

## 17th Annual Conference Summary and Proceedings

3/26/2005

The Kurdish National Congress of North America (KNC) held its 17th Annual Conference March 25-26, 2005 in Nashville, Tennessee, home to the largest Kurdish population in North America. Speakers and participants gathered from all parts of North America, Europe and Kurdistan to focus on the Conference theme: ***Kurdish Independence, Democracy and Regional Stability.***

The conference program included presentations by scholars, speeches by active politicians, and representatives from various parties and local and international organizations. The conference was kicked off by raising the Kurdish flag in front of the Millennium Maxwell House Hotel, the conference site. The conference included several panel discussions that provided a forum to exchange dialog among panels and conference participants. Speakers addressed the situation in Southern (Iraqi) Kurdistan where the Kurdish government is firmly involved in the formation of a new Iraqi government. Panelists and attendees offered a wide range of opinion on which future the Southern Kurdish leadership should be promoting, with many supporting a pragmatic position calling for full participation within a federal framework, while others offered the 1.7 million signatures on the Kurdish Referendum as evidence of the true aspiration of those in Southern Kurdistan for independence. The Halabja massacre was brought up, many ideas revolving around retribution and compensations were discussed. Some suggested KNC should take the Halabja file to an international tribunal, so that it is kept at a global level. Furthermore, the conference called for the following actions:

1. Strengthen the unity among the Kurds in all parts of Kurdistan
2. The Referendum represents the aspiration and the goal of the Kurdish people in Southern Kurdistan.
3. Unification of the two Kurdish Regional Governments in Southern Kurdistan.
4. Kirkuk and all the Arabized areas of Kurdistan of Iraq must remain part of Kurdistan.
5. Kurdish Peshmerga must remain as a core army to protect the Kurds rights.
6. Condemning all kinds of terrorism every where and the Kurds are joining the international efforts to fight the terrorism.
7. Calling on the International community and the UN to support the right of self-determinations for the all Kurdish people.

Events in all Kurdish regions were analyzed and discussed. Speakers noted the heightened attention paid by the West to the Syrian government's brutal policies towards its population, including a large Kurdish minority, as well as its role in the violence in Iraq. Similarly, the role of the Iranian regime in suppressing the rights of the 8 million Eastern (Iranian) Kurds and in fomenting Shiite violence in Iraq was analyzed. Events in Northern (Turkish) Kurdistan were discussed, including the steps and mis-steps made by the Turkish government in its move to satisfy EU requirements for improvement of the human rights accorded the largest Kurdish population in the region.

The conference concluded with a Newroz banquet and award presentation. The KNC recognized several individuals for their contribution to the Kurdish cause. Dr. Saman Shali, current KNC president made a presentation honoring the contribution of Dr. Asad Khailany, KNC founder and former president. Live Kurdish music followed, many of the attendees danced the evening traditional Kurdish dances.

## **Letters Received by the Conference**

[Letter from KRG to KNC](#)

[Letter from Governor Bredesen's office to KNC](#)

[Letter from Congressman Cooper's office to KNC](#)

## **Conference Proceedings**

Note: As material is received from each speaker, it will be added to the conference proceedings.

### **Presidential Address - Dr. Saman Shali, President of KNC**

Mr. Chairman  
Distinguished Guests  
Ladies and Gentlemen

I am honored to welcome you on behalf of the Kurdish National Congress. I want to thank and to welcome each and every one of you, especially those who have come from Kurdistan, Europe, and Canada and from out of State.

From Kurdistan I want to recognize Dr. Shafiq Qazzaz, Minister of Humanitarian Aid and Cooperation, representing his Excellency the Prime Minister Mr. Nechirvan Barzani, Mr. Falah Mustafa, Regional Minister, and Dr. Munther Al-Fadhil, Professor of Law and special adviser to the PM Mr. Nechirvan Barzani. From Europe, Mr. Mahdi Zana. Also I welcome Mr. Qubad Talabani representing PUK/KRG and Mr. Khalid Aziz representing KDPI in the US.

Throughout the centuries and decades of Kurdish struggle for freedom, the forces of history and the regional and international environment have not always been kind to Kurdish aspirations, except in the final decade of the last millennium when a window of opportunity presented itself to Southern Kurdistan after the Gulf War. Fortunately, the Kurds of Southern Kurdistan took advantage of this opportunity and established a semi-independent Regional Government. Despite many unfortunate events and despite the meddling of all the neighboring powers, the political parties learned how to rule and how to co-exist; this experiment has fortunately been successful.

