Federalism, Self-Determination and International Recognition Regime: 
Iraqi Kurdistan at a Crossroads

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Abstract

This study is an attempt to contribute to the ongoing debate on federalism as a tool to resolve deep-rooted conflicts and maintain countries’ territorial integrity. Ethnic federalism is laden with a paradox: on one hand, the federal system helps to resolve conflicts; on the other, it empowers those who are eager to break away. By focusing on the Kurdish question, we also attempt to improve our understanding of current developments and instability in the Middle East. The paper reviews the paradox of federalism, the right to self-determination and the thorny road to sovereign statehood. The case of the Iraqi Kurdistan federal region and its plans to break away from the Iraqi federation provides fascinating empirical data.

As the many benefits of federal systems and the legal aspects of self-determination are well known, emphasis is placed on various countries’ attitudes and policies towards Iraqi Kurdistan’s drive to independence, that is, the prospects of its acceptance into the club of sovereign states.

We argue that Iraqi Kurdistan has little chance to achieve sovereignty because of the unfavorable international recognition regime and lingering internal disunity.

To test our assumption, we examine the attitude of the neighboring countries and international actors towards Iraqi Kurdistan’s sovereignty aspirations, using content analysis.

INTRODUCTION

This study is an attempt to add to the ongoing debate on federalism using empirical data from a peculiar case of the recently established Iraqi federation. Since the creation of the federation its main goal seems to have been achieved: the bitter ethnic conflict between Arabs and Kurds has been stopped; the Kurds have been able to protect and foster their identity, enjoying significant political and economic autonomy. The current turmoil in the Middle East and in particular the quite successful fight against ISIS, joint operation of the Iraqi national armed forces and Kurdish Peshmerga established more cooperative interactions between Baghdad and Erbil.

Ethno-federations, however, are laden with a fundamental paradox: on one hand, the federal system helps to address conflict; on the other, it empowers those who are eager to break away. By focusing on the Kurdish case, we attempt to explain how the paradox of federalism plays out in Iraq and thereby to improve our understanding of the current developments and instability in the Middle East. The paper reviews the paradox of federalism, the right to self-determination and the thorny road to sovereign statehood. The case of the Iraqi Kurdistan
federal region and its plans to break away from the Iraqi federation provide fascinating data for conceptualization within federal studies.

As the many benefits of federal systems and the legal aspects of self-determination are well known. We will briefly overview literature on secessionism to conceptualize the case at hand and also look at various countries’ attitudes and policies towards Iraqi Kurdistan’s drive to independence, that is, the prospects of its acceptance into the club of sovereign states.

We argue that at this point in time Iraqi Kurdistan has little chance to achieve sovereignty because of lingering internal disunity and the unfavorable international recognition regime.

The Kurdish Regional Government (KRG), if it wants independence in earnest\(^1\), can contemplate three options: (1) Wait for a breakup of Iraq, an unlikely scenario now when ISIS has been defeated; (2) Achieve secession by consent from Baghdad and (3) Declare independence unilaterally hoping that the international community will recognize and accept it in the club of sovereign states.

FEDERALISM

Federations, in various forms and shapes, have been in existence for a long time, however scholarly interest in this form of decentralization and power devolution surged some 25 years ago when the multi-ethnic federations of Yugoslavia, Czechoslovakia and the Soviet Union fell apart, and civil wars and conflicts fueled by nationalism ravaged in other parts of the world. Scholars are increasingly inclined to believe that federalism is an efficient tool to address these problems. Federalism has been even regarded a ‘technological solution’ to human problems that allows to keep the feuding parties apart, yet to preserve countries’ territorial integrity (Danilovich 2014).

Because of a significant potential, federalism and federations have become a subject to prolific studies covering all of their aspects: origins (coming-together vs. holding-together federations), structures, size, number of constituent units\(^2\), forms of government – presidential or parliamentary\(^3\), symmetrical and asymmetrical, ethno-religious or administrative. Political economy and revenue sharing, fiscal federalism, party politics, and even the type of legal tradition – common law or civil law federations, - let along cooperative and coercive federalism have been systematically examined. In other words, by now, federalism and federations have

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\(^1\) The former Russian Prime Minister late Evgeni Primakov, a close friend of the Barazani family, said on a Russian TV channel that Masoud Barzani, the current KRG president, was not sure about independence. This is also indirectly corroborated by Abadi’s refusal to disclose to the Rudaw newspaper what Barsani had told him about independence: Rudaw: What has Masoud Barzani said to you on the referendum? Haider Abadi: I don’t want to tell you what he has said. It is something private.

