colonial integration of East Timorese communities and territory into one political unit. East Timor further distinguished itself from the KRG and Kosovo in its independence being asserted on it being a 'non-self-governing territory' when Portugal relinquished the right and power to administer the territory. For the East Timorese, Portugal's voluntary surrender of the administrative rights to East Timor translated into an automatic right

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[78] *Ibid.*

[79] Roger S. Clark (1980). '*The "Decolonization" of East Timor and the United Nations Norms on Self-Determination and Aggression'.* The Yale Journal of World Public Order, Vol. 7, No. 1, pp. 3-4.

[80] Rebecca Strating (2014). '*Contested Self-determination: Indonesia and East Timor's Battle Over Borders, International Law and Ethnic Identity'.* The Journal of Pacific History, Vol. 49, No. 4, p. 6.

to self-determination (independence).

On the verge of national independence, however, the absence of a cohesive nationalist rhetoric and sense of nationhood among the East Timorese would partly contribute to the East Timorese having to seek independence on a divided front. Indonesia's meddlesome involvement in the future of East Timor's politics at that point was a major factor in the disunity among the parties and politicians leading the island's quest for independence; it represented a roadblock to the realisation of the right to self-determination. But, as already noted, the major factor in the ensuing chaos was the island's fragmented nationalist front. Thus, when Portugal left East Timor, civil war broke out amongst the various ethnic factions. There were coups and counter-coups after the Revolutionary Front for an independent East Timor declared independence from Portugal in November 1975.[81]

Indonesia occupied East Timor from 1975 to 1999. Indonesia's invasion of East Timor, however, resulted in a humanitarian crisis and human rights abuses in the territory. Some reports about the invasion put the number of dead people and those displaced as a result of it at about 400,000.[82] The United Nations launched a series of peace missions in East Timor to stop the violence in the country, just as NATO did in Kosovo to stop the atrocious human rights violations there.[83] Much in the same way, the United Nations intervened in Saddam Hussein's attacks on Kurds in 1991 with the imposition of the no-fly-zone over Northern Iraq.

In all three cases, the interventions created the subsequent conducive environment for the creation of different types of political autonomy from which the territories would intensify their quest for secession from their 'parent states'.

In response to the Indonesia occupation of East Timor, the UN issued a resolution calling for the immediate withdrawal of Indonesian forces from the territory of East Timor[84].

The UN-led intervention eventually ended 25 years of Indonesian occupation and rule of the territory. It came in the form of a referendum for independence pursuant to the right to self-

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[81] O. Ofstad (2012). *Reconciliation and Conflict Resolution in East Timor (Lessons for Future Peace Operations).* Oxford: Oxford Institute For Ethics, Law, and Armed Conflict. 5.

[82] G. Robinson (2003). *East Timor (1999). Crimes against Humanity a report commissioned by the United Nations Office of the High Commissioner For Human Rights (OHCHR).* University of California Los Angeles, p.1

[83] L.M. Howard (2013). *State-building through Neo-trusteeship: Kosovo and East Timor in comparative perspective.* United Nations University (World Institute for Development Economics Research), WIDER Working Paper No. 126, 1 and 5.

[84] Michael Brecher and Jonathan Wilkenfeld (1997). *A Study of Crisis,* University of Michigan Press. p211

determination as enshrined in the UN Charter of 1945. The absence of a unified nationalist front and a coherent nationalist agenda for self-determination manifested themselves again at this point. The three major parties in East Timor offered three different visions for the country's political future. For the Uniao Democratica Timorese (DDT), it was a 'gradual separation from Portugal. The Frente Revolucionaria de Timore Leste (Fretilin) insisted on immediate independence. Apodeti, on the other hand, favoured the integration of East Timor with Indonesia.[85] In the 1999 referendum organised at the instigation of the United Nations Mission in East Timor (UNAMET), however, about 78.5% of the Timorese population voted in support of independence.[86]

In summary, East Timor's quest for independence was typified by the absence of a unifying nationalist rhetoric and the related acceptance of relations with the colonial state as a marking point and basis of East Timorese nationhood. This and the brutalities unleashed on the people by Indonesian-backed militias delegitimised Indonesian rule in the minds of the majority of the East Timorese. The Timorese imagined themselves as subjects of colonialism. It also influenced the legal basis of their decolonisation. It further distinguished East Timor's nationalism and self-determination pursuits from those of the KRG and Kosovo.