Indeed, the Kurds can now actually show off having a quasi-recognized *de facto* government or nation-state.

What is heart-warming in this experiment, in addition to this de facto status of statehood, is that the whole world is beginning to see the outlines of an environment of freedom and democratic exercises in this region of Kurdistan. What is happening in Southern Kurdistan now is a success story that should be really treasured by all Kurds as an achievement that not only deserves universal support by Kurdish nationalists, but that also goes to show the world (especially the skeptical regional powers) that the Kurds are peaceful, that the Kurds are democratic, and, what is more, that the Kurds are capable of governing themselves.

Sadly, though, Southern Kurdistan is still the only part of Kurdish soil that has been liberated from the oppression of the occupier. However, we are certain that if the same conditions prevail in the other regions of Kurdistan, they will prove equally adept at democratic practices. While we at KNC believe that Kurds will eventually achieve their goal of a United Free Nation, we also believe that, for the time being, each region of Kurdistan should be allowed to grow and develop its own strategies and policies for what they believe is in their ultimate national-regional interest.

In Turkey, finally the Turkish Government achieved a date to start negotiations for the European Union membership. The Kurdish people and their main organizations supported and welcome Turkey's application in the expectation that the move will see greater democratization in the country. It is and remains the profound hope of the Kurdish people that Turkey's move towards closer alignment with Europe will see improvement of civil, human, social and political rights in line with standards found throughout the European member states.

2004 was thus a dividing year for reforms in terms of human rights in Turkey. Nevertheless, violations continued to be common and the gains of the Kurdish people remained minimal especially with regard to actual implementation of the much-publicized legislative reform process.

Releasing of the former deputies Leyla Zana and her colleagues from prison was a positive development in terms of human rights. But Turkey is still far away from European Union standards of human rights.

The Turkish government still practices an aggressive policy against the Kurds everywhere. Just last week a German court found no evidence that Mr. Ramzi Kartel "carried out terrorism." On the contrary, he condemned all kinds of terrorism especially the terrorism by the Turkish Government against the Kurds. We call on the Turkish government to stop the suppression and the violence to which the Kurds are subjected. We welcome the news of the release of Mr. Kartel because it is a victory for justice.

As Martin Luther King Said "Any injustice anywhere is a threat to justice everywhere."

All of us want peace. The threat to peace does not come from those who seek to enforce the just demands of the civilized world. The threat to peace comes from those who ignore those demands.

Any miss-steps and threat and interference in the internal affairs of its neighboring countries will eliminate the Turkish government's chance to be part of the European Union for forever.

In Iran, the status of the Kurdish people is not better than in any other part. The Iranian government takes a different approach to deal with the Kurdish people in Iran. On one hand, publicly they show that the Kurds enjoy their rights and have members in the Iranian Parliament and they have TV and radio stations. On the other hand, it continues its aggressive policy against the Kurds and denies them any high government post not just in the central government but also in Kurdistan. There is not a single Kurdish governor or minister. We call on the Iranian government to stop its aggressive policy and grant the Kurds the right of self-determination and respect human rights and the will of the International community.

In Syria, more than 200,000 Kurdish people are denied citizenship and passport. These stateless Kurds are denied basic economic and social rights. They aren't allowed to own a house, land, or a business. They can't work as lawyers, journalists, engineers or doctors. Many are not allowed to study in school after the age of 14, and often they're not allowed treatment in state hospitals.

All this injustice is committed against the Kurds while the international community still remains silent about this inhuman treatment of the Kurds. What happened a year ago in Qamishli is just the beginning for our people in Syria.

Over 30 Kurds were killed and more than 2,000 people, almost all of them Kurds, were arrested since clashes at a football match between Arabs and Kurds. Kurdish detainees, including children as young as 12, women, teenage girls and elderly people, were reportedly tortured and ill-treated. Dozens of Kurdish students were expelled from their universities, reportedly for participating in peaceful protest. These facts have been reported by Amnesty International.

We call on the Syrian government to lift restrictions on Kurdish culture and liberties and end the prohibitions imposed on Kurdish people living in Syria and grant them full citizenship and equal rights.