\(^2\) The number of constitutive units is said to affect the stability of federations; federations with a larger number of federated units are more stable than federations with a smaller number (Watts 2015).

\(^3\) It is claimed that an important factor of federation stability is when each order of government has a similar type of executive-legislative relations – presidential or parliamentary form of government.
been scrutinized from all possible angles (Tarr, 2015: 70, 80). Federal studies have also grown into several branches – analytical, normative, domestic and international, comparative, ethnic, conflict management, regulatory and some others (Lepine 2015).

In nutshell though, federations are characterized by the existence of two levels of government – national and regional, and sometimes are referred to as ‘polity of polities.’ “In its most general sense, federalism is an arrangement in which two or more self-governing communities share the same political space” (Karmis and Norman, 2005: 3). Mature federations tested for over 50 years prove stable vis-à-vis emergent federations still in search of the equilibrium (Watts, 2015: 26).

The stability of a federation depends on many things that go beyond the federal institutional framework such as predisposition to democracy, political bargaining and compromise, respect for constitutionalism and the rule of law (Watts 2015). In other words, federalism is not only about the organizing principles and institutions, but also about shared values, moral union, a sense of togetherness, faith that constitute deep interdependence and the ‘building blocks of a successful federation’ (Burgess, 2012: 22). “The federal polity is founded on certain shared assumptions, values, beliefs, and interests that together presuppose the politics of cooperation, compromise, and accommodation. This is because the federal polity is rooted in notions of human dignity, toleration, respect, reciprocity, and consent” (Burgess, 2005: 431-2).

Typically, the federal constitution enshrines these values and principles and federal institutional arrangements naturally stem from them (Lepine, 2015: 43). A simple formal union of states won’t last long if there is no actual affinity for tradition and values, as the case of Iraqi Kurdistan seems to demonstrate where federalism was imposed by external forces.

Levingston calls federalism that involves shared values ‘substantive,’ as opposed to ‘formal’ based mainly on institutions. The substantive brand entails federal society, common federal values and principles: “… the essence of federalism lies not in the institutional or constitutional structure, but in the society itself” (Levingston, 1952: 84). Erk echoes him by saying that, “…without a federal society … a principled commitment to the federal spirit is difficult to sustain” (Erk, 2015: 88). This aspect of federal studies seems to come closest to explain the instability of the Iraqi federal system. On one hand, the introduction of federalism in Iraq stopped violence between the Kurds and Arabs, but has not gone as far as to establish genuine collaboration and a significant degree of interdependence; in this respect the Iraqi federal system does not seem animated by what Kuncaid calls ‘federal spirit’ (Kuncaid, 2015: 53).

The most fundamental problem inherent in federalism that undermines the efficiency of the ‘technological solution’, is referred to as ‘paradox of federalism.’ The principal aim of introducing a federal system is to stop conflict, yet to keep the feuding parties within the bounds of one state. Contrary to this objective, the federal arrangement also significantly empowers actors and thereby facilitates a breakup of the federated country.

To the question, whether federalism is the best methods of maintaining the territorial integrity of deeply divided nations or is simply a halfway point on the road to secession and independence, Lawrence Anderson wittily said: “Ironically, the answer to both is yes” (Anderson 2005). Many
writers agree on this assertion, as indeed, federalism may quell domestic conflicts in the short run, but will more likely contribute to separatism in the long run (Bunce and Watts 2005, Elazar 1984, Harowitz 1985, Fabry 2008). In other words, federalism seems to be both secessionism constraining and secessionism encouraging arrangements. Probably, because of that ambiguous potential of federal systems the debate over federalism has not lost its topicality and intensity.

The Iraqi federation that Michael Burgess calls ‘emergent’ (Burgess, 2012: 274) offers a graphic illustration of how this paradox plays out. The Kurds, who obtained significant autonomy in the new Iraqi federation, have now all governmental institutions of a sovereign state - a parliament, a presidency and cabinet, specialized departments, including foreign relations, defence and secret services, all of which would serve them well if the Kurdistan leaders decided to break away. Furthermore, federalism has given the Region a propitious context in which it has been able to develop its economy and establish linkages with governments and businesses worldwide, which would also facilitate international recognition of a Kurdish state.

