

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

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

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

53 As pointed out by Human Rights Watch, "if energy resource reve-
54 nues are managed properly, a postwar Iraq could become a model for
55 other petroleum economies, proving that it is possible to benefit from oil
56 wealth without sacrificing human rights, democratic freedoms, or fueling
57 massive corruption." Effective management, however, is achieved when it
58 is integrated based on the collaboration among stakeholders and transpar-
59 ency in production and export records, and explicit objectives in maintain-
60 ing a sustainable economy.

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

77 The above-mentioned objectives will not be achieved, however,
78 unless the central government's nature changes from an authoritarian, vio-
79 lent, oppressive, and exclusionary regime to a less authoritarian, less vio-
80 lent and exclusionary regime, which is more tolerant toward the other
81 political entities in the Iraqi political system. At the same time, political
82 entities such as the KRG must be restrained within the context of a new
83

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

127 the constitutionally recognized autonomous region, all peoples of these
128 regions have the right to freely determine their political status and pursue
129 their economic, social and cultural development, as provided in Article
130 1(1) of the International Covenant on Civil and Political Rights.
131 Accordingly, the political oppression and large-scale violations of the
132 human rights of people or groups, through preventing them access to the
133 national budget, allows dependent peoples to claim independence from
134 their former masters where there are widespread human rights violations
135 and political discrimination. In this regard, the cutting of the entire budget
136 of the autonomous region of Kurdistan by the central government of Iraq
137 designates a violation of the fundamental human rights of the Kurdish
138 people, denying them political power in the country and their own
139 regional government. After the constitutional violations of the central gov-
140 ernment, raising the Kurdish people's aspiration to hold a referendum as
141 part of the fundamental right to self-determination seems inevitable.
142

143 **O**n the other hand, assuming that transparency in government opera-
144 tions is an important precondition for macroeconomic, fiscal sustain-
145 ability, good governance, and overall fiscal rectitude, non-transparency of
146 the KRG in the making and application of the regional government's poli-
147 cies and operations, including regional and international energy deals in
148 violation of the Iraqi constitutional rules regulated by Article 110, has
149 driven a wedge between the KRG and Baghdad. According to Article
150 110, formulating foreign policy and diplomatic representation, negotiat-
151 ing, signing, and ratifying international treaties and agreements, negotiat-
152 ing, signing, and ratifying debt policies and formulating foreign sovereign
153 economic and trade policy are exclusive authorities of the federal govern-
154 ment. It is not difficult to argue, however, that the lack of transparency in
155 making decisions and distribution of the resources can be easily found in
156 the countries with economies in transition that have recently evolved into
157 a federation.
158

159 Taking into consideration the constitutional values and norms of
160 Iraqi society, the central and regional governments are responsible for the
161 violation and infringement of the interests of their citizens. Bearing in
162 mind that the central government is the primarily responsible authority to
163 promote and protect its citizens' human rights, while the regional govern-
164 ment has only a complementary role to play, a State may delegate imple-
165 mentation thereof to lower tiers of government, including regional
166 authorities, upon ratifying international human rights treaties. In order to
167 establish procedures and controls to ensure the State's human rights obli-
168 gations at the regional level, regional authorities might need the necessary
169 power and financial resources.

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

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

189
190 **E**stablishing a new political and democratic constitutional order to
191 eliminate monopoly power, reduce the risk of new conflicts, and
192 restrain the uncontrolled behavior of political entities would be a mile-
193 stone in changing the Iraqi government's nature from an authoritarian,
194 violent, oppressive and exclusionary regime to a less authoritarian, less
195 violent regime with more tolerance toward all people from different eth-
196 nic, religious, and cultural backgrounds and other political entities in the
197 Iraqi political system. Within the context of the new order, officials must
198 be subject to accountability and to the rule of law.

199
200 Importantly, the new political and democratic constitutional order
201 does require identification of the authorities and allocation of specific
202 responsibilities and powers to make decisions about the transition from
203 war to peace and the postwar reconstruction. In addition to the role of pol-
204 itical entities at this stage, giving particular attention to ethnic, gender,
205 and religious diversity and including all minority groups in political and
206 public life will ensure precious opportunities for their involvement in
207 decision-making processes in a postwar society. For example, in postwar
208 societies such as Iraq, no major social roles are available to women; Iraq
209 is an ethnically divided region in which women and minorities are consid-
210 ered central for the consolidation of peace. In reality, strengthening the
211 capacity of women's organizations has a multiplying effect in securing
212 improved observance of human rights and the rule of law.

213 After the fall of Saddam Hussein in 2003, the Iraqi Constitution rec-
214 ognized an autonomous Kurdistan region in northern Iraq, run by the KRG;
215 Iraqi Kurdistan constitutes the three regions of Erbil, Dohuk, and
216 Sulaymaniyah in line with Iraqi Kurds' aspiration to independence. As the
217 first democratic, secular, and federal system in Iraqi political history, the
218 new constitution provided that Kurdish minorities would be able to main-
219 tain their political, economic, and social rights and interests in the autono-
220 mous region, which shared power with the central government in Baghdad.

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

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

231
232 The responsibility placed upon the executive branch of the Iraqi
233 Transitional Government stipulated in Article 58 of the Transitional
234 Administrative Law shall extend and continue to the executive authority
235 elected in accordance with this Constitution, provided that it accomplishes
236 completely normalization and census and concludes with a referendum in
237 Kirkuk and other disputed territories to determine the will of their
238 citizens), by a date not to exceed the 31st of December 2007.

