

# *The paths to peace in Post-Islamic-State Iraq*

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Saeed Bagheri

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# The Paths to Peace in the Post-Islamic State Iraq

SAEED BAGHERI

Considering the complexity of the political situation in postwar societies and the relationships between the central and regional governments or other groups such as non-state actors, the aspirations of all these groups to ensure their own political and economic interests in a postwar political environment is inevitable. Yet, ensuring the political interests of all the political entities in regions such as Iraq, which has encompassed a large portion of energy resources, is not readily available within the context of the complicated war to peace transition process. Importantly, political regimes in postwar societies will undergo a significant process of political alteration to promote political stability.

In these countries, the various complexities including political, economic, social, and cultural rights violations and disagreements between the central government and other political entities over energy resources management may preclude peace-building in postwar societies, defined in the 1992 Agenda for Peace as an “action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict.” Accordingly, the last postwar peace-building experiences indicate that peace is likely to be lasting only if the security needs of the population are addressed in parallel with the political and socio-economic aspects of postwar reconstruction.

Countries in a postwar situation such as Iraq, with considerable high-value natural resources, generally face a very complicated situation concerning energy resource management because of constraints relating to a recurrence of conflict. Ensuring stability and a peaceful environment in these societies necessitates peace-building efforts and the establishment of an effective and dominant governance through stabilizing fragile peace arrangements and strengthening weak structures of social and constitutional order in postwar societies.

Considering these reasons, postwar policies to build and keep peace in post-Islamic State Iraq need to come into prominence. In this respect, the

responsibility of the Iraqi central government and the Kurdish Regional Government (KRG) in the effective management of energy resources, transparency, and a fair share of the Iraqi national budget, would be considered the primary pathways to establish a peaceful environment in the country.

As an ethnically diverse country whose economy is dominated by oil reserves, Iraq's energy resources have frequently been subject to conflicts due to mismanagement and unfair distribution. Because armed conflicts often weaken the institutional capacities of postwar societies in which there is no governmental authority to control the national economy effectively, an "effective management" based on transparency and fair distribution (wealth-sharing) is the foremost pathway in the transition toward peace that constitutes the main priority of postwar societies.

As pointed out by Human Rights Watch, "if energy resource revenues are managed properly, a postwar Iraq could become a model for other petroleum economies, proving that it is possible to benefit from oil wealth without sacrificing human rights, democratic freedoms, or fueling massive corruption." Effective management, however, is achieved when it is integrated based on the collaboration among stakeholders and transparency in production and export records, and explicit objectives in maintaining a sustainable economy.

In the case of post-Islamic State Iraq, in which energy resources have frequently been the subject of disagreements and conflicts, the potential for destabilization is particularly high because Iraqi oil is located in regions dominated by Kurdish and Shiite populations, underlining the need for oil management to be part of broader political integration efforts. Therefore, a collaboration between the KRG and the central government of Iraq is a primary requirement to achieve sustainable peace, along with making decisions on economic policies by taking peace building and peace-keeping necessities into consideration. In such a case, making policy decisions in other areas would happen by recognizing the importance of economic sustainability in the longer run. In other words, for peace-building and peacekeeping to succeed in a postwar society it is critical that energy resources must be managed and used sustainably to support stability and development in the long-term. For this, transparency in exploitation, production, and sharing by the central government of Iraq and the KRG are the preconditions to achieve these long-term objectives.

The above-mentioned objectives will not be achieved, however, unless the central government's nature changes from an authoritarian, violent, oppressive, and exclusionary regime to a less authoritarian, less violent and exclusionary regime, which is more tolerant toward the other political entities in the Iraqi political system. At the same time, political entities such as the KRG must be restrained within the context of a new

84 political and democratic constitutional order as the primary support of the  
85 transition from war to peace and the builder of the new political regime.  
86 This will reduce the risk of new conflicts through the regulation of the  
87 division and balance of power among the central and federal/regional gov-  
88 ernment. In other words, building peace and democracy in a postwar fed-  
89 eral society depends on new rules that ensure equality and protect the  
90 core rights of citizens from potential violations.

91 The new order would serve these long-term objectives if it recog-  
92 nizes the new political and legal institutions that incur responsibility for  
93 the past constitutional and human rights violations and also identify the  
94 authorities who may make decisions about policies in the transition from  
95 war to peace and postwar reconstruction. In a sense, assuming federalism  
96 as a recipe for heterogeneous societies, including a very diverse popula-  
97 tion with different ethnicities, cultural backgrounds, sexes or ages, federal  
98 political arrangements have been devised to address the needs and  
99 demands of sub-national groups and regions of dispersed and national  
100 minorities. For these very reasons, conflict resolution, ensuring peaceful  
101 settlements, promoting dialogue, building peaceful road-maps, and  
102 encouraging inclusive democracy—resulting in recognition of diversity  
103 and equality as the source of strength and integration rather than the  
104 source of conflict and division—form the basis of federalism.

