



## Feasibility study of Iraq' decomposition and its effects on the region

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### **ABSTRACT**

According to the Iraq's first constitutional law (approved 2005), Iraq is an independent with sovereignty and its governmental structure is parliamentary democratic republic and federal. Even in reforms in 2009, this article of law did not changed at all. But considering the existence of this emphasis and clarity which is mentioned in the law, different and sometimes contradictory interpretations and positions are expressed about federalism in the way that we can say, considering the importance of the matter, federalism is a focus point to create and expansion of the cold war among leaders of different groups of the country. Iraq's today political and security position has granted the suitable opportunity to Iraq's Kurdistan in appearing of the recent security crisis to increase its share from the central political power or to achieve to its independent dream. The federalism the weakest point of Iraq's territorial integrity in a way that if different groups do not come to a consensus about it and do not think about a mechanism which is accepted by all of them, this can effect on and Iraq's political stability and security. Iraq's Kurdistan follows the option of disintegration and separation under the shadow of political and security changes, even with existence of some Iraqi groups' hopes regarding the improvement of situation after parliament election and also considering Masoud Barezani's power will for separation from Iraq as well as regarding special international changes and disintegration of Karime from Ukraine and ISIS crises; concerns have been created among regional and international powers and interior players. In this article, a paradox due constitutional law about federalism, Iraq's central government view and its politicians to the matter and the regional effect of this action on region's geopolitics are reviewed too.

### **Keyword:**

Constitutional law,  
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## INTRODUCTION

Critical thinking has gained widespread popularity in recent decades. According to Bracken, Brown, and Feng (2009) the Impersonating in new Iraq can be evaluated from four aspects: race, nationality, civilization and religion: these four aspects play different roles. The answer to the question that which of these aspects or a mixture of them will establish to base of Iraq's future identity, is highly related to this question that is the future Iraq a combination from "race and religion" or a mixture of "civilization and nationality". Totally, there are two ideas about future Iraq; the first idea believes that if the future Iraq will have a new face from national –civil identity, it will be completely different from an Iraq which has racial- religious identity. In reality, the prediction for future of Iraq is related to separation of these two ideas. If this is a national-civil identity, the subject of nation-making and the government-making is presented more seriously. But if the identity is racial and religious, the different literature and the prospect must be presented for it. The second idea says that there is no exact definition for racial-religious indentify in political sociology science (Asadi, 2007). In recent centuries, the countries are defined based on national-civil identity in international system. The concept of nationality is combined to civilization and created such an interpretation. The formation of racial-religious identity in future Iraq can create the new concept and identity in Middle East. It is necessary for changing Iraq to a sample government in the greater Middle East plan to establish stability in the country and being successful in the process of government-making that the contexture of tribal government can violate it potentially. In this country, as always, the feeling of belonging to a race is stronger to a feeling of belonging to a geographical unit and the nation which forms making government-nation and this factor has been the offspring of conflict and differences in ideas among dissimilar racial and political groups.

Iraqi's groups' basic dissention is related to their immense principles and fundamental views about government-making and nation in the country and the matter creates problems for establishing reconciliation and agreement among them to create a legitimate political system. Kurd groups have chosen their main priority to create a federal and autonomous region in the north that its capital is Kirkuk and they make use of their share and role in the central government to achieve the goal. It when the Arab Sunnites are dissatisfied from creating a military and democratic system and decreasing their power severely and are trying to make changes and the Sunnites' resistance against new political structure is continuous. The main obstacle in this country for establishing the legitimate political foundations and starting the political accord is the racial-sectional gaps and as a result, different goals and benefits and even Shiites, Sunnites and Kurds groups and naturally, the views of the groups are not the same and coherent to the federalism subject.(smith, 1995)

### Constitutional Law Policy:

Having a quick glance to the country's constitutional law, we will find the constitutional law supports that the country becomes provincial and establishing a federal state. According to article 116 of constitutional law, Iraq federal government is consisting of capital, states, provinces out of

the center and local offices. The article 117 of constitutional law also emphasizes on accepting a new state according to the constitutional law regarding all legal process in addition to Kurdistan district as a legal and accepted province. But in a more distinct way, the article 119 of Iraq constitutional law, disputes and interprets the method of establishing a new province. According to the legal article, one or more (some) province(s), having the necessary situations for requesting a referendum, are legitimate to establish a new province and can present their request in one of two following ways:

- a- The request of one third of members of the province political council who want the establishment of a province.
- b- The request of one tenth of participants in the province's -provinces'- election who want the establishment of a province.