The Iraqi federal system was accepted by domestic actors as a step to assuage the unforgiving rivalry between the Kurds and Arabs and, on the other hand, it was imposed by external forces. The Iraqi constitution that introduced federalism was adopted through a referendum in 2005 in the aftermath of a devastating war and regime change that worsened the country’s severe disunity. The constitution making was sponsored by the occupying power; the USA, in a sense, planted a federal tree into Iraq’s unprepared soil. The Arab Sunnis, the Saddam regimes’ power base, largely boycotted constitution making and the referendum, rendering its legitimacy rather questionable. Notwithstanding these controversies, federalism was introduced in Iraq to stay, as solid safeguards were built in to protect the federal system. Thus, the constitution can be amended via a rather simple procedure, except for the fundamental constitutional provisions, including the federal principle; Article 126 reads that the constitution cannot be amended, ‘if such amendments take away the power of the regions.” Despite Baghdad’s efforts and constitutional precautions, the paradox of federalism is likely to result in a breakup of the federation because of remaining distrust and lack of shared values and federal spirit.

The 2005 Iraqi constitution demonstrates a radical departure from local political culture and traditions as it introduced a parliamentary republic (formerly strong presidential), Islamic (formerly secular), federal (formerly unitary). In other words, it introduced formal federalism, as opposed to substantive, in the terminology of Levingston. Ethno-federalism is overly a liberal concept that, among other things, means protection of minorities against the tyranny of the majority, a pretty alien idea in Iraq. The beautiful institutional setup is not underpinned by indigenous values. The Iraqi federal model is marked, in Burgess’s words, by “the absence of the federal spirit” (Burgess, 2012: 319) therefore intergovernmental relations are reduced to the very basics. No wonder that the Kurds feel no particular attachment to their federal partners and try to put blame on them for any problem the Kurdistan region encounters, be it economic, financial or political.

Interestingly enough, the idea of breaking from the federation came to the fore of political discourse right when the KRG started facing problems caused by the financial crisis resulting from the recent downfall of the oil price. Popular anger was deflected to the federal government and the idea of self-determination came handy.
SELF-DETERMINATION/SECESSION

There is general confusion over the term of self-determination. The concept in its popular meaning incorporates everything good and beautiful and is used like moral-philosophical underpinnings claimed by one group or another, typically, in appeals for outside support (Hannum 1996).

The proposition that every people should freely determine its own political status and freely pursue its economic, social, and cultural development has long been one of which poets have sung and for which patriots have been ready to lay down their lives (Humphrey, 1984: 193).

Self-determination as a concept was advanced by philosophers and became particularly popular in the beginning of the 20th century during the breakup of the Austro-Hungarian and Ottoman empires. Woodrow Wilson’s Fourteen Points were pretty much inspired by it. However, at that time, self-determination was understood rather narrowly and meant to apply only to ‘nations’ within the defeated empires, not to the victors’ overseas colonies.

The Covenant of the League of Nations contained no provision, not even single mentioning of this concept. Self-determination is referred to twice in the UN Charter, but in the context of ‘developing friendly relations among nations.’ In the 1948 Universal Declaration of Human Rights this concept was omitted.

The self-determination principle holds that any people that simply considers itself to be a separate national group, is uniquely and exclusively qualified to determine its own political status including the right to its own state. “The concept, therefore, makes ethnicity the ultimate standard of political legitimacy” (Hannum, 1996: 7). However, the so-called ethnic principle of self-determination has never been seriously considered by the international community to be the primary factor in evaluating claims to statehood (Ibid). The term was revived and widely used as a strong argument during decolonization in the 1950s – 1960s when the right was claimed by colonies in order to protect their national identity and stop economic exploitation.

Today there is a general agreement that federalism offers an acceptable form of self-determination. In many instances, adoption of a federal system or introduction of meaningful devolution of power from the center to geographic, linguistic, or ethnic-based regions is generally considered a form of self-determination and sought in various places (Hannum, 1996: 4). The term ‘local self-determination’ was introduced to refer to the accommodation of minorities within same polity through decentralization, mainly federalism. Local self-determination by means of federalism offers firm protection of civil rights and civil liberties as well as institutional and substantive guarantees against economic exploitation (Sunstein, 1991: 670). Therefore, the prevailing view in federal studies literature is that self-determination can be successfully achieved through the introduction of a federal system.

Although many countries today are engaged in transcending sovereignty and traditional nation state, Iraqi Kurdistan harbors deep a desire to create its own nation-state despite the fact that the Kurds were fervent supporters of the Iraqi current federal constitution just a little bit over a decade ago.
It is fair to assume that the people who created the federal government in Iraq voluntarily waived the right to secession. The right to secession was relinquished in 2005 in order to advance the interests of all of the Iraqis. Granting Kurdistan the status of a federal region with significant autonomy, the constitution, according to the federal literature, would have fulfilled the principles of Kurdish self-determination.