The political and legal arguments of transitional political administrative structures

It was asserted in the discussion on the KRG's right to self-determination (Chapter Eight) that the KRG was among things 'a *de facto* state'. The discussion has already defined '*de facto*' statehood and pointed out how the term has been used in certain contexts in the same sense as terms like 'quasi-statehood' and, 'unrecognised statehood'. One of the salient issues arising from the KRG's status as a *de facto* state has been how that status enables the KRG to partly satisfy the criteria of statehood in the Montevideo Convention. The criteria of statehood in the convention 'are based on the principle of effectiveness'[87] and, thus, offer a yardstick for the measurement of the KRG's potential to function as an effective, viable independent state. The chapter on the KRG's internal capabilities assessed the KRG's governance and political

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[85] Jose Ramos-Horta (1997). '*Casualties of Silence: East Timor's Struggle for Self-Determination'*. Harvard International Review, Vol. 19, No. 4, pp. 32-35, 61.

[86] O. Ofstad (2012*). Reconciliation and Conflict Resolution in East Timor (Lessons for Future Peace Operations).* Oxford: Oxford Institute For Ethics, Law, and Armed Conflict. p.7

[87] James Crawford (2010). *The creation of states in international law*. Oxford Scholarship Online: http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199228423.001.0001/acprof-9780199228423-chapter-2

systems from this perspective. *De facto* state status inherently affords political entities the opportunity of transitional administrative mechanisms towards the pursuit of statehood in the foreseeable future. Kurds have been capitalising on the KRG's *de facto* state status to pursue state institutional building.

The Kosovan and East Timorese pursuit of statehood, on the other hand, was greatly enhanced by the separation of their political and economic structures from that of Serbia and Indonesia, respectively, a few years before their achievement of independence. The interim political structures that resulted from the separation would, technically speaking, not make Kosovo and East Timor *de facto* states at that time.

According to Pal Kolstø, for a territory to qualify as a de facto state, "(1) the political leadership must be in control of (most of) the territory it lays claim to, (2) it must have sought but not achieved international recognition as an independent state, and (3) it has to persist in the state of non-recognition for more than two years".[88] Between 1975 and 2002, however, East Timor as a territory was controlled and governed by Indonesia. Before that, it had been under Portuguese colonial rule for close to 400 years. Kosovo, on the other hand, was an autonomous province in Yugoslavia, and had retained many powers, including control of the police, education and economic policies, use of a local language, and a veto over constitutional changes. But this was revoked in 1989 and never restored until the UN intervention in 1999.[89] Based on these facts, both pre-independence Kosovo and East Timor would not satisfy Pal Kosto's criteria of *de facto* statehood.

Indeed, it was in recognition of the fragility of the political and economic institutions in Kosovo and East Timor that the United Nations implemented transitional administrative regimes in both territories prior to their achievement of independent statehood. In 1999, thus, the UN, under the UN Security Council Resolution 1244, set up the United Nations Interim Administration Mission in Kosovo (UNIAMK). UNIAMK took over the governance of Kosovo from the Yugoslav Federation with the mission to "establish a functioning interim civil administration, including the maintenance of law and order; promote the establishment of substantial autonomy and self-government, including the holding of elections; and facilitate a

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[88] T. Hoch and K. Rudincová (2015). *'Legitimization of statehood in de facto states: A case study of Somaliland'.* AUC Geographica, Vol. 50, No. 1, pp. 37–49:

[89]Heike Krieger (ed.)(2001). *The Kosovo Conflict and International Law: An Analytical Documentation 1974-1999.* Cambridge: Cambridge Press, p. 522.

political process to determine Kosovo's future status."[90] Kosovo still faced severe challenges after the expiry of UNMIK's mandate. This stemmed mainly from the paucity of Kosovan politicians' experience of 'self-rule'.[91] Some of the challenges confronting Kosovo included 'weak institutions' – especially in the administration of justice and the rule of law.[92] Kosovo had received substantial aid from the international community during the transition period; after independence, it was still dependent on international aid.[93] Unemployment rates remained high, amidst low economic growth, corruption and high rates of organised crime,[94] low life expectancy, high rates of infant mortality, and extreme poverty.[95] The gross domestic product (GDP) remains static while the economy still depends heavily on foreign aid and transfers from Kosovans in the diaspora.[96] The transitional administrative period achieved little for Kosovo; yet Kosovo was deemed to be in the state to function as a viable state, and was subsequently recognised as such.

East Timor

Following the atrocities committed by the Indonesian forces in East Timor after the Timorese declaration of independence in 1975, the UN General Assembly issued resolution A/RES/3485 (XXX) (of 12 December 1975), condemning the Indonesian occupation of East Timor.[97] However, human rights violations by the Indonesian forces continued until 1999 when the UN Security Council mandated the UN to prepare for a transitional mission in East Timor. The result was the creation of the United Nations Transitional Administration in East Timor (UNTAET). Prior to UNTAET, the United Nations intervened in East Timor under the auspices of the United Nations Mission in East Timor (UNAMET).[98] The UN mandate under UNTAET, however, was to provide security, maintain law and order, develop and provide humanitarian

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[90] Alexandros Yannis (2004). '*The UN as Government in Kosovo*'. Global Governance, Vol. 10, No. 1, The Politics of International Administration. p. 2.

