Democracy or Partition: Future Scenarios for the Kurds of Iraq

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ABSTRACT

Following the US invasion of Iraq in 2003, Kurdish politicians were involved in Baghdad governments, and the Kurdistan Regional Government (KRG) became a federal unit with increased autonomy. Nevertheless, the KRG's quest for keeping its autonomy was challenged after the withdrawal of US forces at the end of 2011. When US forces left Iraq, the Baghdad government, headed by Prime Minister Nouri Al-Maliki, the leader of the Shiite State of Law Coalition, tried to centralize power. Unsurprisingly, Maliki's centralization efforts have generated criticism and secessionist repercussions among Kurdish political circles. Furthermore, the Maliki government has violated the basic principles of power sharing, which is *sine qua non* to strengthen the confidence-building processes in divided societies. Increasingly, the Kurds' willingness to remain as part of Iraq considerably decreases as the Baghdad government consolidates its power and excludes the ethnic and religious groups from the political system.

I n 1970, a commission headed by Saddam Hussein visited Mullah Mustafa Barzani's headquarter in Saman, Arbil. There had been an ongoing Kurdish armed struggle for autonomy since 1961, and the Baghdad government was offering a new agreement in order to settle the Kurdish issue. Mullah Mustafa said that he would not lay down arms unless Baghdad recognizes the autonomy of Kurds. He also insisted on keeping the peshmerga organized under any circumstance. Saddam Hussein accepted the conditions of Mullah Mustafa and the ceasefire began. During this meeting, Masoud Barzani, son of Mullah Mustafa, asked Saddam Hussein how Baghdad would solve the democracy problem in all of Iraq. Saddam Hussein said that "The system that we govern the rest of Iraq is none of your business. You will have autonomy in Kurdistan. Why do you care about this?"[1]

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Masoud Barzani's question acquired additional meaning after the US invasion of Iraq and the fall of Ba'athist regime. During the period between 1918, when British rule was established in Iraq, and 2003, when US-led coalition forces overthrew the Saddam Hussein regime, the Kurds did not gain constitutional autonomy; nor did Iraq become a democracy. However, the Kurdish struggle for self-government continued until the appearance of a federal and democratic government after the fall of Ba'athist regime in 2003. In the post-Saddam era, Kurdish politicians have been involved in Baghdad governments, and the Kurdistan Regional Government (KRG) has become a federal unit with increased autonomy. Although many scholars[2] have regarded the KRG as a *de facto* state Kurdish politicians have underscored their commitment to a unified Iraq.

> In the post-Saddam era, Kurdish politicians have been involved in Baghdad governments, and the KRG has become a federal unit with increased autonomy

However, the KRG's quest for keeping its autonomy was challenged after the withdrawal of US forces at the end of 2011. When US forces left Iraq, Iraqi Prime Minister Nouri Al-Maliki, the leader of the Shiite State of Law Coalition, tried to centralize his power. In reaction to this development, a number of Iraq's political factions, including Shiite leader Muqteda Es-Sadr, KRG President Masoud Barzani, and Sunni Deputy Prime Minister Saleh Al-Mutlaq have accused Maliki of becoming a dictator.[3]

It would not be wrong to argue that the centralization policy of Maliki threatens the unity of Iraq rather than helping with consolidating the country. Masoud Barzani, the president of the KRG, defined Maliki as a dictator and said that "Unfortunately, after many years the situation is being changed and turned into the previous version. We don't accept the return of dictatorship and we are only partner in governance by name. We cannot accept Kurds or any other community to be marginalized. The problem here is not only the Kurds, it is with all Iraq. If Iraq was democratic, federal and plural then it will be one and united. We don't threaten the unity of Iraq; it is dictatorship that threatens the unity of Iraq."[4] Barzani's statement implies that the Kurds will keep their commitment for a unified Iraq provided that Iraq remains federal and democratic. Furthermore, recent developments and the political attitude of Barzani have raised questions about the unity and integrity of Iraq.

This study aims to answer the question of how the political regime in Baghdad affects the future of Iraqi Kurds. However, in order to make a prediction for the future, a theoretical conceptualization and examination is required. Thus this paper initially discusses the literature on post-civil conflict settlements and

federalism, since Iraq is composed of various ethnic and sectarian elements that have experienced civil conflict in the past. Then this theoretical framework will be applied to the Iraqi Kurds' political behavior in Iraq. Finally, future implications will be discussed.