Iraqi Prime Minister Al Abadi recently said, opposing Kurdistan’s secession plans and advocating Iraq’s territorial integrity, “Separation is a natural course for a people in a certain time and circumstance with which they cannot live, but I think it the other way for the Kurds. Kurds live the best in Iraq compared to other countries” (Rudaw 1/4/2017; http://www.rudaw.net/mobile/english/interview/01042017#sthash.ijNsC958.dpuf).

In other words, in the Iraqi case, no circumstances are present to invoke the right to self-determination. Kurds are not ethnically or religiously oppressed, nor economically exploited. We observe the desire to secede animated by the acute emotional and moral sense of unrealized statehood and more so by the expediency of local politics.

Unfortunately for the Kurds, the Iraqi constitution does not grant the right to secession. Indeed, while working on a constitution, it makes no sense to incorporate the right to secession. Recognizing this right would amount to recognizing the right to revolution, the right to a coup and overthrow of the existing political order.

The claims for secession, or for a right to secede, raise exceptionally large questions about the theory and practice of constitutionalism. It is therefore an especially important time to explore the relationship between secession claims and constitutionalism in general (Sunstein, 1991: 634).

Sunstein’s principal claim is that whether or not secession may be rationalized as a matter of political expediency or even on moral grounds, constitutions “ought not to include a right to secede” because incorporating this right into the law of the land would encourage ethnic, religious claims, even create dangers of blackmail. In his view, this risks to endanger the prospects for long-term stability (Ibid: 634). Such fundamental principles should be placed, according to Sunstein, beyond the reach of ordinary politics.

The constitution entrenches fundamental principles that are designed to protect against the ever-changing people’s preferences and their own potential excesses or misjudgments. Sunstein calls this ‘constitutional pre-commitment’ necessary to overcome the momentary passion involved in ordinary politics. Countries whose constitutions granted the right to secession broke up precisely along their ethnic borderlines.

What exactly Kurdish leaders want to achieve through secession? Will they be able to carry out the basic state functions of maintaining security, stability and prosperity better without the rest of Iraq? Does the Iraqi federal state and government currently stand in the way of the KRG in carrying out these functions? What KRG leaders can offer to improve the condition of the

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4 Constitution (Fundamental Law) of the Union of Soviet Socialist Republics, Art 72: “Each Union Republic shall retain the right freely to secede from the USSR.”
Kurdish people without invoking independence and sovereign statehood? Typically, the secessionist leaders do not have a coherent program to offer or negotiate, keeping only one option of secession, the big thing likely to pay off immediately in politics.

**Kurdish Referendum on Independence**

The current Iraqi constitution in its federal design accommodates the Kurds rather well and in general tempers the excesses of ethno-politics. Indeed, the new federal system has ended the civil war, ethnic cleansing and genocide; it genuinely protects Kurdish national identity and offers them considerable political and economic autonomy. But the acute sense of unrealized statehood haunts them to the point that they want to break away from Iraq and establish their own nation-state despite obvious challenges that await them on that road.

To realize this dream, the KRG pushes for a referendum on independence knowing that the overwhelming majority of the Kurds will support the idea of a Kurdish sovereign state. Significantly in this respect is the fact that no political party exists in the Kurdistan federal region that would promote all-Iraqi political agenda.

The conduct of a Kurdish referendum faces one serious problem that stems from the hectic nature of political processes in Iraqi Kurdistan. No constitutional provisions, nor acts of parliament exist that would govern the organization and conduct of a popular plebiscite. In fact, Kurdistan does not have a constitution, which can be considered a non-implementation of the federal constitution whose Article 120 reads:

> Each region shall adopt a constitution of its own that defines the structure of power of the region, its authorities, and the mechanisms of exercising such authorities, provided that it does not contradict this Constitution.

“Politics within the Kurdistan region seem less formally regulated than at the national level, as the Kurdistan Federal Region does not have an enacted constitution. In a sense, the current political system in Iraqi Kurdistan holds on gentlemen agreements, treaties between major political parties (outside of governmental institutions), legislative acts, executive order and cabinet edicts” (Danilovich, 2014: 56).

An important part of the framework for politics in Kurdistan is made of the 2006 KDP-PUK Reunification Accord, agreement made to stop the inter-Kurdish hostilities between the Kurdish Democratic Party and the Patriotic Union of Kurdistan. On one hand, this accord indeed ended open inter-Kurdish hostilities in the region, on the other, it largely reduced Kurdish politics leaving out other political movements. Now with the rise in popularity of other parties, such as Gorran, this framework has become increasingly out of date and constricting. The excellent showing of the Gorran party in the 2013 regional legislative elections ruined the 2006 Accord, as

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5 The 2005 Iraqi constitution proclaimed Kurdish a national language along with Arabic, same way as French in Canada.