[91] Steven Woehrel (2013). *Kosovo: Current Issues and U.S. Policy*. Congressional Research Services for Congress, p. 7.

[92] *Ibid.*, p. 7.

[93] L.M. Howard (2013). *State-building through neotrusteeship, Kosovo and East Timor in comparative perspective.* United Nations University (World Institute for Development Economics Research), WIDER Working Paper No. 2013/126, p. 1.

[94] *Ibid.*, p. 1.

[95] *Ibid.*, p. 4.

[96] L.M. Howard (2013). *State-building through neotrusteeship, Kosovo and East Timor in comparative perspective.* United Nations University (World Institute for Development Economics Research), WIDER Working Paper, No. 126, p. 9.

[97] United Nation General Assembly Resolution :A/RES/3485 (XXX) of 12 December 1975. http://www.un.org/en/peacekeeping/missions/past/etimor/docs/9931277E.htm.

[98] O. Ofstad (2012*). Reconciliation and Conflict Resolution in East Timor (Lessons for Future Peace Operations)*.Oxford, Oxford Institute For Ethics, Law, and Armed Conflict. p.7

assistance, and create an enabling ground for the effective administration of the territory.[99] In the main, however, UNTAET was tasked with the preparation of East Timor for independence, in short, 'state-building'.[100] Effectively, thus, UNTAET and the Unite Nations for that matter became the administrator of the territory. Although the provisions in Resolution 1272 of 1999 which empowered the UN to administer East Timor did not explicitly confer sovereignty on UNTAET, it has been described as an 'instrument of implied sovereignty'.[101] The most important fact about UNTAET is that it functioned as the *de facto* authority of East Timor. At the end of UNTAET's mandate, however, it was not certain whether the state-building exercise had been a success. East Timor was still a poverty-stricken country. Among other indicators, it was ascertained that 60 per cent of the population was illiterate.[102] Forty-one per cent of the population was living below the poverty line. East Timor's GNI per capita and GDP were $430 and $360, respectively, in 2003, making the country the poorest in Asia.[103] Yet, East Timor was also deemed fit to function as a state and was allowed to declare independence from Portuguese colonial rule in 2002.

In conclusion, Kosovo and East Timor remained fragile, weak states even after being babysat into statehood by the United Nations and with the support of substantial international financial aid too. The KRG continues to face severe economic and political problems. The nature of the problems was highlighted in the discussion on the KRG's internal capabilities. Nonetheless, the KRG has made modest progress and reforms in the political space, mainly as a result of the ascendancy of Goran, the anti-corruption party that has broken the KDP- PUK duopoly. The healthy competition infused in the region's body politics promises to sanitise the KRG's politics.[104]

The most important fact, however, is that the KRG can cite its relatively superior performance as a *de facto* state to counter any doubts about its ability to function as a viable independent state in the foreseeable future. If East Timor and Kosovo could be declared fit to function as independent states, the KRG would not be denied statehood on the argument that it is not

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[99] United Nations Security Council Resolution 1272, S/RES/1272 (1999)

[100] Markus Benzing (2005). '*A Laboratory for "Nation-Building"?',* A. von Bogdandy and R. Wolfrum, (eds.), Max Planck Yearbook of United Nations Law, Volume 9, p. 3

[101] Chopra, J. (2000). *The UN's Kingdom of East Timor.* The International Institute for Strategic Studies*, Vol 42, No. 3, p29*

[102] Markus Benzing (2005). '*A Laboratory for 'Nation-Building?'* A. Von Bogdandy and R. Wolfrum, (eds.), Max Planck Yearbook of United Nations Law, Volume 9, p. 76

[103] *Ibid.,* p. 77.

[104] K. Hassan, K. (2015). *Kurdistan's Politicised Society Confronts a Sultanistic System*. Carnegie endowment (Carnegie Middle East Center),15

sufficiently prepared for statehood.