Federalism, Democracy and Consociationalism

The question of why ethnic conflicts occur is a good starting point in discussing domestic turmoil in divided societies because identifying the problem is a pre-condition to suggesting durable solutions. To address this question, Lake and Rotchild reject the idea that ethnic conflicts are the product of intergroup difference, historical hatreds, or problems of globalization. Instead they argue that ethnic conflict can be explained by the collective fear of future. This means that when ethnic groups begin to fear for their survival in the future a domestic security dilemma between ethnic groups develops.[5]

According to Lake and Rotchild, ethnic conflict can be effectively managed and contained if confidence-building measures that foster stability, secure the future of the minorities, and construct ethnic relations are implemented.[6] The first measure is the *demonstration of respect*, which refers to viewing the opposite side as an honorable group having legitimate interests. The absence of reciprocal respect widens the social distance between groups

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and exacerbates the fears of minorities.[7] Besides psychological factors, Lake and Rotchild also suggest institutional mechanisms to build trust between ethnic groups. Accordingly, power-sharing agreements, which provide for representative coalitions and interaction, are crucial for conflict management. A share of cabinet, civil service, military and high party positions for each group can then be determined in accordance with the power-sharing agreements.[8]

In regards to power-sharing agreements, Hoddie and Hartzell[9] argue that there are four types of provisions associated with power sharing. The first type is central power sharing, which "promises to distribute political power in the core governing institutions of the state among groups in the divided societies".[10] Central power sharing is expected to provide a guarantee for having the voices of different ethnic groups in the national government. Secondly, they suggest territorial power-sharing arrangements to reinforce the security perception of ethnic communities.[11] Such arrangements might produce formal authority such as federalism for each warring group or informal control of their respective regions. Thus, federalism, the best known arrangement, devolves power equally to all

regions.[12] This prevents a particular community from dominating state power.[13] Thirdly, military power-sharing provisions examine how coercive agencies of state can be fairly formed. These provisions might include a balanced integration of armies or allow collectivities to retain their armed forces in order to check the state's security forces.[14] Finally, economic power sharing is also crucial for a stable peace settlement because it is related to the distribution and the control of resources.

An examination of federalism, which is the best known model of power sharing, might make the picture clearer. According to Gibson,[15] federalization is a process of political decentralization which provides opportunity for territorial representation in the national political institutions. In this process, power and resources are distributed between levels of government. As Riker[16] argues, the logic of federalism can resolve domestic collective dilemmas by providing constitutional legitimacy of self government and shared rule. Gibson[17] says that federalism affects the political system in six ways:

- Establishes de jure limits on the scope of governmental action.
- Increases the number of veto players in the political system.
- Creates multiple arenas for political organization and mobilization.
- Shapes patterns of democratic representation, generally expanding the scope of territorial representation over population representation.
- Distributes power between regions and regionally based political actors.
- Affects the flow of material sources (fiscal or economic) between populations living in the federal union.

Therefore, we can identify federalism as an institution that grants each group a political unit by recognizing the political and spatial realities, mitigating the fears of political exploitation and intrastate violence.

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As discussed above, federalism (and other power-sharing arrangements) could be viewed as necessary conditions for a durable peace in a post-civil conflict period. However, the role and function of democracy in the promotion of post-conflict settlement are also discussed in the literature. Gurr[18] regards the inclusive character of democracy as a *sine qua non* condition for democracy. He argues that democratic regimes implement more inclusionary policies and create fewer radicalized elements. Therefore, democ-

racy brings a resolution of civil conflict. According to Gurr,[19] the promotion of democratic institutions and practices has two important results. First, democratic countries implement less repressive policies against internal opponents. Second, modern democracies are less prone to fight one another. Consequently, democracy prevents the occurrence of civil war and its internationalization. According to Diamond, "democracy involves processes of bargaining, accommodation; consensus building and political learning that are not unknown authoritarian regimes but are much more likely to exist in democracies."[20] Hence, internal conflicts are settled peacefully, as long as democratic institutions work efficiently.

Lijphart's consociational model of democracy is a seminal attempt to bridge democracy with power-sharing arrangements. In doing so, he argues that majoritarian democracy, "government by the majority of people", keeps minority groups out of participation in the decision-making process. Accordingly, such a model is only compatible with homogenous societies and political systems in which alternation probability exists. However,

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in less homogenous societies, majoritarian democracy could produce problems, because minorities, which have no chance to access power, might suffer from discrimination and exclusion.[21] Furthermore, these groups could lose their attachment to the regime. For example, the Protestant majority's monopoly on power in Northern Ireland caused the alienation of the Catholic minority and civil war erupted in the late 1960s.[22] Thus Lijphart argues for the consociational model, which suggests devices to constrain majority rule, in order to provide stability and unity.