106 **T**his does not mean that federalism and autonomy are methods of conflict  
107 resolution. Considering the particular case of Iraqi Kurdistan—an  
108 autonomous region recognized by the Iraqi 2005 Constitution—it can be  
109 argued that autonomy was, generally, the basis of demands for secessionism,  
110 which triggered armed conflict between the central government and the  
111 autonomous government. Evidence shows that these types of conflicts are  
112 the most prevalent conflicts in areas that cover a large portion of energy  
113 resources, thanks to the mismanagement of the energy resources and reve-  
114 nues. That is to say, the lack of transparency in exploitation and production  
115 in these societies would preclude the peace-building process. Accordingly,  
116 the creation of an enabling peace-building environment in these societies  
117 would be contingent on sharing details on international and regional energy  
118 deals and fair sharing of energy resources and revenues by the central and  
119 regional government's institutions regardless of political aspirations, ethnic  
120 and religious identity and social background of the population.

122 Accountability by the authorities of the central and regional govern-  
123 ments for the past constitutional and human rights violations can be cate-  
124 gorized as a core strategy to expedite the peace-building process in  
125 postwar societies. Arguably, a government that cuts the entire budget of a  
126 group of its citizens is committing a human rights violation. In the case of

the constitutionally recognized autonomous region, all peoples of these regions have the right to freely determine their political status and pursue their economic, social and cultural development, as provided in Article 1(1) of the International Covenant on Civil and Political Rights. Accordingly, the political oppression and large-scale violations of the human rights of people or groups, through preventing them access to the national budget, allows dependent peoples to claim independence from their former masters where there are widespread human rights violations and political discrimination. In this regard, the cutting of the entire budget of the autonomous region of Kurdistan by the central government of Iraq designates a violation of the fundamental human rights of the Kurdish people, denying them political power in the country and their own regional government. After the constitutional violations of the central government, raising the Kurdish people's aspiration to hold a referendum as part of the fundamental right to self-determination seems inevitable.

On the other hand, assuming that transparency in government operations is an important precondition for macroeconomic, fiscal sustainability, good governance, and overall fiscal rectitude, non-transparency of the KRG in the making and application of the regional government's policies and operations, including regional and international energy deals in violation of the Iraqi constitutional rules regulated by Article 110, has driven a wedge between the KRG and Baghdad. According to Article 110, formulating foreign policy and diplomatic representation, negotiating, signing, and ratifying international treaties and agreements, negotiating, signing, and ratifying debt policies and formulating foreign sovereign economic and trade policy are exclusive authorities of the federal government. It is not difficult to argue, however, that the lack of transparency in making decisions and distribution of the resources can be easily found in the countries with economies in transition that have recently evolved into a federation.

Taking into consideration the constitutional values and norms of Iraqi society, the central and regional governments are responsible for the violation and infringement of the interests of their citizens. Bearing in mind that the central government is the primarily responsible authority to promote and protect its citizens' human rights, while the regional government has only a complementary role to play, a State may delegate implementation thereof to lower tiers of government, including regional authorities, upon ratifying international human rights treaties. In order to establish procedures and controls to ensure the State's human rights obligations at the regional level, regional authorities might need the necessary power and financial resources.

In the Iraqi case, therefore, non-transparency in the energy industry and policy, and preventing a certain group of people from access to the national budget, are constitutional violations. These violations have contributed to the reemergence of cultural and national tensions between the KRG and Baghdad, which are directly attributable to the KRG and Iraqi central government since it is the responsibility of government to protect the fundamental human rights of its citizens. It should be kept in mind, however, that the adequate implementation of economic, social, and cultural rights by the regional government's authorities requires financial resources that are not available everywhere.

For this very reason, cutting and denying the regional government's proceeds to the energy resources in the postwar society of Iraq could be regarded as blatantly violating its obligation in protecting the international human rights of Iraqi citizens at a national and regional level. Whatever powers are conferred on a regional government, they would not be effective in protecting constitutional and human rights if no financial resources were available to carry them out. Accordingly, the level of implementation of the constitutional and human rights obligations of the State depends on closer interaction and institutionalized cooperation on human rights between the central and regional governments.