The KRG and East Timor

It was stated in the introduction that the independence of East Timor may come across as a window of opportunity for supporters of KRG statehood to mount a *sui generis* argument for KRG statehood, and with reference to the case of East Timor. That the facts on East Timor's case display many differences to the KRG's independence quest is without dispute. But there are also similarities in the two cases. The occupying Indonesian forces committed atrocities in East Timor.[105] At that time Portugal was recognised as the *de jure* authority over the territory of East Timor.[106] Indonesia's conduct raised issue in the provisions of the 1945 UN Charter and the 1970 UN Conventions because East Timor would be considered to have suffered the atrocities under 'alien subjugation'.[107]

The KRG, on the other hand, has not been under any form of *alien subjugation.* Still, the KRG could argue that the invasion and atrocities committed by the Indonesian forces gave East Timor the remedial right to independence**.** The KRG may, in the process, cite Saddam's Anfal attack on Kurds as evidence that they have also been victims of genocide and, thus, can claim the same rights**.** That, however, may stumble upon some difficulties, notably in the fact that the cited atrocities are not ongoing and continuing. In that regard, the argument for remedial right to self-determination will not succeed at law**.** It should also be remembered that, as a remedy, the offending state is required under law to grant its victim subjects political autonomy**.**

The fact that Kurds have been enjoying that right already would make the recourse to such a remedy moot**.** Worth noting, too, is that East Timor was not considered to be seceding from an existing state. Consequently, the independence of East Timor did not run counter to post-colonial development of the law supporting the territorial integrity of states over secessionist claims.[108] On the other hand, the UN has in exceptional cases recognised new states, such as South Sudan and Kosovo. Once again, however, those states were granted statehood in

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[105] Cited in J.. Jolliffe (1978). *East Timor: Nationalism and Colonialism, Queensland,* St Lucia: University of Queensland Press, p. 232.

[106] M. Benzing, M. (2005). *'Midwifing a New State: The United Nations in East Timor',* Max Planck Yearbook of United Nations Law, Vol. 9, pp. 295-372. p. 300

[107] B. Dolven, R. Margesson, and B. Vaughn (2012). '*Timor-Leste: Political Dynamics, Development, and International Involvement*,' CRS Report for Congress, *p. 6.*

[108] B. O'Leary (1997). '*On the Nature of Nationalism: An Appraisal of Ernest Gellner's Writings on Nationalism'.* British Journal of Political Science, Vol. 27, *No. 2, p. 191.*

accordance with the principle of moral remedial rights when the violence and atrocities suffered made such an action expedient.[109]

Independence for those two states, thus, was motivated by the desire to protect human lives through the creation of a new state from existing states as an exception to the principle of *utis possidetis*. Should the Iraqi state attack Kurdistan in the future and commit gross human rights violations in the KRG, the case of South Sudan may offer firmer support for the KRG to claim remedial or moral rights to secession.

Conclusion

It has been close to a century since the Iraqi Kurds started their agitations for a Kurdish nation-state. The central argument in support of that agitation remains framed around the distinctiveness of Kurdish ethnic identity. There is an element of the Middle Eastern majoritarian ethnic concept of the nation-state in that argument: the claim for statehood and accompanying nationalist narratives are based on the experiences of Kurds, the dominant ethnic group in Northern Iraq. Kurdish demands for a nation-state of their own thus have come with a primordialist sense of entitlement. Some minority groups in Northern Iraq would certainly notice the contradiction between, on the one hand, Kurdish secessionist agitations grounded in the perception of themselves as a politically excluded group and, on the other, the failure on the part of Kurdish nationalists to realise that a Kurdish nation-state could also inflict a similar injustice on ethnic non-Kurdish minorities within the KRG. Such groups, with the likely support of some of the KRG's neighbouring states, may wish to have a say in any eventual decision on Kurdish independence. In probable anticipation of this fact, the KRG has been making provisions for the inclusion of its minorities in the governance systems and bureaucracy of the region. But there are other powerful state entities in the Gulf region and international political system whose misgivings about an independent Kurdish state might need stronger and more measured persuasion if Kurds are to achieve their dream of a nation-state in Northern Iraq. Kurdistan and Iraq occupy territories that are of immense strategic importance to Turkey, Iran and the United States – three of the most influential states in the international political system. International law, as Lauterpacht notes, genuflects to international politics within the context of state recognition. It is conceded, thus, that the actualisation of a Kurdish

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[109] R. McCorquodale and M. Dixon (2003). *Cases and materials on international law* (4th ed.). Oxford: Oxford University Press, p. 547.

nation-state greatly depends on how the economic and military interests of Iran, the United States and Turkey are able to accommodate such an eventuality. It is possible that the interests of the United States and Turkey might ultimately prevail over Iran's on this issue. The fact, however, is that Kurds need much more than proof of being serial victims of state repression to attain independence from Iraq.