There are four basic principles of conflict resolution in a divided society in the consociational model. Firstly, executive power sharing is crucial for representation in the government. Secondly, each group should be allowed to conduct its own affairs on certain issues and under certain conditions. Thirdly, the proportionality principle is required in terms of job distribution, in accordance with the proportion of representation in parliament. Finally, consociational democracy regards the minority veto, which provides minority groups with veto rights for any proposal threatening their basic interests. In summary, Lijphart argues that the consociational model provides a way to ensure that no single group can monopolize the political system and provides a lebensraum for divergent groups.[23]

However, Horowitz[24] criticizes the assumption that the consociational model could bring peace to a divided society. He argues that the group-centered ap-

proach of consociational democracy leaves no room for identities apart from ethnic identities. The peace process, which consociational democracy promises, may produce tensions between communal groups. However, although peace building based on civic culture can struggle against group-based culture, it eventually makes group antagonism softer. Thus, constitutional designs could not survive unless it allows for the emergence of a variety of identities, and an interaction of individuals and groups with each other. In the final analysis, a post-conflict peace will be fragile in the absence of a civic sphere and civic culture that can promote a rich set of associations. While Horowitz acknowledges that division of power arrangements can reduce the potential for conflict, he also points out that such agreements can exacerbate ethnic conflict because ethnic groups may view such division as the path to secession. Thus, the division of power agreements should promise specific interests for ethnic groups in an undivided state.

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In line with the arguments discussed above, it would not be wrong to argue that Horowitz's pessimistic view of power-sharing agreements does not explain the Iraqi Kurds' political position in post-Saddam Iraq. Despite the Kurds' establishment of their regional government and attainment of increased autonomy, they have not initiated an assertive policy agenda of seeking secession from Iraq. This means that their gains have not encouraged them to go for independence. However, Kurdish politicians have started to hint that they will consider independence if the centralization of power under Nouri Al-Maliki continues. With reference to Lake and Rothchild, the weakening of decentralization is bringing back the Kurds' collective fears inherited from the Ba'athist era. Therefore, the basic principles of Lijphart's consociational democracy, which combines a power-sharing agreement with democracy, shed light on the political complexities of Kurds in Iraq. As noted previously, these principles are executive power sharing, groups' autonomy to conduct its own affairs, proportionality principle in distributing the economic sources, and the minority veto. In the following section, the Iraqi Kurds' changing relationship with Baghdad will be analyzed using these principles.
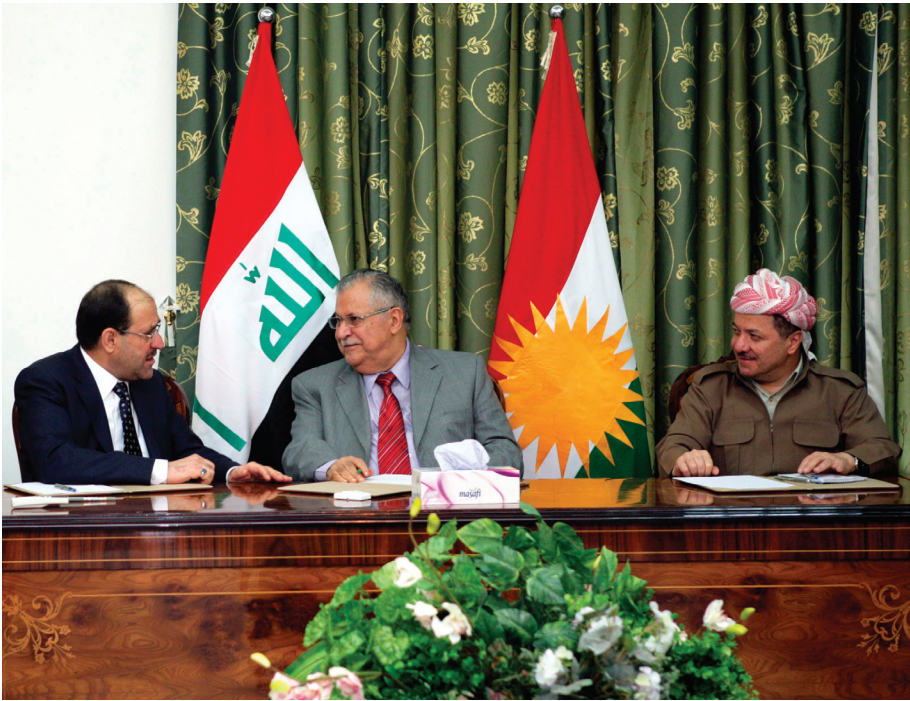
Iraq's PM al-Maliki, Iraq's President Talabani and Kurdish President Barzani meet in Iraq's autonomous Kurdistan region near Sulaimaniya.