According to Iraq's constitutional law, the providences can establish a federal system together. (*Iraq constitutional law*) When approving the constitutional law, Kurdistan district has been accepted as a federal district, but there are severe differences about other districts. Sunnites disagree establishing a new federal district strongly, but there are three main views among Shiites. SADRION wants a consolidated Iraq and but not establishing Shiites federalism. The High Parliament is wishful for establishing a consolidated Shiites district. The third view wants that three separated Shiites districts are created. The other subject in the frame of federal system is the boundaries of Kurdistan district. Kurds believe that the present borders of the district are the minimum and must be extended to the more expanded region like Kirkuk. There are also three main views among Shiites about Kirkuk: cession of Kirkuk as they are confederated with Kurds, disagreeing with Kirkuk's cession and cession of Kirkuk with the least subsequent affairs like negation of oil advantages. The Kirkuk subject can be changed to the most controversial dispute in Iraq. The presence of various racial-religious groups in the city and the Iraq's neighbors' sensitiveness' like turkey, Iran and Syria to this subject has changed the issue from an interior subject to a regional challenge. The results of the recent election show Kurds in Kirkuk are in majority and there is the high probability of its affiliation to the Kurdistan district, if the forecasted process in the article 113 of constitutional law is implemented. Although probable challenges and the will of most players in the field especially America, can cause the continuation of current situation for transferring the crisis to the future or its regulation. (Moradi, 2011)

### Kurds, Federalism and Disintegration

Federalism, from the Latin root of **feuds** or **federation** means unity or agreement, is a political concept in which a group of units (states, provinces, countries, nations and ...) are united and a central government is as their representative. The phrase federalism also is used to describe a governmental system in which the right of governing is divided between the central governmental power and it's forming political units (states or provinces). Countries with federal structure, generally during their primarily formation and establishing or uniting of some regions have been formed in the same method like Germany

(unity of east and west), or U.S.A. or has been formed in this way during reformation like post war or post collapsing (Iraq and Russia). (Kincaid, 2002) In fact, no consolidated and existing country in the international scene has changed its governing system to a federal system to support races' presence or democratizing the country's structure. Furthermore enhancing the level of presenting services to provinces is not counted as federalism. The governmental system of federal is presented to attract the nations, states and autonomous minorities' interests for predigesting of forming a new country or constancy and continuance of a reconstructed country or unity of some nations with each others. Federalism is not as evidenced by democratization, but it is one of the various models of governing a country in the world. One of the worst kinds of federalism is the racial federalism which is for a multinationals country and its result is nothing more than creating sequester. In federal system, each region must be living according to its economical power, culture and especial identity, separated but in the frame of a country and it will lead to interior challenges as the result of inequalities between different regional and geographical situation. (Forsyth, 1989) Iraq has been witnessed a fundamental metastasis in its law and governing system after 2003 and Saddam's falling down.

The Kurdistan district government disputes are with the central government. The subjects like Kirkuk and implementation of the article 140 of Iraq's constitutional law, the issue of received budget by Kurdistan district from central government, the budget of the guardian forces of Kurdistan districts (Pishmarge), and the subject of Kurdistan district oil treaty with international great companies are the most important disputes of Kurdistan district with central government. Kurds name Kirkuk with epithets like HEART OF KURDISTAN and KURDISTAN QUDS and are insisting on implementation of 140 article of Iraq's constitutional law and followed by attaching Kirkuk to Kurdistan district. More than Maleki, Turkmen know Kirkuk as their main port for their settlement and express political-moral reasoning in relation to the right of governing Kirkuk. (Kakaee, 2014)

It is bravely can be said Kirkuk and its surrounding issues can define the political future of Iraq. Although the article 140 of Iraq's constitutional law antedated clearly the political solution and approved a law about it, but not implementing the article to its date which was 2007 and even, more than that, until now (2014), cannot be an accident or as the result of a especial team or group's obstruction. But the important issue is that Kirkuk has different importance and complexity in various aspects which its result is that no public will can be achieved. Kirkuk, above all reasoning which want the opposing of the autonomous will on it, has in its own essence the role of a player. In the more exact words, being important in the geopolitical and geo-economical levels is concentrated by all wings as well as complexity in player level and its population structure which is often neglected by some wings knowingly; Kirkuk needs a horizontal or peer analysis or interpretation. It means that the players and their documentations must be considered in the same width and equal, and not in the length. In other words, they must not be considered above others' sayings. (Bahrami, 2014)