But the international community may also wish to approach the secessionist ambitions of the KRG from a pragmatic perspective. The major ethnic and religious groups in Iraq have never demonstrated the ability or willingness to live together harmoniously. This has been particularly true of post-Baathist Iraq, which, ironically, has been the only 'democratic' era in the nation's post-colonial history. Iraq has since the overthrow of Saddam Hussein been going through some of the most violent episodes in its history. The major incidents in this context include the Shiite-Sunni armed conflicts that erupted in many parts of the country after Saddam's overthrow, attacks on US troops and government installations in Bagdad, the detonation of car bombs by suspected Sunni and Al Qaida operatives at crowded places in various Iraqi cities leading to the deaths of thousands of civilians, and ISIS's attacks on some major Iraqi cities leading to the capture of Mosul and the Anbar Province. This thesis is of the opinion that the chaos and violence embodied by those incidents support arguments for the partition of Iraq and the creation of a Kurdish state in Northern Iraq.

CHAPTER TEN

CONCLUSION

This chapter concludes the thesis' discussions. It restates the dissertation's general arguments and summarises the discussions' answers to the research questions. It also makes some policy recommendations in the light of some recent developments in the KRG, and also with regard to the conclusions on the chapter on the anticipated external reaction to a future KRG secession. The chapter also situates the dissertation within the context of research works on the KRG's strivings after self-determination and also on the issue of state recognition within the contexts of international law and international politics.

The thesis, to begin with, had tasked itself with answering the following queries:

(a) whether from an international law perspective Iraqi Kurds deserved their own state,

(b) Whether politically and economically the KRG as a de facto state had the administrative and economic capacity or potential to function as a viable state.

(c) Whether the KRG would receive favourable reactions to a declaration of independence in the foreseeable future.

The discussions on the first two queries were expected to establish the Kurdish case for independence from Iraq. The third one on the other were to argue that the success of Iraqi Kurdish secessionist aspirations also depended on the approval of the powerful states in and outside the Middle East whose interests would be affected by such an eventuality.

The discussions answered the first query by tracing the history of the Kurdish peoples from the sixth century through the Ottoman Empire up to the post-Ottoman state formation period in the Middle East. It was established thereby that in spite of their internal diversities, Kurdish peoples are linguistically and culturally distinct from the other major ethnic groups in the Middle East (Turks, Arabs, and Persians) and that Kurdish people have historically been the most dominant group inhabiting present day Kurdistan. The discussions thus established a distinct Kurdish identity that historically links Iraqi Kurdish people to the territory in Northern Iraq upon which the KRG hope to create their own state in the foreseeable future.

The discussions further showed that Kurds had at various points in their history demonstrated

stark disunities in their nationalist agitations. But it was also seen that Kurds have been pursuing self-determination in terms of some 'felt ties of kinship, common ancestry and a shared cultural heritage' encapsulated in the notion of ***Kurdayeti*** supposedly binding Kurds together politically. The ability of Kurds to rally together towards common nationalist goals (e.g. State Mahabad) was seen to reinforce the usefulness of Kurdish ethno-nationalist ideologies. With reference to the cases of Kosovo and East Timor, the discussions further evaluated the potential value of fictitious monolithic nationalist concepts based on a similarly fabricated pan-ethnic identity. Iraqi Kurds were seen to have exploited such concepts and their sufferings to secure their de facto state. Most importantly, the discussions argued successfully that the persecutions and mass killings suffered by Kurds under different Arab-dominated regimes in Iraq sufficed as proof that the safety of Iraqi Kurds would be best guaranteed under a state under their own control.

When evaluating the legal case for a Kurdish state, however, the discussions dwelt on some facts about the KRG as indication that Iraqi Kurds satisfy the criteria of statehood as stipulated in the Montevideo Convention. Additional attention was drawn to some legal instruments, cases and legal theories (i.e. constitutive and declaratory theories of state recognition) under international law. These were then matched to some facts about the KRG towards the conclusion that Iraqi Kurds would find support under international law for their claim to possessing all the essential constituents of statehood.

As regards the KRG's capacity to function as a viable state, the dissertation focused on the strength and calibre of the KRG's economic and political systems and institutions and political class. The discussions proceeded thus to examine the pivot of the KRG's economy: agricultural, tourist and oil sectors. While exposing the structural vulnerabilities about the KRG's economy in the wake of the drop in oil prices between 2014 and 2016, the discussions also showed that the KRG had been able to develop a modern economy and also achieved an admirable level of food security and improvement in its infrastructure. The conclusion thus was that the KRG has the required economic muscle to endure any financial and economic challenges that might ensue from a future secession from Iraq.

Subsequently, the dissertation evaluated the KRG's potential to function as an effective independent state via an assessment of the nature and strength of the region's governance institutions, political system and human rights record. The conclusion was that the KRG was committed to the recognition of all religions, respect for minority rights, reservation of seats

and political posts for ethnic minorities and women. The KRG's political class's capacity for efficient public administration was also highlighted in how they managed to build a de facto state from the scratch in a relatively short space of time. The KRG was also seen to have robust security apparatuses and networks. The large number of diplomatic missions in the KRG was evaluated as evidence of the diplomatic acumen of the KRG's political class. Thus, in spite of the KRG's sporadic human rights infractions, rank corruption among the political class and fractured security apparatuses, the discussions indicated that the KRG was capable of running a sound and stable liberal democracy.