6 The Agreement even regulated the composition of the cabinet to be made only of KDP and PUK members.
Gorran came second in the elections and claimed its share in the formation of the cabinet. The new cabinet had 4 ministers from Gorran. What is more, the speaker of the parliament was also a Gorran representative. In August 2015 a serious political crisis broke out in Kurdistan when Barzani’s presidential mandate expired and the Minister of Justice extended it for two more years even though the mandate did not allow for renewal. That caused an outcry in the opposition movement. The political crisis was compounded by a severe economic crunch caused by the drop in oil prices and strained budgetary relations with Baghdad. Gorran’s political demands were pressed against the backdrop of social unrest of civil servants (teachers’ and doctors’ salaries had not been paid for months), deadly clashes with the Islamic State and the influx of refugees from the areas occupied by ISIS. Riots in Sulaimaniyah and surrounding areas, the strongholds of Gorran, resulted in arsons of the Kurdistan Democratic Party’s offices and casualties. Nechirwan Barzani, the KRG Prime Minister, sacked four Gorran cabinet members and banned the parliament speaker, Gorran MP, from coming to Erbil, which prevented the Parliament from convening.

Gorran holds 24 of the Kurdistan’s parliament’s 111 seats, which makes it the second largest block. As a result of the September 2013 legislative elections, Gorran has moved from the third to second position in the regional parliament, outperforming the Patriotic Union of Kurdistan (PUK) (18 seats), a heavyweight in the previous parliament. Now the opposition block led by Goran includes the Kurdistan Islamic Union with 10 seats, the Islamic Group with 6 seats and 4 seats by smaller parties.

The fact that the Kurdistan Democratic Party (KDP) disbanded the parliament significantly undermined the legitimacy of the upcoming referendum. To bring back the referendum preparation on the track of legitimacy, the parliament has to be reopened. Now in the absence of a constitution, and parliament (disbanded since October 2016) who can legally launch and conduct a referendum. No constitution, no legislature, no rules for undertaking such a fateful event exist.

The Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK) are now leading the front that pushes for a referendum on separation from or staying with Iraq and they try to reach out to other groups to bring them on board. (http://www.rudaw.net/mobile/english/kurdistan/170420171#sthash.GGX2we0t.dpuf)

The independence referendum is intended to show the world through a legitimate vote that Kurds support the creation of an independent state. Therefore, this process must be constitutional and legitimate. The only way that can be done is through the reactivation of the parliament. This would create a chance for the parliament to pass laws on elections, determine the timing of general elections and referendum, determine the geographic borders of the independence referendum, and reengage political parties, including Gorran in the Region politically and the process of building a Kurdish state (Rudaw, Independence referendum requires reopening of parliament, http://www.rudaw.net/mobile/english/opinion/04042017#sthash.wpYVOtB.dpuf).

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7 For more detail on the nature of the Kurdish party system and politics see Greaves 2017).
INTERNATIONAL RECOGNITION REGIME

The international norms, rules and principles used to recognize a newcomer evolve over time. According to Griffiths (2017), there have been two distinctive patterns of the recognition regime through history. To become a sovereign state, a candidate would: (1) declares its statehood (constitutive approach) and with some luck and perseverance becomes one; (2) seeks recognition determined by “the norms, principles and politics of the international system” (Griffiths, 2017: 121). In the latter scenario, aspiring nations have a motivation to join the club of sovereign states while the existing members have the incentive to control admission. By the same token, the international regime determines when an aspirant nation has the right to break away from the existent country and be granted the status of sovereign state, when not. Nowadays, the most common way of getting international recognition is gaining UN membership.

The Kurdish regional government works all azimuths in order to prepare grounds for independence, plans to hold a referendum on independence. Kurdistan Region President Masoud Barzani called on the UN to show “understanding” on this matter during his meeting with the Secretary General of the United Nations Antonio Guterres in April 2017. President Barzani emphasized that in the near future the entire world would become aware of the wish and the decision of the people of Kurdistan regarding its future.

The UN Secretary General does not seem to embrace the idea of Kurdish secession. Speaking to reporters after a meeting with Iraqi Prime Minister Haider al-Abadi, Guterres hailed Abadi’s “commitment to a national dialogue and an effective process of reconciliation” for the state of Iraq after ISIS, “a State in which all communities respect each other and reconciliation becomes something natural.” (http://www.rudaw.net/mobile/english/kurdistan/300320174#sthash.HZvVtWqV.dpuf).