In fact, Federalism instead of formidability of Iraqi existence and nature, practically serves the eccentricity

forces and this is true that historical background, geographical situation and some economical situation like availability of oil resources, have created the idea and believing that the Kurds, who lived in the area of an autonomy from early 90s decade until now, have done the homework of separation from central government in Iraq practically. The subject that these days are seen as the incompatibility between high ranking managers in Baghdad and Arbil is that the Kurds are not defining themselves with the separated flag, language and hand writing in an epopee which is called Iraq. When you are inside a federalist structure, you cannot define your subject and existence based on the something not related to the central government. Absolutely the matter leads to the way that the eccentricity will be more active day by day and finally, a probable separation or an unwanted interior conflict. (Khobroyapak, 1998) The point is that Maleki's view to federalism is fundamentally different with the Barezani's view to federalism. In Malki's, Aldava's group's and his team's view in coalition of united Iraq, federalism is the end of political interactions in Iraq; but Barezani looks to federalism as a passing time and the problem here is that the Kurds are pessimistic the same existing federalism and believe the authority of the central government will be decreased when the central government takes power in the not a far future and will be changed to a passive province and its trenchant decisions will be taken and put into operation by Baghdad. Therefore, this is why they see federalism as only a passing time. (Moradi, same)

#### **Recent political-security crisis:**

The Iraq government is faces with much security, political and economical challenges and every time one of these challenges appears as a great crisis on the way of Iraq government and nation. Before the recent security crises, Iraq was faced an expanded political crisis. The Iraq president's illness (Mr. Jalal Talibani) and reducing of his role in regulating of Iraq interior equation, increased opposition of Kurds and Shiite groups to the government activities, oppositions of the sources of imitation and other Shiite groups in relation to the Maleki's government activities, holding controversial elections and widespread dissatisfactions of parties, groups and others, have faced Maleki government with a deep crisis. These situations besides other unfavorable economical situations especially in Sunnite provinces as well as the continuation of Syria crisis and the conflicts of central government with Kurdistan district prepare the area for appearing and activity of opponent groups in Iraq and opening a new security case. Therefore, at the end of 2013, security crises have been started in Ramadu and Faloje. In 2014 (January), the Iraq army retreated following the clashes between Iraq government and Sunnite oppositions in Faloje and ISIS, using the opportunity, seized some part of Faloje and Ramadi. The crisis was finished by the interference of Iraq government and army, Alsahve tribes and military forces to recapture of Faloje and Ramadi. But the process was the starting point for Iraq new crisis in June. ISIS and some related to Bath regime and Saddam and Alsahve tribe marched toward Baghdad by seizing Mosel, a great part of Neynava and Alanbar provinces and Salahodin (Mosel). The role of survivors of Bathi regime in accompanying the ISIS and their opportunism in this situation is clear. But the Wakeup Councils (Alsahve) which were counted against

Alghaede and united jihadist groups of Iraq government previously, now following lose of political process in Iraq, has opened a new frontier against central government and with their silence or relative accompanying ISIS, created hard situation for Iraq central government.

Iraq army has acted passively in clash with opposing groups because of the complex situation in Sunnite provinces and historical and identity of the people of this region effect on army (in Bathi regime time), exhaustion of the army and police as continuous operations especially during the last year, relative equality in using the modern facilities by ISIS and Iraq army and not having a coherent operational program and skilled commanders. Therefore it seems that the Iraq army not only cannot resist the opposing flows, but also causes the promotion in opposing marching finally. Then, in following the reform in the commanding system of army, Maleki has asked America and its allies to reinforce the army. On the other side, considering that all moderate Sunnite flows and approximately most of the Shiite groups and parties feel danger in relation to Iraq security situation, they tried to protect the march of opposition flows by mobilizing the forces and government's support (the spite of severe differences). The effective presence of sources of imitates, religious and national elites and all the Iraq people especially in central and southern provinces is the clearest example of the claim. But the preservation of the present created excitement and enjoying it by the government is the hard task especially when Maleki has shown, even in the hard situation, is not ready to grant advantages to other groups. (*Baldji, 2006*)

On the other hand, Iraq Kurdistan district has benefitted the most from present crisis and has added more complexity to the situation by seizing the Kirkuk. Until this oil center was a part of Iraq, Kurds knew their independence negative, but now the condition is changed. If Iraq becomes more unstable, Iraq Kurdistan will move toward independence at the same level. (*Bahrami, same*)