In sum, the discussions on the KRG peoples' identity, culture and history and the nature of their nationalist politics, provided sufficient proof that the Kurdish peoples have a strong case for independence from Iraq.

The dissertation further probed the contexts of international law and international politics for an understanding of how states would potentially react to the KRG's secession from Iraq. The absence of a normative content to the two main theories of state recognition and the dominant influence of state policies on states' decisions on state recognition emerged as proofs that the KRG could not rely on international law for the permission to become a de jure state.

This necessitated the assessment of the KRG's chances of a favourable external recognition in the light of some powerful states' interests in Iraq, the Middle East and the Gulf Region. Iraq's reaction to a KRG declaration of independence was discussed as likely to follow the standard negative and sometimes violent response states give to secessionist agitations among sections of their populations. The strategic and economic value of the KRG to Iraq alone was discussed as being sufficiently compelling to make Iraq reject a KRG secession outright. Iran's and Turkey's and the USA's potential reactions to KRG secession from Iraq, however, were evaluated from a broader realist perspective with emphasis on how such an eventuality might affect those states' economic, military and ideological interests in the Middle East. Iran and Turkey were identified as having large Kurdish populations with historical separatist ambitions and which have been using Northern Iraq as base to attack the two countries. Both countries were seen to have close ties to mainstream political groups in Kurdistan and ethnic and sectarian groups in Iraq and that the two countries have over the years been using these groups to manipulate the political and security situations in Iraq and the KRG to their advantage. The discussion further revealed the deep significance Iraq meant to the economies of Iran and Turkey and how the two countries have as a result been investing in both the KRG and Iraq,

and how that boosts the KRG's economy but also makes it dependent on the two countries. Most crucially both countries were appeared to view Iraq and the KRG as sources of grave serious risks, explaining why the two countries have been doing everything possible to contain the KRG within Iraq.

The thesis further assessed America's most likely reaction to KRG independence in the magnitude and type of its (America's) interests in the Middle East and Iraq. These were seen, among others, to be Israel's strategic value to the United States and the huge significance of oil to the world economy and most notably to the United States. Those factors explained why the USA would take very seriously a potential disruption of the region's security and political balance by the emergence of an independent Kurdish state. The KRG's huge hydrocarbon resources, its strategic location between Turkey and Iran (ally and sworn enemy of the USA, respectively) and close relationship with Israel were argued as considerations that could make the USA react favourably to a KRG secession from Iraq. It was, however, also noted that the USA has a longstanding policy against the creation of new states out of existing ones and was also unflinchingly committed to keeping Iraq intact while frequently using Kurds as pawns in its relationships with Iran and Iraq. The conclusion thus was that the USA would oppose the declaration of independence by the KRG from Iraq**.**

In conclusion thus, the discussions answered the thesis' research questions. i.e. That Kurdish peoples satisfy the criteria of statehood and also have the capacity to run an effective, viable state but that it would struggle to achieve a favourable externa reaction to its independence ambitions.

The outcomes from the various discussions- especially in how they answer the research questions - highlight the fresh perspectives this dissertation brings to bear on the study of the self-determination aspirations of the KRG and its populations, and also on the issue of state creation and state recognition within the contexts of international law and international politics. The essay has already referenced the popular perception of Kurdish peoples as a serially persecuted peoples and 'the world's largest ethnic group without a state'. The bulk of the academic literature on Kurdish peoples revolves on these facts and thus explians the heightened global interest in the nature and politics of Kurdish cultural and ethnic identities. However, a considerable number of articles and books on the Kurdish people's political struggles generalise their experience in the Gulf Region in manners that quite often reduce the various Kurdish self-determination aspirations to a seemingly monolithic enterprise with a single

terminus. On the other hand, many academics (a good number of them are from the KRG) have been focusing attention on the peculiarities of the plight and statehood aspirations of Iraqi Kurds. This has led to an understanding of the convergences and divergences between the cases of the KRG on the one hand, and on the other, Kurdish groups in Syria, Turkey and Iran. This dissertation falls into the latter set of works.

These said, the overwhelming majority of the early works on the KRG as an autonomous entity dwelt extensively on the politics and socio-economic developments in the region. The time frame is between the Iraqi state's brutal reprisals on Kurds for the uprising against Saddam's regime in 1991 and the creation of the KRG as a de facto state in Iraq. The political commentaries and dissertations dedicated to the issues within the period have mostly been more about the emergence of political institutions in the KRG and attempts at the development of social and economic infrastructure in the Region. Those dealing with the KRG's quest for self-determination tend to be preponderantly about the legal case for the creation of a Kurdish state out of Iraq, and most notably, on some perceived species of rights with which the KRG can assert some supposed right to external self-determination.