The international community is sympathetic to an aspirant’s claims to sovereignty under two conditions: (1) if the remedial right to secession is invoked and substantiated, which happens when an ethnic group’s rights have been violated, and when it is subject to discrimination and economic exploitation; (2) a consent-based separation. In other words, the international community would be eager to recognize Kurdish independence if Baghdad agrees on its own volition to let the region go.

Baghdad’s Reaction

Achieving independence peacefully and amicably is like avoiding a messy divorce without disputes and excessive mutual claims. We know of only a few cases of civilized divorce between federal partners. Czechoslovakia presents almost an ideal type of such a rare occurrence.

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8 The UN Secretary General showed reservation and even expressed concern over the incident involving raising the Kurdish flag in Kirkuk, a disputed territory. The UN’s office in Iraq issued a statement responding to the Kirkuk government’s decision to fly the Kurdish flag alongside the Iraqi one, cautioning “against any unilateral steps that might jeopardize harmony and peaceful coexistence” in the multi-ethnic city.
while Brexit may follow suit and become another example of an elegant withdrawal from a federation/confederation.

As the Iraqi federal constitution does not allow for secession while the federal principles are made immune from amendment, achieving such a divorce will be extremely difficult and will entail a breakup of Iraq’s constitutional order. In fact, the Iraqi federation is a federacy, not a multi-unit federation, Kurdistan being the only federated region. In other words, the federal Islamic Republic of Iraq consists of two parts: the main Iraq made of 15 administrative units called governorates and the federal Kurdistan Region composed of 4 governorates (See Danilovich 2014 for more detail). It is fair to note that a few rather furtive attempts to establish new federated units have not been earnestly pursued. Accordingly, the withdrawal of the single federal region from the federation would bring about a collapse of the country’s constitutional system.

When it comes to actual secession, it is very likely that Baghdad will adamantly oppose. Violence is likely to erupt in the first place over the disputed territories, oil-rich Kirkuk in particular. The USA, the sponsor of the current Iraqi political system, is very unlikely to support its dismantlement; unless the Shia dominated government in Baghdad allies too closely with Teheran. In this case, Kurds will become once again pawns in global politics, but Kurdish separatism in this case will find USA support.

The new Baghdad’s cabinet under the leadership of a more conciliatory Prime Minister Haidar Abadi tries to diffuse tensions with Erbil and thereby prevent the breakup of the federation. The major differences in Erbil – Baghdad’s relations stem from dissimilar views on revenue sharing, oil extraction, border control and disputed territories in addition, obviously, to bitter memories, distrust and the lack of shared values.

Haidar Abadi shows confidence that all difference can be iron out:

> It is all an accumulation and backlog of problems that have not been solved in their time. Problems of the Baath era and since 2003 there have been problems and no real effort has been made to resolve them... We must reach a law for Iraq’s revenues and how it will be distributed on the Kurdistan Region and the provinces... We must solve the issues one by one and not altogether. We must do that in atmosphere where trust each other otherwise nothing will happen no matter the efforts.


**Reaction of Global Powers and Significant Neighbors**

The inclination of foreign governments to recognize an independent Kurdistan greatly depends on the way the divorce with Baghdad is settled. A consent-based recognition would be

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9 The 2005 Constitution required resolution of this thorny issue by 2008, but the Malaki government did not do much to settle this matter. In 2016 a part of the Kirkuk area was seized by ISIS; the Kurdish Peshmerga liberated it soon after and the Kurds laid claim that the liberated area should become part of Kurdistan, thereby ‘settling’ the disputed territory problem.

10 Iraqi Kurdistan exercises control of the borders with Turkey, and partially with Iran.
obviously the most welcomed option. The French Consul General in Erbil responding to a direct question in a meeting with students at the University of Kurdistan Hewler whether Paris would recognize Kurdish independence, said that the French government regards Erbil and Baghdad as a married couple therefore Paris would like to maintain friendly relations with both parties. Accordingly, it would like to keep a good relationship with both during and after the divorce if it happens. In other words, France finds it wise not to side with one of the partners, but would be likely to recognize Kurdish independence if Baghdad grants it.