In Iraq, I will only emphasize the red lines because the conference will cover the situation in Kurdistan of Iraq in more detail. These red lines must be known to our friends before our enemies. These lines are intended for the Kurdish leadership also, where the enemy cannot cross these lines our leaders cannot back off from these lines:

1. Kirkuk and all Arbaized areas must remain part of Kurdistan.
2. The Peshmerga forces must remain as a core army to protect the Kurds and their goals and aspirations. Dismantling them is going to be a death warrant for our nation.
3. The Kurdish Parliament must be the only source of decision making on behalf of the Kurdish people.
4. Our revenue sharing from all Iraqi income including natural resources must be based on the election results.

In the last Iraqi election the Kurdish people hold an official referendum where 98.4% voted in a democratic process for Independent. We call on the UN and International committee to conduct official referendum to listen to the will of the Kurdish people and settle this question once for all.

If we look back at the achievements of KNC in the last seventeen years, we can proudly talk about them and also acknowledge our shortcomings, too.

KNC is a child of Halabja. Since its creation, the organization founders put the right foundation where democratic process is the core principle of its daily practice. Its natural approach to Kurdish issues has earned the organization the respect of all Kurdish parties and organizations. Its goal of United Free Kurdistan is the dream and aspiration of over 40 million Kurds.

In the last year, the Board of Directors set up goals and strategic policies for KNC to implement in next two years. Some of these policies have been implemented and others are in process of implementation.

Last year KNC issued many Press Releases related to issues of concern to our nation:

- KNC condemned attacks on civilians and Coalition troops in Iraq. As a nation, we condemn all kinds of terrorist acts of any shape or form everywhere.
- KNC was disappointed with the June 8th UN resolution on Iraq, where it failed to mention the Interim constitution and Kurdish rights.
- KNC welcomed the release of Leyla Zana and her colleagues from prison and regards it as a great victory for human rights and our nation.
- KNC was disappointed by the statement of President Bush on June 27th. In his speech prior to the NATO summit, he praised Turkey as an example a Muslim country that has embraced democracy and the rule of law and democracy. The president's remarks ignored the Turkish government's racist policies and genocidal war against the Kurds.
- KNC was part of a non-partisan Kurdish delegation to meet with the UN to deliver 1,732,535 signatures calling for a referendum on the future of Southern Kurdistan.
- KNC sent an open letter to Dr. Condolezza Rice congratulating her on her nomination as Secretary of State and reminded her of her promise to Dr. Saman Shali, the then KNC VP, at the White House, when he shook her hand: "Please, do not sell out the Kurds again," and she replied, "I will not. I promise."
- KNC sent an open letter to the Honorable Mr. Nelson Mandela asking him to support the Kurdish rights for self-determination and ask the UN for conducting a referendum in Southern Kurdistan.
- KNC replied to Al-Jazeera when it posted fabrications about our sister organization the Washington Kurdish Institute and its President and Board of Directors.

During last year, KNC President, Board of Directors and KNC members appeared on many TV interviews in the US, Kurdistan and Korea and participated in many radio and newspaper interviews. KNC promises that it will continue to lobby on behalf of our nation until we achieve our goal of a United Free Kurdistan.

Thank you.  
Saman Shali  
KNC – President  
March 26, 2005

## **A Psychiatrist's View on Individual vs. Society and the Role of KNC - Dr. Kamal Artin, KAES**

### **Introduction and summary**

While preparing for my trip to the 17th annual meeting of Kurdish National Congress of North America (KNC) in Nashville, TN on March 25th, 2005, a friend of mine asked me if there was any psychiatric explanation for the suffering of the Kurdish society! The question was stimulating and in fact I came up with some possible explanations that became the subject of this speech. I believe the scientific methodology of many disciplines could be helpful to policy makers. As an example, a cell biologist might teach us how the function of parts of a healthy cell is similar to that of a fraction of parts of a healthy society. An anatomist might tell us how the complimentary functions of organ systems are similar to complimentary functions of various individuals and organizations in a society. With this in mind, I would like to explain how psychiatric principles might help with understanding sociopolitical problems and their solutions. People turn to psychiatrists when having difficulty with their feeling, thinking, or behavior. The analogy of such a triad in a society might include culture, ideology, and government. The psychiatric disturbances have been classified based on their nature such as disease, behavior, personality, and life story (1). Similarly the nature of sociopolitical disturbances could be classified based on their nature such as geographical location, governing style, human resources, and historical experiences. Since Kurds are divided and have no state of their own, KNC could perhaps use the models of groups such as Indian, Jewish, or African National Congresses to function as a pluralistic umbrella organization and promote ending Kurdish suffering with peaceful means more effectively. In that context, Kurdish American Education Society would be able to carry out its primarily educational mission more efficiently by working closely with many other organizations with similar objectives such as the Education Committee of KNC.