Establishing a new political and democratic constitutional order to eliminate monopoly power, reduce the risk of new conflicts, and restrain the uncontrolled behavior of political entities would be a milestone in changing the Iraqi government's nature from an authoritarian, violent, oppressive and exclusionary regime to a less authoritarian, less violent regime with more tolerance toward all people from different ethnic, religious, and cultural backgrounds and other political entities in the Iraqi political system. Within the context of the new order, officials must be subject to accountability and to the rule of law.

Importantly, the new political and democratic constitutional order does require identification of the authorities and allocation of specific responsibilities and powers to make decisions about the transition from war to peace and the postwar reconstruction. In addition to the role of political entities at this stage, giving particular attention to ethnic, gender, and religious diversity and including all minority groups in political and public life will ensure precious opportunities for their involvement in decision-making processes in a postwar society. For example, in postwar societies such as Iraq, no major social roles are available to women; Iraq is an ethnically divided region in which women and minorities are considered central for the consolidation of peace. In reality, strengthening the capacity of women's organizations has a multiplying effect in securing improved observance of human rights and the rule of law.



After the fall of Saddam Hussein in 2003, the Iraqi Constitution recognized an autonomous Kurdistan region in northern Iraq, run by the KRG; Iraqi Kurdistan constitutes the three regions of Erbil, Dohuk, and Sulaymaniyah in line with Iraqi Kurds' aspiration to independence. As the first democratic, secular, and federal system in Iraqi political history, the new constitution provided that Kurdish minorities would be able to maintain their political, economic, and social rights and interests in the autonomous region, which shared power with the central government in Baghdad.

Although the rule of law and ethnic equality is planned and guaranteed by the Iraqi Constitution in Article 14, its effective implementation has not been clear either before or after the Islamic State war. Constitutional and legal equality encourages cooperation between the groups where individual accountability and the quest for a comprehensive understanding of the past allows for peace and reconciliation between them.

The evidence shows that the Iraqi Kurds were opposed to holding a referendum in Kirkuk within the context of 140(2) of the Iraqi Constitution, which seeks a normalization for Iraqi ethnic groups where it has required that:

The responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law shall extend and continue to the executive authority elected in accordance with this Constitution, provided that it accomplishes completely normalization and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31<sup>st</sup> of December 2007.

The Iraqi Kurds also lost their political power in the country and the regional government after the central government cut KRG's entire budget. The mentioned abuses and injustices against the KRG triggered increasing disagreements and new conflicts between the two sides and therefore affected the transition toward peace after the Islamic State war. In this case, it seems that a democratic constitutional order approving the fundamental rights of the ethnic groups based on ethnic equality—a positive sense of ethnic identity—would be the crucial pathway in the transition to peace in a postwar Iraq.

As indicated by Article 1(1) of the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, achieving such an objective in States depends on protecting the existence and the national or ethnic, cultural, religious, and linguistic identity of minorities within their respective territories through the adoption of appropriate legislative and other measures (Article 1/2), including

the planning and implementation of national policies and programs to promote the possibility of the full participation of minorities and ethnic groups in social, political and economic progress and development in their country without any form of discrimination (Articles 4-7). This is a strong basis and prerequisite of democracy that “requires that important decisions be made only after the wide participation of the public and deliberate procedures which assure respect for law and freedom of criticism before and after the decision is made.”

Bearing in mind that Iraq’s oil reserves have been frequently subject, before and during the Islamic State war, to abuse and corruption, the most effective steps to be taken toward the transition to peace and peace-building and the peace-keeping process would be: to provide a space for the speedy diplomatic negotiation of a more lasting agreement; to support negotiations concerning the effective implementation of the Iraqi Constitution, or re-negotiation of the constitutional reforms; to create a new political and constitutional order respectful of justice and fair sharing of resources based on the principle of equality.

The effective management of diversity based on the adoption and recognition of ethnic identities regardless of their culture, religion, and language would be attainable through a new democratic constitutional order that provides a balance between the powers of the central and regional government. This would mean approving the fundamental rights of ethnic groups based on the principle of equality; the planning and implementation of substantial and effective national policies to ensure the full participation of minorities and ethnic groups in the social, political, and economic progress and development without any form of discrimination; the application of Article 20 of the Iraqi Constitution in which the right to participation in public affairs and enjoying political rights including the right to vote, elect, and run for office are the requirements of citizenship.