Erbil realizes the benefits this option offers and its interactions with Baghdad have recently intensified. The KRG’s main thrust remains however at cajoling its admittance to the club of sovereign state through activism in the international arena. The KRG maintains representations in major foreign capitals. It is fair to notice that the international reputation of the KRG has been boosted by its successful fight against ISIS. In recent history, Kurdistan had hit the international headlines first during the ‘no-fly zone’ established in 1991. The situation provoked global sympathy for the plight of the Kurdish people and their cause. Now Kurds have come into international spotlight again in relation to the cataclysm caused by ISIS. The horrific theatrical executions carried out by ISIS and aired on world TV channels and social networks, as well as the military success of the KRG in the fight against ISISI terrorist, have brought the Kurdish cause back to prominence.

Since the tone in the international regime of recognition is set by the major powers, we decided to look into the possible reaction of global powers and Kurdistan’s significant neighbors to the KRG’s current preparation for independence. Only outside support would grant success in achieving sovereignty, therefore, we now turn to briefly review the position of global powers and significant neighbors.

USA Relations with Kurdistan

Fuad Hussein, chief of staff of the Kurdistan presidency, said the United States of America should end its one-Iraq policy and instead have two different policies for Baghdad and Erbil as there are two different ruling governments with two different agendas. President Barzani met with the US Vice-President Mike Pence late in February 2017 at the Munich conference on security, the first high level meeting with a top member of President Donald Trump’s administration. A senior advisor to Barzani said following that meeting the Kurdish president "seriously discussed" the issue of Kurdistan independence with Pence. The Kurdistan Regional Government (KRG) representative to the United States, Bayan Sami Abdul Rahman also said that perception in Washington is that Kurds have many friends both in the congress and the new administration. “I can say on a general level that the relations between us and the United States are very strong, and very good,” Rahman said. “Many of the people we meet in here, they themselves tell us that ‘you Kurds have many, many friends in the congress, you Kurds have many, many friends in the government,’ from the two main political parties.” (Rudaw 30/3/2017 http://www.rudaw.net/mobile/english/kurdistan/300320173#sthash.BICpZhPC.dpuf).

It is fair to note that the Kurds are somewhat misled and confused by the divergence between the official US position and that of many former American officials turned businessmen, in particular those in the oil business. Remarkably staunch American advocates of Kurdish independence and statehood are Peter Galbraith, a former diplomat and advisor to the Kurdistan
Region Government and Jay Garner, a retired general and Director of the Office for Reconstruction and Humanitarian Assistance in Iraq.

Throughout tensions with Baghdad, Kurds have always turned to the USA as its ally. The USA helped the Kurds during the constitutional deliberations to achieve significant autonomy. However, now the Kurds feel somewhat disillusioned and disappointed by the lack of USA support for Kurdistan’s independence plans. Most authors explain that through the instrumental nature of the USA’s foreign policy making in general, and the utility of the Kurds in US regional strategy. The US agenda in relation to the Kurds shifts over time, the US pursues a consistent pattern of responding favorably to the Kurds only when they become a strategic factor, and never in light of their plight or cause per se (Pineda 2017). Therefore it is fair to assume that if the government in Baghdad formed by the Shia majority starts leaning too much to Teheran, the US’s one-Iraq policy might change.

**Russia’s Policy towards Iraqi Kurdistan**

Russia is not currently an influential actor in Iraqi Kurdistan despite traditional mutual sympathetic feelings. The matter of fact is that after the invasion of Iraq in 2003, the USA has maintained very close relations with the KRG leaving little room for its regional rivals Iran and Russia. Russia however was one of the first countries to open its Consulate General in Erbil in December 2007. A new impulse to the bilateral relations was given by Masoud Barzani’s visit to Russia in February 2013 and his meeting with Russian President Vladimir Putin. In its foreign policy, the Russian government traditionally claims to abide by international law. Like the French, the Kremlin pursues a course towards the development of cooperation with Erbil, which would go in parallel to preserving good relations with Baghdad.

The Russian official position on the issue of Kurdistan’s independence plans has been well expressed by Russian President Vladimir Putin during his meeting with his Iranian counterpart in a joint statement:

> Russia and Iran state their support for the sovereignty and territorial integrity of the Republic of Iraq, the efforts taken by the Iraqi authorities aimed at fighting terrorism represented by the Islamic State [ISIS] and other extremist groupings, and also at restoring control of the country’s territories seized by such groupings” (Russia-Iran presidential meeting includes talks of Iraqi ‘territorial integrity’ - http://www.rudaw.net/mobile/english/middleeast/iran/29032017#sthash.xhBXBxo2.dpuf Rudaw, March 30, 2017)

In other words, preserving Iraqi territorial integrity remains Russia’s Iraqi strategy.