239
240 **T**he Iraqi Kurds also lost their political power in the country and the
241 regional government after the central government cut KRG's entire
242 budget. The mentioned abuses and injustices against the KRG triggered
243 increasing disagreements and new conflicts between the two sides and
244 therefore affected the transition toward peace after the Islamic State war.
245 In this case, it seems that a democratic constitutional order approving the
246 fundamental rights of the ethnic groups based on ethnic equality—a posi-
247 tive sense of ethnic identity—would be the crucial pathway in the transi-
248 tion to peace in a postwar Iraq.

249
250 As indicated by Article 1(1) of the *Declaration on the Rights of*
251 *Persons Belonging to National or Ethnic, Religious and Linguistic*
252 *Minorities*, achieving such an objective in States depends on protecting
253 the existence and the national or ethnic, cultural, religious, and linguistic
254 identity of minorities within their respective territories through the adop-
255 tion of appropriate legislative and other measures (Article 1/2), including

256 the planning and implementation of national policies and programs to pro-
257 mote the possibility of the full participation of minorities and ethnic
258 groups in social, political and economic progress and development in their
259 country without any form of discrimination (Articles 4-7). This is a strong
260 basis and prerequisite of democracy that “requires that important deci-
261 sions be made only after the wide participation of the public and deliber-
262 ate procedures which assure respect for law and freedom of criticism
263 before and after the decision is made.”

264 Bearing in mind that Iraq’s oil reserves have been frequently subject,
265 before and during the Islamic State war, to abuse and corruption, the most
266 effective steps to be taken toward the transition to peace and peace-build-
267 ing and the peace-keeping process would be: to provide a space for the
268 speedy diplomatic negotiation of a more lasting agreement; to support
269 negotiations concerning the effective implementation of the Iraqi
270 Constitution, or re-negotiation of the constitutional reforms; to create a
271 new political and constitutional order respectful of justice and fair sharing
272 of resources based on the principle of equality.
273

274 **T**he effective management of diversity based on the adoption and rec-
275 ognition of ethnic identities regardless of their culture, religion, and
276 language would be attainable through a new democratic constitutional
277 order that provides a balance between the powers of the central and
278 regional government. This would mean approving the fundamental rights
279 of ethnic groups based on the principle of equality; the planning and
280 implementation of substantial and effective national policies to ensure the
281 full participation of minorities and ethnic groups in the social, political,
282 and economic progress and development without any form of discrimi-
283 nation; the application of Article 20 of the Iraqi Constitution in which the
284 right to participation in public affairs and enjoying political rights includ-
285 ing the right to vote, elect, and run for office are the requirements of
286 citizenship.
287

288 The constitutional balance between shared rule through participation
289 of the regional governments in the decision-making procedure of the cen-
290 tral government and self-rule or making decisions on policies, legislation
291 or raising taxes under their own regional parliaments is the essence of a
292 federal political regime and, therefore, denying these principles would
293 trigger ethnic conflicts, communal tensions and the massive exploitation
294 of mandate obtained on various occasions. As Elazar argues, the constitu-
295 tional balance and combination of shared rule and self-rule have demon-
296 strable utility in peacemaking. The combination of self-rule and shared
297 rule in the postwar society of Iraq would ensure the equality, diversity
298 management, and the rule of law as a prerequisite for sharing the power

299 to manage the peacebuilding process. In this sense, constitutional and
300 legal equality would encourage cooperation between the central and
301 regional government in Iraqi society in which accountability for the past
302 constitutional and human rights violations and abuses allows for reconcili-
303 ation and transition to peace in Iraqi society. In other words, peace-build-
304 ing and peace-making operations must come to include efforts to protect
305 human rights, equality, and rule of law through reforming or strengthening
306 the political and constitutional order.

307 The transition from war to peace in northern Iraq, in which the
308 Islamic State war triggered the dispute over the oil-rich city of Kirkuk
309 between the KRG and Baghdad, requires analyzing the aspirations of the
310 Islamic State, including their attempts to capture the energy resources in
311 northern Iraq. By analyzing the Islamic State war in Iraq in terms of how
312 it has created the grounds for increasing tensions between the Kurds and
313 the Iraqi central government, this essay seeks more effective pathways to
314 peacebuilding and peacekeeping in the region based on regional condi-
315 tions including energy resources. Therefore, the study contributes to war
316 to peace transition settings in a conflict-affected Iraq after the Islamic
317 State era. Within this particular context, the first indication from this ana-
318 lysis is that the Islamic State war carries crucial pros and cons for the
319 KRG. In this respect, this study examines a unique relationship between
320 the Islamic State war and the KRG's accomplishment in holding an inde-
321 pendence referendum as a constitutional right, which had not happened
322 before. In a sense, the Islamic State war gave the KRG economic lever-
323 age, which motivated the KRG to take a concrete step toward establishing
324 a Kurdish State, much against the wishes of the Iraqi central government.
325 This is why peacebuilding and peacemaking in a conflict-affected post-
326 Islamic State Iraq was gradually superseded by violence. Referring to the
327 major reasons triggering the tensions between the Kurds and Baghdad,
328 this study discusses what strategies might be addressed as the primary
329 pathways toward a more sustainable peace in northern Iraq.

330
331 **P**utting all the various factors together, rebuilding the country and
332 establishing a peaceful environment in Iraq after the devastating
333 fight against Islamic State can be achieved through compromise based on
334 the effective management of energy resources in Iraq, which are the coun-
335 try's primary source of revenue. As this essay has demonstrated, the tran-
336 sition from the war to peace in the postwar ethnically diverse societies
337 where energy resources have frequently been subject to abuse and corrup-
338 tion, requires space for the speedy diplomatic negotiation of a more last-
339 ing agreement. The effective implementation of the constitutional norms
340 or re-negotiation of the constitutional reforms to create a new political
341

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.

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