It is sometimes that Kurdistan district has started some gradual actions to achieve the complete independence and regarding the condition of these days of Iraq, it does it with more speed and severity. Political Relations and interactions which are independent from central government have clearly been more appearing in foreign relations and they are trying to draw international society's attentions to their actions for confirming them. But the actions of this district are not confirmed by effective regional and international powers and West does not agree to Iraq division and the powerful countries of the region like Russia withhold the selling of armament to the district. (*Kakaee, same*) The important action, after trying to get the international approve, is achieving some regions in Iraq to increasing the political and economical power. Seizing of some cities and enjoying their economical resources can be seen as an important reason of this decision. Barezani and the Kurds who are under his command, knowing the conditions they are in it as a result of the intension with central government as well as not having the absolute support from outside, are trying to increase their haggling power in political future of this country. Now they are following the strategy with sectional supports and based on the situations of countries like Turkey, Saudi Arabia and Qatar. Barezani has this hope

that if an independent government is not formed, his present actions will increase the haggling power with central government, which probably he has been promised that is not Maleki. Some actions have been done to increase the power of north district by Barezani and at the same time, some actions also have been taken to weaken the central government and as they are coordinated with West's policies, have the positive result in accompanying with them. The Iraq recent security crisis and the attack of DAESH terrorist group have somehow created a suitable base for the district and its authority to show their hopes more clearly. Masoud Brezani, the head of Kurdistan district in an interview with CNN (24 JUN 2014) knew Nori Maleki, Iraq prime minister the responsible for present crisis situation in Iraq, as he is the head of army, and wanted his resignation.

Barezani said about the current situation in Iraq: "Iraq is clearly disintegrating. The federal government has lost the control on everything and everything is collapsing: army, armed force and police. We are not responsible for Iraq collapsing and others are."

He said about the future of Kurdistan Iraq: "now it is the time for Kurdistan people to decide about the fate in the future and whatever it is, we support it. If understanding between Shiites and Sunnites as well as real contribution in power has been guaranteed, it is possible, but the situation is very complex and the one who is responsible must leave."

Barezani named America as Kurds' real friend and said: "United States was a real friend and Kurds have shown that they are adequate for the friendship. The success of Kurdistan region is the only fruit which was as the result of America policy. America has created the opportunities for all Iraqis to create a federal, pluralism and democrat country, but others cannot use the opportunity."

Barezani said about Kirkuk siege: "we were never in doubt that Kirkuk is a part of Kurdistan. In ten years we were waiting for implementation of the article 140, but we have not seen any serious action about it by government and as we are witness new changes in Iraq, and this has created new situation for returning the Kirkuk to Kurdistan."

About holding a referendum on Kirkuk, he said: "we did not hold a referendum yet, but we will do that and anything that people decides, we will accept even if they reject having an independent Kurdistan country." On the other hand, Kak Amin Najar, the head of Iraq democrat Kurdistan leadership council while pointing that Kurdistan district is able to defend its border against ISIS threats, emphasized we do not have any problem with ISIS. He believes that preventing Iraq from disintegration is only possible when a public government comes to power which all tribes' policies will be crystallized in it and only in this case, we can expect that Iraq is prevented from separation. ([www.cnn.com/2014/06/24](http://www.cnn.com/2014/06/24))

The secession of the Kurdish Autonomous Region from the Iraqi state increasingly appears to be a matter of when, not if. It is already essentially de facto independent, as the Kurds conduct their own foreign policy and trade deals from their capital in Erbil with little regard for Baghdad's wishes. It is therefore unsurprising that early last month, Massoud Barzani, the President of Iraqi Kurdistan, reiterated calls he previously made in 2014 for a referendum on the

independence of Kurdistan. While there are no immediate plans for actually carrying out such a referendum, it is worth considering the impact that an independent Kurdish state will have on the Middle East.

#### Short-run effects

The formal independence of Iraqi Kurdistan would effectively signal the end of a unified Iraq. Since the ouster of Saddam Hussein, Iraq's Sunnis have been worried that they would be dominated by the Shia population. These fears intensified under former Prime Minister Nouri al-Maliki, who sought to secure power for his Shia party, and the resultant friction directly contributed to the defection of many Sunni leaders to the Islamic State in 2014.

An independent Kurdistan would overwhelmingly shift the population balance inside Iraq in favor of the Shia, making reconciliation with the Sunnis next to impossible. Short of a massive and unending occupation of the Sunni provinces, it is unlikely that Baghdad would be able to control Western Iraq, leading to the breakup of Iraq in all but name.

Similarly, the independence of Iraqi Kurdistan is likely to inspire other Kurdish groups in the region which are seeking independence. This would probably lead to an intensification of the violence in southeastern Turkey, although it is unlikely that this heightened violence would succeed in taking and holding territory due to the strength of the Turkish state and military.

More important would be the effects in Syria, where the Kurdish PYG militia has carved out an autonomous enclave in the northeast of the country. The independence of their Iraqi brethren would likely encourage the Syrian Kurds to fight on for formal independence as well, thereby lengthening the Syrian Civil War and helping to prevent a negotiated reunification of that country.