Photo: REUTERS, Handout

Iraqi Kurds or the Kurds of Iraq?

After the US invasion in 2003, Iraq became a "federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic".[25] Accordingly, there are two bodies of executive power, namely, the president, who is elected by the Council of Representatives (the parliament), and the Council of Ministers, members of which are designated by the prime minister charged by the president. It should be noted that "the Council of Representatives shall consist of a number of members, at a ratio of one seat per 100,000 Iraqi persons representing the entire Iraqi people."[26] Despite the absence of institutional power-sharing arrangements, in the post-Saddam era all the central governments have been composed of a coalition of parties representing various ethnic and sectarian groups.[27] Therefore, each party could gain seat in ministries and bureaucracy as a result of the coalition-bargaining process. For example, Nouri Al Maliki became the prime minister in 2010, and he has three deputies who are members of Sunni, Shiite and Kurdish parties. However, the absence of institutional power sharing means that national

unity governments are not formed. Thus, ethnic and religious groups have no guarantee of sharing executive power.

The recent crisis that triggered the domestic turmoil in Iraq was the product of a fear deriving from the absence of the institutional guarantees for executive power sharing. As a result of Maliki's centralization efforts, other actors have been pushed out of the political arena, increasing concern in Iraqi political circles. Maliki is not only the prime minister of Iraq, he is also the minister of defense, minister of the interior and minister of state for national security. Maliki has also implemented a harsh bureaucratic cleansing campaign against Kurdish and Sunni figures. He has issued an arrest warrant for Sunni Vice President Tarek Al-Hashimi and sidelined Sunni Deputy Prime Minister Saleh Al-Mutlaq and Kurdish Chief of Staff Babakir Zebari. In addition, Iraq's Higher Electoral Commissioner Faraj Al-Haidari was arrested on speculative corruption charges. Finally, it should be noted that Maliki's control over the Iraqi Central Bank is increasing.[28]

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These events implies that Maliki, through his efforts to centralize power by controlling the strategic ministries, the military, the electoral commission and the economy, and by excluding Sunni and Kurdish figures from the political and bureaucratic system, is undermining the *de facto* power-sharing tradition implemented in Iraq after the US invasion. Therefore, it would not be wrong to argue that Maliki's attempts to consolidate his power threatens the consociational model, which aims to provide peaceful co-existence through power sharing in divided societies

Groups' autonomy to conduct their own affairs is another problematic point. The Baghdad government's interventionist policy has especially disturbed the KRG, the only regional government in Iraq. There are two main issues that have caused the deterioration in relations between Baghdad and Arbil. The first was the oil contract that the KRG made with US oil giant ExxonMobil independent of the Baghdad government in October 2011. According to the contract, ExxonMobil obtained the right to invest in six oil exploration fields in the KRG.[29] Unsurprisingly, this contract infuriated the Maliki government. Iraqi Oil Minister Abd-ul Kareem Al-Luaibi said that ExxonMobil has suspended its projects in the KRG until Baghdad and Arbil settle the issue. However, Kurdish officials have insisted that the company is resuming its operations in the KRG.[30]

The crisis that erupted after the oil contract between the Arbil government and ExxonMobil reflects the discrepancy between the centralization policy of the Maliki government and the autonomy aspirations of the Kurdish region. According to the Maliki government, allowing any regional government to make independent oil contracts undermines the unity of Iraq. Deputy Prime Minister for Energy of Iraq Hussain Al-Shahristani said that "if the oil is managed by different regions and will be a source of conflict and war among Iraqis, not only the country will be destroyed, none of them will really benefit from all these resources".[31] However, KRG politicians argue that Baghdad's veto of separate oil contracts is an intervention in the domestic affairs of the KRG, and that such interventions aim to bring authoritarianism back to Iraq. With the escalation of the crisis, Masoud Barzani said that "a dictator in Baghdad cannot rule Kurdistan and if Baghdad attempts to do so the Kurds would go their separate way. The process has already begun and it is only matter of time and regional development to decide when and how it happens."[32]