**China, a Newcomer**

China is a newcomer to the region, but she comes in force intensifying its relations with Iraqi Kurdistan in both economic and political realms. With the recent opening of a Consul General, a large compound in Erbil, China intends to gradually become an important, if not strategic, partner of the KRG. Frustrated by ever-changing and purely instrumental policy of Western countries, Erbil may be tempted to diversify its options by seeking assistance from the powerful newcomer capable to boost its economic development and possibly support its political interests
in relation to Baghdad, Teheran and Ankara. The main challenge for the KRG is to make enough room for China without jeopardizing its relations with traditional partners.

Facing separatist movements at home, China’s official position remains in favor of preserving the territorial integrity of Iraq.

**Turkey**

Quite ironically, Turkey is the single most important country for Iraqi Kurdistan to realize its dream of independence because if it breaks from Iraq, it will be entirely dependent on Turkey’s support for survival. A striking change has occurred in the relationship between Turkey and Northern Kurds over the last decade. In 2003, the Turkish foreign minister threatened to intervene militarily to ‘preserve Iraq’s territorial integrity’ face to Iraqi Kurdistan’s desire to create an independent state. Today Turkey has established the most cordial bilateral relationship with Iraqi Kurdistan. This contrasts sharply with the way Turkey treats Kurds both at home and in Syria.

The Turks and Iraqi Kurds seem to have found some common ground, putting aside their ideological differences and traditional hard feelings. This rather unnatural friendship is based on oligarchic capitalist interests that have created this rather unorthodox attachment. But when it comes to recognizing a Kurdish sovereign state the situation is rather clear (Salahaddin et al 2017). Turkey is officially against the separation of the Kurdistan Region from Iraq. http://www.rudaw.net/mobile/english/interview/01042017#sthash.ijNsC958.dpuf

A top aide to Turkish President Recep Tayyip Erdogan has said a referendum for the people’s future in the Kurdistan Region would be a “wrong step.” “We do not think bringing this issue to the agenda is correct, at a time when there are several security risks at the highest levels,” Kalin said. (Rudaw 31/3/2017; http://www.rudaw.net/mobile/english/kurdistan/310320175#sthash.s8r4nzyb.dpuf)

Obviously, Ankara is afraid that Kurdish trans-border solidary would increase the claim for autonomy in Turkey.

**Iran**

With fundamental changes in the Middle East taking place starting with the Arab Spring, the dismantlement of Libya and Syria, Iran tries to take advantage of the situation and achieve its hegemony in the region. Kurdish independence is not compatible with Iran’s hegemonic policy. The fall of Saddam’s Iraq in 2003 brought about a shift from centuries of a Sunni-centric society to a Shia-centric one. This shift has been welcomed in Iran, as it gives opportunities to systematically intervene in Iraq’s affairs. With the US departure from Iraq in 2011, Iran has become more active in this country and this is detrimental to the emergence of an independent Kurdistan. Iran sees an independent Kurdistan a threat to its hegemonic policy in the Middle East. Besides, given a sizable Kurdish population within Iran, an independent Kurdistan would constitute an example to emulate by its own Kurds. In other words, Iran’s official position is against Iraqi Kurdistan’s sovereignty.
CONCLUSIONS

In this paper, we set out to analyze, conceptualize and explain Iraqi Kurdistan’s actions with a view to breaking away from the recently created Iraqi federation. To do so, we looked into the current conditions of the Iraqi Kurdistan Region, its claims to self-determination, its domestic politics and the current international regime of recognition.

We have demonstrated that the newly established Iraqi federation put in place by active participation of the Kurds, in which the Kurdistan Region forms the only federal unit in the Iraqi federation (federacy), provides the Kurds with essential protection of their culture, national identity as well as against economic exploitation.

Yet the Kurdistan leadership brings the concept of self-determination in their claim to sovereign statehood. The concept of self-determination cannot be fully reclaimed in our case because it is not applicable to the conditions the Kurds live within the Iraqi federation, and because federal systems, according to federal studies literature, already offer ‘local self-determination’ by granting significant autonomy that allows to exercise self-governance, protect their culture and identity and be immune from economic exploitation.

Even though the desire to break away from the Iraqi federation driven by the highly normative concept of unrealized nation-state, should have united the Kurds, they face many problems within the region: severe disunity even over the issue of independence, lack of legal framework to organize and conduct a referendum, and obviously, strong opposition from the international community to the recognition of a Kurdish sovereign state on the ashes of the Iraqi federation. First, their immediate powerful neighbors with their own Kurdish populations, such as Turkey and Iran adamantly oppose to Kurdish independence; second, the global powers remains in favor of the territorial integrity of the Iraqi state and do not want to add to the current bedlam in the Middle East.

REFERENCES


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