Finally, it should also be noted that a full entrance onto the international stage will not solve Kurdistan's historic domestic divisions. The Kurdish Autonomous Region is split between two parties, who control different areas and maintain separate peshmerga militias, and who fought what amounted to a civil war during the mid-1990s. While these two parties are currently in coalition as the government of the KRG, they are facing resistance from the Gorran opposition movement, which has staged protests over government corruption and President's Masoud Barzani's utilization of the fight against ISIS to justify extending his term by mandate.

#### A longer-term view

In the long run, the real question is how the Kurds will align themselves regionally. While Erbil and Ankara have maintained good relations in recent years, Turkey's ongoing and historic problems accommodating its Kurdish population will make these relations hard to maintain indefinitely. This is especially true given the resumption of violence between the PKK and Turkey, which could serve to inflame Iraqi Kurdish sentiment against Turkey.

The other potential regional partner for the Kurds would be Iran. Aligning with Iran would not require the same sort of historical blinders as an alliance with Turkey, as the Iranian Kurdish population is much smaller and better accommodated than the Kurds in Turkey. To be sure, there has been occasional violence between Kurdish separatist groups and the Iranian state, but these clashes are inconsequential when contrasted with the decades-long

struggle between the PKK and Turkey, which has cost upwards of 30,000 lives.

These systemic factors will likely slowly drive Iraqi Kurdistan and Iran closer. Iran already has a fairly positive relationship with Kurdistan – it maintains two consulates in the region, and enjoys a fair amount of trade with Erbil. Presently, any further improvement in relations is somewhat undercut by Iran's support for the Iraqi government. However, following a Kurdish declaration of independence, this support would cease to be an obstacle, paving the way for closer relations with Tehran.

An alliance with Iran would benefit both parties. The Iraqi Kurds have been one of the most effective groups in combating the Islamic State, and would be valuable allies to Iran. For its part, Iran has repeatedly demonstrated its willingness to use foreign aid to reward its regional allies, which would be especially attractive if continued low oil prices perpetuate the current Kurdish budget shortfalls. This sort of working relationship has already started, as Iran was able to provide the Kurds with additional weaponry to fight ISIS in 2014.

It may seem strange for the Kurds to abandon a decades-old arrangement with the US to work with Iran, but it is important to remember that the historic cooperation between Iraqi Kurds and US has primarily been based on coincidental shared interests. US military aid during the Cold War waxed and waned relative to the fears of Soviet influence in Iraq.

Iraqi Kurdistan is relatively less important to the United States than it is to Iran, as the former has a host of other regional allies to call upon and is preoccupied by the need to confront other pressing problems around the world. As such, Iran should be able to provide more support to Kurdistan than the United States. Given these changes in regional geopolitical dynamics, it would be strange if the Kurdish Regional Government did not re-evaluate its priorities post-independence, and ultimately move closer to Iran.

Thus, while Kurdish independence sometime in the near future seems likely, it is unlikely to result in a more stable Middle East. An independent Kurdistan will precipitate instability domestically and regionally in both the short and long terms, by making extant states untenable and altering long-standing alliances.

#### **Deduction:**

In countries that we see structural plurality like religion, race or language, federalism is considered as the solution for these societies problems. Regarding that Iraq is a multiple religion and multiple racial country and according to Saddam's oppositions summits and also based on the statement of Iraq provisional government council and provisional and permanent constitutional law, has chosen federalism as a the type of future government for itself, but as choosing federalism and democracy for Iraq future system has many problems for the other countries in the region, therefore they react to it. Among them, Arab countries from one hand, are concerned about Domino effects of democracy in Iraq on their countries and from the other hand, they knew federalism as the factor of Iraq separation and believe that Kurds reaching to power in a federal system, scratch the Iraq Arabic identity. The new law has prepared the possibilities for all Iraqis that can create other districts in this country, besides Kurdistan district, but this is due to two third of that region people's

votes. But the very important point in this law is that Iraq army, which Kurds do not have good memory about it, can only enter to Iraq Kurdistan by the allowance of the local parliament. But the opportunities that the law has gifted to Kurds have affected Kurds and Iraqis' view and action in two ways. The Shiites, who have a great role in writing the constitutional law in accompanying with Kurds, today double their attempts to bring some reform in the law and especially that the Kurdistan district's authorities are decreased. In contrary side, Sunnites, who were objecting the law seriously in the past, are trying to use the affairs to establish Sunnites district and in this path, they usually name Kurdistan district as a good model. As Kurds have different views about future of the district, also consider the central government with different views.

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