The Maliki government's second intervention that upset the KRG was the pipeline project planned between Turkey and the KRG. On May 20, 2012, Turkey and the KRG signed, without the approval of the Baghdad, an agreement to construct oil and gas pipelines. After the deal, Baghdad warned Turkey, pointing out that Turkey needs Baghdad's permission if it wants to build pipelines from the Iraqi Kurdish region.[33] Furthermore, in retaliation, Deputy Prime Minister Hussain Al-Shahristani threatened to cut off the oil supply to Kurdistan. Indeed, Baghdad's reaction implies that the Baghdad government desires to have a national energy policy and that it is

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aware that such separate oil deals might encourage independence of the KRG. As KRG Oil Minister Ashti Hawrami said, "if the KRG had its own oil infrastructure, it would not be dependent upon Baghdad for funds."[34] Hawrami's statement shows that the KRG regards control over hydrocarbon exploration and transportation as a necessary condition for its autonomy while the Baghdad government sees such efforts of the KRG as a threat to the unity of Iraq.

This crisis between Arbil and Baghdad shows that the second condition of the consociational model is also under threat in Iraq. Although the KRG wants to be autonomous in its own affairs, the central government, which is controlled and centralized by another group, intervenes in its domestic affairs. In doing so, Baghdad believes that allowing the Kurds to make separate deals might pave the

way for Iraq's disintegration. However, what the Maliki government misses is that the more Baghdad uses its power over the KRG the more KRG officials use the word "independence".

The proportionality principle in employment and economic resources is another conflict point between Arbil and Baghdad. The first problem is discrimination against Kurdish soldiers in the Iraqi National Army. According to statements by Kurdish soldiers, after the US withdrawal from the country, some senior officers in the Iraqi army started to behave as intolerant and chauvinistic as they were in the Ba'athist era. Captain Mohammad Anwar, a Kurdish officer, says that "Arabs officers are being deliberately replaced in our place. In some cases, when we get into an argument with them, they threatened us to death. Despite reporting to the higher chain of command, our concerns are not heeded as they should. Regardless of our efforts, we do not perceive any future with them. We will never be welcomed among them."[35] In addition to the individual experiences of the Kurdish officers in the Iraqi army, KRG President Masoud Barzani

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says that "Kurdish officers are forced to leave the ranks of the Iraqi army." He also contended that "The number of Kurdish officers in the Iraqi army has decreased to less than 8 percent. The remaining number of the Kurdish officers are continuously harassed in order to make them leave the army. This is unconstitutional and against the principle of power sharing."[36]

The second problem is the share that the KRG is supposed to receive from the central budget. According to the budget law signed and ratified in 2007, and renewed in 2009, the KRG is to receive 17 percent of the central budget, plus additional funding for the Kurdish peshmerga and border guards. However, Maliki and Barzani could not agree on the funding of the peshmerga forces. Maliki has criticized the budget law and said that the funding and empowering of the peshmerga is unconstitutional. After these criticisms from Maliki, the KRG published a statement, arguing that it had not received funds to pay for the peshmerga from the Iraqi Ministry of Defense between 2007 and 2010.[37]

Building on the debate between Arbil and Baghdad that centers on the distribution of jobs and economic resources, one can argue that there is a serious confidence-building problem in Iraq. While the Maliki government aims to subordinate the KRG by cutting their budget and imposing an Arab identity in the

military, the KRG regards such attempts as a dictator's attempt to consolidate his power and centralize the political system. Thus, as pointed out before, Maliki's strategy reminds Kurds of their historical fears inherited from the Ba'athist Iraq, which was a perfect model of a strong and central state.

In regards to Lijphart's fourth principle, which is the minority veto, there is an indirect system for this power instead of direct institutional arrangements. According to Article 138 of the Iraqi constitution, the Presidency Council, the three members of which are selected by Council of Representatives, has to ratify or veto the decisions of the parliament. The fifth paragraph

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says that the "legislation and decisions enacted by the Council of Representatives shall be forwarded to the Presidency Council for their unanimous approval and for its issuance within ten days from the date of delivery to the Presidency Council, except the stipulations of Articles 118 and 119 that pertain to the formation of regions."[38] In case of veto, "the legislation and decisions are sent back to the Council of Representatives, which has the right to adopt it by three-fifths majority of its members, which may not be challenged, and the legislation or decision shall be considered ratified."[39]