### **Historical Background**

With the development of society, psychiatry has made significant progress as well. Around the time of colonialism, when native people were exploited and terrorized (2), romantic psychiatrists thought that mental illness was related to passions that drive people to choose evil which, in turn, leads them to inner corruption (3). Enlightenment led to American, French and the Industrial Revolution in the 19th century. At that time Benjamin Rush, the Father of American Psychiatry, thought that mental illness was related to the brain. From late 19th and mid 20th century on the field was influenced by the work of psychiatrists such as Kraepelin for his medical or categorical approach, Freud for his analytical or “neo-romantic” approach, and Meyer for his combined approach. At the same time the world witnessed two disastrous world wars. During World War II, academic medicine and psychiatry were partially responsible for Nazi's racial and social

hygiene program in Germany. Hitler's machinery of death killed not only 6 million Jews but many people with mental retardation and other, so called, biological degenerates (3). Since the 2nd half of the 20th century much progress has been made. We know today that mental illness has no ethnic, class or gender boundaries. Even the most powerful people may become mentally ill or victim of traumatic experiences. Abraham Lincoln once had said: "I am now the most miserable man living; whether I shall ever be better I can not tell; I awfully forebode I shall not; to remain as I am is impossible; I must die or be better" (4). Yet, we know he recovered and made a major contribution to the history of mankind. Likewise, the community of holocaust survivors with the worst traumatic experiences has been able to recover and contribute to progress in many areas such as science, technology and humanity today. Thanks to such progress, contemporary psychiatry has become a comprehensive and advanced medical, psychological and social discipline; the trend is now toward pluralisms (5), as it is the case in social sciences, in which we see diffusion of ideas and approaches, and even coexistence of war and peace movements in a democratic society. This does not mean that we now live in utopia; still much progress needs to be made to have a more humane world.

#### **Type and Nature of Disturbances in Individual vs. Society**

An individual can feel sad, miserable, hyper, nervous, or empty. A society's culture might show signs of isolation, aggression, irresponsible pleasure seeking, resistance to innovation, and appreciation of death more than life. An individual might have bizarre, nihilistic, obsessed, expansive, and paranoid thoughts. A society's ideology might show signs of anarchism, isolationism, fanaticism, expansionism, and fascism. An individual might behave withdrawn, impulsive, self injurious, dramatic, or violent. The government in a society might act isolative, expansive, suppressive, reactionary, aggressive, or wild. Professors Paul McHugh and Phillip Slavney, two of my greatest ex-mentors and contemporary prominent thinkers at Johns Hopkins University, have differentiated mental disturbances based on their nature that includes individual's life story, diseases, personality, and behavior (1). Likewise, I think one could differentiate the suffering of societies based on historical events, geographical location, ability to utilize resources, and system of government.

#### **Life Events in Individual vs. Society**

One of the causes of suffering is life events. An individual who has experienced torture, physical or sexual abuse, hunger, and neglect will have a very difficult time to lead a normal life. He or she will need much reframing and comfort to recover. Likewise, suppression, genocide, poverty, invasion, and assault break the backbone of any society. Such societies need international support, security, and guidance to become a regular member of the international community. During colonialism a romantic psychiatrist might have called a battered spouse evil, if she had wanted to end a prearranged marriage with the chief of a clan. Today most reasonable psychiatrists would not discourage separation in such cases. Likewise, in contemporary world one expects that politicians not to consider "separatism" or independence of oppressed people as a taboo.

#### **Broken Part in Individual vs. Society**

An individual's mental disturbance might be related to a disease, chemical imbalance or a broken part in the brain that might cause psychosis, agitation, confusion, depression and even suicide. Such individuals need immediate intervention with medications, hospitalization, and at times even electroconvulsive therapy for stabilization and recovery. Likewise, a society's misery could be related to geographical location, natural disasters, and lack of resources that requires intensive financial and technical support by national and international communities in order to recover.