The constitutional balance between shared rule through participation of the regional governments in the decision-making procedure of the central government and self-rule or making decisions on policies, legislation or raising taxes under their own regional parliaments is the essence of a federal political regime and, therefore, denying these principles would trigger ethnic conflicts, communal tensions and the massive exploitation of mandate obtained on various occasions. As Elazar argues, the constitutional balance and combination of shared rule and self-rule have demonstrable utility in peacemaking. The combination of self-rule and shared rule in the postwar society of Iraq would ensure the equality, diversity management, and the rule of law as a prerequisite for sharing the power

to manage the peacebuilding process. In this sense, constitutional and legal equality would encourage cooperation between the central and regional government in Iraqi society in which accountability for the past constitutional and human rights violations and abuses allows for reconciliation and transition to peace in Iraqi society. In other words, peace-building and peace-making operations must come to include efforts to protect human rights, equality, and rule of law through reforming or strengthening the political and constitutional order.

The transition from war to peace in northern Iraq, in which the Islamic State war triggered the dispute over the oil-rich city of Kirkuk between the KRG and Baghdad, requires analyzing the aspirations of the Islamic State, including their attempts to capture the energy resources in northern Iraq. By analyzing the Islamic State war in Iraq in terms of how it has created the grounds for increasing tensions between the Kurds and the Iraqi central government, this essay seeks more effective pathways to peacebuilding and peacekeeping in the region based on regional conditions including energy resources. Therefore, the study contributes to war to peace transition settings in a conflict-affected Iraq after the Islamic State era. Within this particular context, the first indication from this analysis is that the Islamic State war carries crucial pros and cons for the KRG. In this respect, this study examines a unique relationship between the Islamic State war and the KRG's accomplishment in holding an independence referendum as a constitutional right, which had not happened before. In a sense, the Islamic State war gave the KRG economic leverage, which motivated the KRG to take a concrete step toward establishing a Kurdish State, much against the wishes of the Iraqi central government. This is why peacebuilding and peacemaking in a conflict-affected post-Islamic State Iraq was gradually superseded by violence. Referring to the major reasons triggering the tensions between the Kurds and Baghdad, this study discusses what strategies might be addressed as the primary pathways toward a more sustainable peace in northern Iraq.

Putting all the various factors together, rebuilding the country and establishing a peaceful environment in Iraq after the devastating fight against Islamic State can be achieved through compromise based on the effective management of energy resources in Iraq, which are the country's primary source of revenue. As this essay has demonstrated, the transition from the war to peace in the postwar ethnically diverse societies where energy resources have frequently been subject to abuse and corruption, requires space for the speedy diplomatic negotiation of a more lasting agreement. The effective implementation of the constitutional norms or re-negotiation of the constitutional reforms to create a new political

and constitutional order, respectful of justice, and the fair share of the energy resources based on the principle of equality, would make a transition from war to peace accessible.

Social and economic stability in these societies will come through ensuring ethnic equality and diversity management. Spreading the rule of law and deepening respect for human rights are central to durable peace and security in postwar societies. Achieving these goals and maintaining peace and security within the postwar society of Iraq, under a federal system in which energy resources are the primary sources of government revenue, depends on exercising governance through a highly decentralized political system which comprises capabilities to balance the competing demands for democracy and unity in Iraqi society. This study explains how to avoid the main recurrences of the conflict, which is a major requirement of peacebuilding and peacekeeping in the postwar society of Iraq.

## Q1 RECOMMENDED READINGS

Bell, Christine. 2013. "Peace Settlements and International Law: From Lex Pacificatoria to Jus Post Bellum." In *Research Handbook on International Conflict and Security Law: Jus Ad Bellum, Jus in Bello and Jus Post Bellum*, edited by Nigel D. White and

Q2 Christian Henderson. Cheltenham: Edward Elgar.

Bruch, Carl, David Jensen, Mikiyasu Nakayama, Jon Unruh, Rebecca Gruby, and Ross Wolfarth. 2010. "Post-Conflict Peace Building and Natural Resources." *Yearbook of International Environmental Law* 20 (1).

Q3 DCAF Backgrounders. 2009. *Security Sector Reform in Post-Conflict Peacebuilding*. Geneva: Geneva Centre for the Democratic Control of Armed Forces.

Haufler, Virginia. 2007. "The Private Sector and Governance in Post-Conflict Societies." In *Governance in Post-Conflict Societies: Rebuilding Fragile States*, edited by Derick W. Brinkerhoff. London: Routledge.

Q4 Human Rights Watch. 2003. *Considerations for the Management of Oil on Iraq: A Human Rights Watch Background Briefing*. Washington, DC: Human Rights Watch.

Khan, Arshi. 2012. "Contesting Democratic Polities in the Interest of Federalism." *Journal of Studies on European Integration and Federalism*.

Q5 Kopits, George, and Jon Craig. 1998. *Transparency in Government Operations* (Occasional Paper). Washington DC: International Monetary Fund.

Q6 Watts, Izabela Pereira. 2016. "From War to Peace: When Democracy Prevails?" *Saint Louis University Public Law Review* 35.

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