This dissertation incorporates in its analysis and discussions all the important facts and issues treated in the literature on Kurdish people and their strivings after justice and peace through the creation of a state of their own. In this wise, the thesis factors into its analysis a wide range of issues towards a focus on its central themes. By this means, the dissertation enables a clear understanding of how the issue of self-determination and statehood could function as mechanisms to address a people's existential risks. More importantly, this thesis, unlike many others written by Kurds on the Iraqi Kurdish people, discusses the anticipated end-journey of Iraqi Kurdish peoples' political agitations with dispassionate candour. In arguing the case for Kurdish independence in its fictions and factual justifications therefore, the dissertation acknowledges the dangers lurking in the region's body politic suggesting that the Kurdish political elite probably are not essentially too different from the Arab-dominated, corrupt political classes in Iraq. Significantly, too, the thesis does not dwell on the merits and demerits of a future KRG solely from Kurdish perspectives; it also takes into consideration the adverse impact KRG's statehood agitations are likely to have on the USA's, Iran's and Turkey's interests and vice versa, This brings down to earth Kurdish hopes of attaining statehood on the strength of the progress they have been making on many fronts. The discussions in the dissertation highlights thus the salient fact about state creation and state recognition in the post-decolonisation era , namely that the most important factor to the attainment of state recognition

is not how much a people have suffered or how morally or legally just their case for such a status is: new states, we learn, would be allowed to emerge only if in the larger scheme of things, they fit into the international political system as supervised and managed by the world's most powerful states.

The realist conclusions from the discussions in spite, the dissertation would argue that the KRG as a de facto state can influence the determination of its political fate in Iraq and in the Gulf Region in the foreseeable future. Within the dominant realist narrative of the international political system, realpolitik commends itself as an effective tool towards the attainment of narrow political goals, including the pursuit of a favourable recognition of statehood aspirations. It was thus asserted the in the discussion on Iraq's likely response to Iraqi Kurdish secession in future that the KRG could skilfully manipulate the deep divisions between Iraq's majority Arab Sunni-Shia populations to weaken the Iraqi state's ability to respond violently if the KRG unilaterally declares itself an independent state. The KRG itself recognises the difficulties its status as a landlocked region between powerful states brings to bear on its impendence aspirations.

The current Prime Minister of the KRG (Nechirvan Barzani), the discussions have already shown, yields to this fact but also sees an avenue to independence in the feasibility of adopting Turkey as a political sponsor or patron for its statehood aspirations. That would make an independent KRG a vassal state of Turkey but it would enable the KRG to escape the likely adverse reactions from Iraq and Iran. Such an option would put Turkey in the position to configure the politics and economy of the KRG to Turkey's interests and thus allay their fears of a KRG independence influencing Kurds in Turkey to rise against their parent state.

In the main, however, it is the submission of the dissertation that strong democratic institutions and an unflinching commitment to the rule of law and human rights present the best avenues for the KRG to achieve de jure statehood. This argument is advanced in awareness of the dissertation's conclusion that state recognition is influenced mainly by states' interests. However, Bilgehan Özpek[110] has shown through an empirical study of patterns of state recognition that de facto states with secessionist ambitions are likely to achieve international recognition where they demonstrate a greater commitment to democratic principles than their

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[110] Burak Bilgehan Özpek (2014) *The rule of democracy in the recognition of de facto states :An empirical assessment* . Global Governance : A review of multiaterialism and international organizations:October-December 2014, Vol.20, No.4, pp.585-599.

parent states. Kosovo's adoption of democratic governance and how it positively impacted on the recognition of its right to secede from Yugoslavia is cited as an example of this fact. Burak Bilgehan Özpek argues this tendency **as** a liberal counterpoise to the realist perspective of state recognition.

But it is doubtful whether the Kosovo-Yugoslavia example could suffice as a rebuttal of the realist argument on state recognition. Yugoslavia at the time of Kosovo's secession had fallen foul of many democratic tenets and was therefore nominally democratic. More importantly, democratic states do not necessarily act against all their interests when they recognise democratic de facto states. From a realist perspective, the salient issue about such instances should be whether democratic states that recognise democratic de facto states do so in total disregard of their interests or whether they gain nothing from such recognitions. States interests do not always have to be economic or 'militaristic' in nature. A western democratic state contributing to the creation of another democratic state directly helps increase the western world's stock of democratic allies. An increase in the number of democratically allied states also enhances the ability of such states to assert a greater influence in the international political system. Western states are known to tap frequently into their political ideological alliances to create mutually beneficial economic and military leverages. NATO is an example of the latter. Arguably thus, western democratic states act in their own interests and those of their political ideological allies when they recognise democratic de facto states seeking secession from a non-western democracy such as Yugoslavia. It makes it worthwhile thus for the KRG to consolidate its democracy so as to bring it into harmony with that of the world's [dominant] democracies which also happen to be the most influential within the state recognition. Following the Kosovo example, the Western world might respond favourably to a democratic KRG state, especially so given that Iraq, democratic as it purports to be, is not an ally of the Western democracies.