### **Maladaptive Behavior in Individual vs. Society**

Another cause of individual's suffering is maladaptive behavior such as drug, sex, gambling, and eating addictions or criminal activity. Interrupting such behavior and relapse prevention is the key for recovery in such cases. Likewise, a government might preoccupy people's minds with rituals, past glories, superstition, and fantasies of worldly or heavenly pleasures, yet engage in exploitation, terror, drug trafficking, assassinations, mass murder, and neglect of its citizens. The appropriate intervention would be to stop governments from such behaviors with whatever it takes to help and protect innocent people so they can enjoy the peace and prosperity of the civilized and progressive world. Stopping the behavior of dictators with whatever it takes might be rightfully worrisome for many because of complications of radical measures. This is probably the reason that a significant part of the civilized world including progressive Arabs, Turks, and Persians advocate that we all are equally suffering and that we should wait until the change comes within, when everyone is ready. As counter argument, many Kurds might agree with George Orwell's animal farm and mention that "some people are more equal than others" and that enough is enough. Likely this is the reason they are appreciative of US determination to move on with stopping dictators from their maladaptive behavior!

### **Characteristics of Individual vs. Society**

Another reason for the suffering of an individual is temperamental vulnerabilities such as extreme shyness, impulsivity, immaturity, defiance, self-centeredness, and lack of intelligence, etc. In such a case one needs guidance to be aware of his or her strengths and weaknesses to handle daily challenges in life. Likewise a society might be underdeveloped, lack knowledge of politics, ethics, philosophy, art, literature, music, technology, architecture and yet remain ethnocentric and resistant to change. In such a case, education, education, education, and guidance are the key. The heritage of such societies needs to be appreciated, protected, and developed so people can relate to positive aspects of their culture and identity and improve their self esteem. Once there, they might appreciate other people's culture and welcome change, progress, and voluntary unions.

### **Nature of Disturbances in Kurdistan and the Role of KNC**

In short, an individual's suffering can be due to one, few or all four factors of life story, personality, behavior, and disease. The society's problems can also be related to one, few or all four factors of traumatic experiences, cultural characteristics, governmental

behavior, and geographical location. In fact Kurdish society seems to be affected by all four factors.

### **Traumatic Events**

In terms of traumatic events, Kurdistan has experienced displacement, suppression, abuse, genocide, bombing, and assassinations. Kurds are advised by outsiders to be patient though. It might take a very long time for people in Mahabad, Darsim, Qamishli, and Halabja, to feel as comfortable as people in Teheran, Ankara, Damascus, and Baghdad, although these cities might have had their own traumatic experiences. Here is a description of Halabja's experience: "In every street and alley women and children rolled over one another. The sound of crying and groans rose from every house in the town. Many families who were sleeping were subjected to chemical bombing before the sun rose "(6). Halabja's tragedy is only the tip of the iceberg of the Kurdish history. Shame on those who consider Kurdish "separatism" or independence a backward movement! Of course every apple tree might have some bad apples, but considering Kurdistan's traumatic history, the peacefully independence seeking faction of the Kurdish movement seems to be the most progressive faction. For now what KNC should do, is to insist on compensation for the abuses, promote return of displaced people to where they belong, support Pishmarga for self defense unless militarism is abolished in the region, and build alliances with progressive factions of other ethnic groups that believe in unconditional justice and equality!

### **Dimensional Characteristics**

In term of dimensional or cultural characteristics, fortunately Kurds tend to be ethical, open, flexible, and tolerant of diversity. Fanaticism does not seem to be appreciated in Kurdistan. However, some Kurds still believe in gender discrimination, male polygamy, honor killing, and capital punishment. The society is still deficient in areas of education, language, art, science, and philosophy and it has not built a coherent national identity. KNC should continue to promote values of contemporary civilization, educate and obtain scholarships for youth at home and abroad. It should promote boycotting Arabic, Turkish and Persian languages in Kurdistan unless the Kurdish language becomes equal in the four countries. However, it should promote friendly coexistence and dialogue between Kurds, Turks, Arabs, Persians, Jews, Turcomans, Assyrians, Armenians, etc. and appreciate their heritage without compromising Kurdish identity and full equality with them.

### **Maladaptive Behavior**

In term of governing behavior, Kurds often have been at the service of dominant cultures, too busy with internal pitiful conflicts, and overlooked the bigger picture for short term party gains; they have not enjoyed self determination, are unfamiliar with pluralism, and assign responsibilities to individuals based on family and tribal relations. KNC could remain modern, modest, and pluralistic in advocating for national interests. It could encourage giving responsibilities based on skills, expertise, and ability! It could

coordinate developmental stages and put federalisms, independence of one or few Kurdish states, interdependence, and voluntary unions in the Middle East to referendum.