The question of whether Article 138 provides for a minority veto can be answered only by analyzing the Iraqi experience in the last nine years. In post-Saddam Iraq, the Presidency Council was formed in 2005. Jalal Talabani, the nominee of the Kurdish Alliance, became the president, and Adel Abd-ul Mahdi from Shiite SCIRI List and Sunni politician Tarek Al-Hashemi became the two vice presidents. Thus, the three main groups, namely Sunni Arabs, Shiite Arabs, and Kurds, gained veto rights by way of the Presidency Council. Although the Council of Representatives has the right to re-enact a vetoed decision, it requires a three-fifths majority of its members, thus providing some guarantees for each group.

Nevertheless, such de facto veto power of ethnic and religious groups did not continue. According to the Iraqi constitution, Article 138 is a transitional provision and "the provisions related to the President of the Republic shall be reactivated one successive term after this Constitution comes into force."[40] However, this re-activation did not happen and the Presidency Council was not continued after the re-election of Jalal Talabani on November 11, 2010. According to Visser, Iraq was a consociational model which distributed the power and influence among players, while the regular presidency of Talabani and the end of the tripartite system made the prime minister the most powerful figure in the system. Therefore, the consociational model has been replaced by majoritarianism.[41]

So far, Iraq has failed to create a consociational model in which the minority veto is regarded as vital to checking majority rule. In Iraq, the absence of the veto right has allowed Nouri-Al Maliki to consolidate his power without any executive constraints, such as that of the Presidency Council. Although Maliki did not abolish the veto power of the Presidency Council, he has exploited the situation. It should be noted that the provisional character of this veto system also shows how myopic the constitution makers in Iraq were in 2005.

Future Implications

Confidence building is essential for divided societies and institutional designs can help this process mature. As Lake and Rothchild argue, different groups within a country can experience a "security dilemma." Therefore, the different ethnic, religious and ideological groups see politics as a zero-sum game. Thus, if partition is not a viable option, there should be institutions created to reduce the fears of these groups. When students of international politics read the history of Iraq, they can see colonialism, artificial boundaries, authoritarian monarchs, military coup d'etats, dictatorships, ethnic uprisings, religious conflicts, civil wars, inter-state wars and invasions. All of these undermine any society trying to be unified and reinforce inter-societal distrust. Thus, the literature on civil conflict and federalism suggests implementing institutional designs that could prevent any civil conflict in the future.

This study regards Lijphart's model of consociational democracy as an attempt to bridge democracy with such institutional arrangements. He suggests four conditions for a sustainable peace in a divided society: executive power sharing, groups' autonomy to conduct their own affairs, the proportionality principle in the distribution of the jobs and economic welfare, and the minority veto. This study shows that the Maliki government has tended to violate these principles. After US forces left Iraq, Maliki initiated a bureaucratic cleansing campaign against Sunni and Kurdish figures, regarded Kurdish autonomy as a threat to the unity of Iraq and intervened in the domestic affairs of the KRG, used employment and the economic welfare card to subordinate the KRG, and benefited from the absence of a minority veto system.

Unsurprisingly, Maliki's centralization efforts have led to criticism and secessionist repercussions in Kurdish political circles. For example, Nechirvan Barzani said that "Today, there are those in the Iraqi political field who want, with all the power, to keep the policy of Arabisation and ethnic cleansing." Barzani also stated that Maliki aims to "kill the democratic process."[42] In addition, some Kurdish figures are expressing the idea of separation from the rest of the Iraq. Kosrat Rasul, vice president of the KRG, said that "If the declaration of a

state was in my hands, I would declare it today rather than tomorrow. It is not logical that the Kurds have no state."[43]

In the wake of the recent developments and domestic turmoil in Iraq, one can argue that there are only three options left. One option is that the KRG will peacefully secede from Iraq like the dissolution of Czechoslovakia in 1993. A second option is that there will be a Yugoslavia-like civil war between the ethnic and religious groups, and the KRG's secession could drag the region to the brink of war. Furthermore, any conflict between Baghdad and Arbil might create an opportunity for neighboring states to intervene into Iraq. The final option is for peaceful co-existence in which all the ethnic and religious groups are satisfied. If he were to meet Al-Maliki, Masoud Barzani might ask the same question that he asked Saddam Hussein 42 years ago, and remind Maliki what had happened to Iraq after Saddam's arrogant response.

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