It has also been pointed out that secessionist entities demonstrate their 'legitimacy' in the eyes of the international community in evidence that they earned the right to represent their populations through generally accepted 'principles and rule-making institutions[111]. This dissertation in its turn has already highlighted how the Kurdish political class transited

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[111] Dahlia M. O. Khalifa: State formation: when power, legitimacy, and action align or collide(A Dissertation submitted to the Faculty of the Graduate School of Arts and Sciences of Georgetown University in partial fulfilment of the requirements for the degree of Doctor of Philosophy in Government).page 13.

successfully from their largely guerrilla background to civil administrative bureaucrats after the creation of the KRG autonomous Region. The KRG has since then been courting and receiving favourable responses from the international community for the efforts at democratic governance. The emphasis on the KRG's democratisation efforts has mainly been procedural and has been directed at 'structures such as free, fair and frequent elections, access to alternative sources of information, freedom of expression…the ability to choose between leaders at election time'[112]. The discussions on the internal capabilities of the KRG thus highlighted some defects about the KRG's political system. These included the tension arising from uncertainties around when President Barzani would be leaving office after the expiry of his constitutional term, the rank corruption among the political elite and most notably, the fractured security and military apparatuses of the KRG.

The expectation all this while was that the KRG would address those problems as time goes by. Increasingly, however, the KRG's ruling government and political class have been lackadaisical in the approach to overhauling their politics and the corruption among the political elite. The emphasis rather has been on the exploitation of the Iraqi Kurdish people's antagonism towards the Iraqi state, referendums, and majoritarian rule as a means of entrenching many anti-democratic tendencies within the KRG's political system. Besides the continued profligate spending of the bulk of the region's annual budget on salaries (to party-hangers-on in sinecures) and unaccounted for revenues , the Region's democratisation process has been bogged down by the continued stay in office of President Barzani two years after the expiration of his constitutional mandate[113]. President Barzani's excuse has always been that he wanted to oversee the KRG transitioning into de jure statehood before stepping down. His critics, however, read into his conduct a desire to make himself the life president of the KRG. But President Barzani persisted in his resolve and then called the referendum that was supposed to be the prelude to full statehood.

The consequences of the President's decision have been generally bad for the KRG. First, the White House, Pentagon, the United Nations, Turkey, Iran, and European Union all gave the results the thumbs down[114]. Iraq and Turkey in particular threatened in the immediate aftermath

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[112] D. Doherty & J. Mecellem(2012) Procedural and Substantive Conceptions of Democracy in Four Arab Populations:

[113] Michael Rubin: If the Kurds are to prosper they must become democratic: http://www.newsweek.com/if-kurds-are-prosper-they-must-become-democratic-687804

[114] Michael Rubin: If the Kurds are to prosper they must become democratic: http://www.newsweek.com/if-kurds-are-prosper-they-must-become-democratic-687804

of the referendum to impose an air blockade on the KRG. The most devastating effect of the referendum so far, however, has been the loss of oil-rich Kirkuk to Iraqi forces.

The exact ramifications of the adverse effects of the current state of affairs in the KRG may not be known. What is certain, however, is that the pretext to the ill-advised referendum and the suspected reaction of the PUK's Peshmerga has exposed the dangers behind the KRG's weak attempts at democratisation. As already stated, the focus hitherto has been on gestures aimed at gaining favourable comments from the international community. The significance of a serious commitment to democracy to the internal security and unity of the autonomous region was hardly ever taken seriously. As the KRG manoeuvre its way out of its current crisis, it might serve the political class well to pursue drastic institutional reforms and instil in the Region's body politic respect for rule of law, free speech and all the essentials of democracy. That would be the quickest and most effective means to unify the KRG and thus move the people and region towards a robust sense of nationhood, of the type that would enable Kurdish peoples to not only fight their common enemies, but also unite against habits among the political elite that may be inimical to their attempts at statehood. That also might enhance the KRG's chances of more judicious administration of its resources and its government's ability to satisfy the needs of its peoples. These, in the opinion of the dissertation, would be the most effective argument for the Iraqi Kurdish people's right to and readiness for statehood.

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