### **Broken Part**

In term of geographical location, Kurdish society has a broken part, which is its being broken apart between four unreasonable countries; it lacks a recognized national identity. It lacks industrial development, jobs, and security. It is impractical now to expect all parts of Kurdistan to be united. However, it is practical that an organization such as KNC uses the Model of African, Indian, or Jewish National Congresses and becomes a broader, pluralistic, and umbrella organization for all factions of the Kurdish society. KNC could initiate dialogue and invite all Kurdish political, social, cultural, and educational institutions to join and to take their share of responsibilities. Once there, KNC might request a budget from national and international communities and monitor that priorities are given to building factories, roads, hospitals, schools, universities, and cultural centers in all parts of Kurdistan. KNC could intermeditate that US and other allied forces remain in Southern Kurdistan to prevent the repetition of Mahabad's experience in 1946, when the first Kurdish republic was eliminated in Iran. To do so, every Kurd might need further selflessness, and the society as a whole further sacrifice in form of paying for the cost of mutual cooperation with and providing security by the allied forces with all of the oil from Kurdish soil.

### **How About Me and Us**

One might ask what you could do besides lecturing to KNC. I encourage transparency and straightforwardness. As a spouse, parent, and citizen, I hope I have enough time to do my share of responsibility at home and in the community. As a professional ([www.doctorartin.com](http://www.doctorartin.com)), I hope I can find an academic or humanitarian institution that can help me with building a mental health center in the liberated part of Kurdistan. As current president of the Kurdish American Education Society ([www.kaes.us](http://www.kaes.us)), I hope I can convince the board members to work closely with other organizations with similar objectives such as the Education Committee of KNC of North America ([www.kncna.org](http://www.kncna.org)) for a common goal. Locally KAES has been successful in carrying out many educational and cultural activities with minimum resources. Our hope is to have support from Kurdish, American, and the international community to be able to take a greater share of responsibility. Although many might be rightfully skeptical about the role of the UN in our cause, the previous president of KAES, Mr. Rashidi, has initiated talks with them via the United Nations Association (UNA). I urge KNC or any other individual or organization that is convinced Kurds deserve to determine their destiny, to join us so that together we can build a Kurdish Non-Governmental Organization (NGO) at the UN. Once there, we will be able to be more effective. Our first initiative then could be to request the unpaid budget for oil for food program for various national projects that could be carried out by many dedicated and altruistic Kurdish individuals and organizations for a common goal; such a goal would ultimately serve Kurdistan in particular and humanity in general.

### **Key References**

1. Paul McHugh and Philip Slavney, *The Perspective of Psychiatry*, John Hopkins Press, 1998
2. <http://www.rc.umd.edu/publications/CUP/fulfordandkitson/kitson/kitson1.html>
3. Edward Shorter, *A History of Psychiatry*, John Wiley and Sons, Inc, NY, 1997
4. <http://home.att.net/~rjnorton/Lincoln84.html>
5. Nassir Ghaemi, *The Concepts of Psychiatry*, Johns Hopkins Press, Baltimore, 2003
6. <http://www.netcomuk.co.uk/~kcf/htm/kurdistan.htm>
7. Personal opinion and memory from lectures of mentors, report of patients, and review of history.

**THE CONTINUING CRISIS IN IRAQI KURDISTAN - Michael M. Gunter,  
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Tennessee**

An artificial state cobbled together by British imperialism following World War I, Iraq may well prove to be a failed state. The interim constitution—known as the Transitional Administrative Law (TAL) —promulgated on March 8, 2004 for a democratic federal Iraq has proven to be largely stillborn given the majority Shiites’ insistence on what they see as their right to unfettered majority rule. Thus, United Nations Security Council Resolution 1546 of June 8, 2004, which authorized Iraq’s new interim government, failed even to mention the TAL and federalism as a solution for the Iraqi Kurdish problem. Grand Ayatollah Ali al-Sistani, the de facto Shiite leader and spokesman, in general felt that the TAL should not tie the hands of the Iraqi parliament to be elected in January 2005 and specifically objected to Article 61(c) in the TAL which gave the Kurds an effective veto over the final constitution which is to be adopted late in 2005.

In addition, the U.S. occupation further consolidated ethnic and religious divisions of Iraqi society, while “divide and rule” became a useful instrument to govern the resulting shapeless society. Thus, many Turks and Arabs believe that the United States aims at the breakup of Iraq into its three main ethnic and religious groups by supporting an independent Kurdish state. Indeed, the U.S. policies have highlighted the ethnic and religious divisions in Iraq and institutionalized them at the highest level. The perceived Kurdish bias in U.S. policy toward Iraq has been the major source of suspicion and concern both in Turkey and the Arab world because U.S. policies did not seem to be unifying Iraq or creating a citizenship-based society. Rather, the United States seemed to prefer to govern on the basis of ethnic and religious divisions. This has been seen as resulting in a sharp increase in ethnic and religious hatred in Iraq.

Today, many Arabs and Muslims consider the Kurds collaborators for having supported the United States in the 2003 War. Especially, after the events in Falluja, many in the Arab media even accused the Kurdish peshmergas of being American mercenaries trying to subdue the Arab people. On the other hand, many Kurds see the Arabs as chauvinistic nationalists who oppose Kurdish rights because they would end up detaching territory

from the Arab patrimony. The future of Iraq, moreover, has become even more uncertain given the virulent insurgency against the interim Iraqi government and its U.S. ally.

The purpose of this brief article is to analyze the continuing political and social crisis in Iraqi Kurdistan. Specifically, it will examine the debate over federalism and independence and how these questions concern neighboring countries such as Turkey. Finally, this article will conclude with policy recommendations for all concerned parties.

## **BACKGROUND**

Into the first half of the 19th century, the traditional decentralized Ottoman state and millet system of religious communities, in effect, offered the various nations of the Ottoman Empire autonomy. Some might see this millet system as a type of indigenous embryonic federalism. At the end of the 19th century, however, the Ottoman Empire began to centralize in an attempt to modernize itself and stave off the Western onslaught. This process of centralization eliminated the autonomy long enjoyed by the Kurdish emirates.

Following World War I, modernization policies continued with the demise of the Ottoman Empire and the development of modern states in Turkey, Iran, Iraq, and Syria. The price to be paid, however, was a highly centralized state and government that sought to assimilate its minorities. This process—which had no place for a Kurdish identity—has been termed “official nationalism”: “The leaders of the most powerful nations . . . impose[d] their nationality on all their subjects—of whatever religion, language or culture. . . . As they saw it . . . they were strengthening their state by creating within it a single homogeneous nation.” Indeed, in Iraq the Baathist state of Saddam Hussein eventually unleashed a genocidal assault on its Kurdish minority in the guise of its so-called Anfal campaign of chemical warfare and mass murder.

Only Saddam Hussein’s monumental miscalculation in bringing down upon himself the United States-led attack during the Gulf War in 1991 and the subsequent safe haven protected by a no-fly zone, enabled a de facto Kurdish state to emerge in northern Iraq with the support of the United States and the United Kingdom. No one, however, recognized this de facto state because it threatened to destabilize the existing regional state system. Despite the relative prosperity it began to enjoy after 1991 from its 13 percent of Iraq’s renewed oil sales, the future of this de facto Kurdish state ironically depended upon Saddam Hussein’s remaining in power. Once he was gone, it was unlikely the United States would continue to protect it from a post-Saddam-Hussein Iraqi government. Indeed, the United States and the regional states all insisted that Iraq’s territorial integrity be protected. There would be no independent Kurdish state. Turkey even declared that any attempt to implement such a state would be a *casus belli*.

Faced with such harsh realities, the Iraqi Kurds turned to federalism as their best realistic hope in a post-Saddam-Hussein Iraq. If some type of federalism is going to work, however, the Iraqi Kurds and their fellow Arab Iraqi citizens are going to have to learn how to implement what by definition would be a complicated and sophisticated division and sharing of powers between a central (national or federal) government and its regional (state) components. Moreover, the pluralism implicit in federalism would have to depend

on a deeply imbued democratic ethos Iraqis lacked. Despite the partial democratic edifice they had built after 1991, for example, even the Iraqi Kurds had fallen into internecine conflict between 1994 and 1998. In the end, therefore, most Iraqi Arabs viewed federalism as simply another step toward the Kurdish independence they feared and would not accept.

Over the years Baathist Iraq had supposedly countenanced a wide range of attitudes toward the Iraqi Kurds' relationship with the rest of Iraq. Yet even when the Baathists spoke about the Kurds as a nation (qawm) possessing national rights and aspirations, they were careful to declare that these rights were given to a people, not to the territory because rights to the territory implied secession. In addition, these rights were given by proclamation (bayan), rather than agreement (ittifaq). This choice of terms meant that the Baathist state was the sole sovereign power unilaterally awarding certain privileges to the Kurds and thus, of course, could withdraw them at any time.

Finally, the designation Kurdistan (usually employed by the Kurds when referring to their geographical homeland) was seldom used by the Baathists. Instead, the Baathists used such terms as the region, zone, northern region, our north, or the autonomous area. For their part, the Kurds have strongly objected to the concept of Iraq being part of a pan-Arab union because this would reduce them to being an obscure minority. The proper way to visualize Iraq would be as consisting of two parts, Iraqi Kurdistan and Arab Iraq. Only the latter would be part of the Arab union or homeland.

#### **THEORETICAL ANALYSIS OF FEDERALISM**

Federalism is a form of government in which power is divided and shared between the central (national or federal) government and the constituent (state or regional) governments. Individuals are citizens of both the central and constituent governments, and they elect at least some parts of both governments. A federal form of government is covenantal. This means that the authority of each level of government—central and constituent—derives from the constitution, not from the other level of government. Thus, neither level of government can take away the powers of the other. As such, federalism would most likely require a written constitution which upholds the constitutional rights of each level of government and provides a means of adjudicating differences between them.

There are many different variations of federalism. Some are majoritarian in the sense that they do not constrain the over-all majority living throughout the entire country. Such federal systems would also tend to be mono-national in the sense that they seek to impose one single national standard upon the entire population living under the central government. Despite recent lip service to ethnic diversity, for example, the United States federal system was clearly established on a mono-national, not a multi-national basis because of the relatively homogeneous character of its original population (minus, of course, the African slaves and American Indians).

Adeed Dawisha and Karen Dawisha have argued that the new Iraqi federation should be built around the pre-existing 18 provinces or governorates of Baathist Iraq. Donald L.

Horowitz would maintain that such an arrangement would tend to dilute the strength of any one ethnic group by creating constituent governments that would encourage inter-ethnic cooperation. Such an arrangement, however, would be certain to be opposed by the Iraqi Kurds who would see their very national existence diluted by it. Rather the Iraqi Kurds would seemingly seek some form of ethnic or multi-national federalism, which would allow them to pursue their ethnic identity.

Indeed, as a national minority within Iraq, clearly the Iraqi Kurds would not want to establish a majoritarian, mono-national federalism within Iraq. This is because the Arab or Shiite majority, if it so chose, then would be in a position to threaten the Kurdish political, cultural, linguistic, and/or economic identities. Rather, as noted above, the Iraqi Kurds would be favored by a multi-national or ethnic federal system. Given the central government's repressive track record in Iraq, it also would be to the Kurds' advantage, of course, to establish a central Iraqi government with precise, limited powers, while constitutionally guaranteeing themselves a maximum amount of public policy making on the regional level of government.

Ali Allawi has suggested that the prospective Iraqi federal system include five regional units, each with its own parliament and executive: 1.) Kurdistan, 2) Mosul and Jazira, 3.) Karbala, Hilla, and Najaf, 4.) Basra and Nasiriyya; and 5.) the federal capital of Baghdad and maybe part of Diyala. Such an arrangement would seem to include both aspects of a multi- and mono-national federal system, and thus offer a compromise to the adherents of each separate proposal. Each regional unit would exercise almost all domestic powers, while being funded out of a percentage of oil revenues distributed directly to each region based on their populations. The national or federal government also would have a parliament and presumably an executive but would be responsible only for interregional affairs, foreign policy, defense, money, and banking. It also would have the constitutional responsibility for protecting the rights of minorities such as the Turkmans and Christians.

Unfortunately for the Iraqi Kurds, however, Iraq's influential neighbor, Turkey, fears the demonstration effect on its own restless Kurds of any Kurdish entity on the Turkish border. The most Turkey seems willing to grant is some type of provincial administrative federalism based on a variation of that proposed by the Dawishas above. Such an arrangement would tend to dilute Kurdish ethnic strength and its perceived challenge to Turkey. Turkey also has argued that geographic federalism would dampen ethnic animosities that might be aroused by ethnic federalism by encouraging multi-ethnic and multi-sectarian civic nationalism.

Based on the above, it is clear that the mono-national U.S. federal system would not be to the advantage of the Iraqi Kurds. Instead, the Iraqi Kurds would be favored by a multi-national or ethnic federal system. Switzerland and Canada, currently two of the world's longest lasting states, are examples of contemporary functioning multi-national federations. In recent years, however, other multi-national federations have either disintegrated or failed to protect democratic rights. The Soviet Union, Yugoslavia, Czechoslovakia, and Eritrea's secession from Ethiopia are prime examples. In the Middle East, even the mono-national United Arab Republic uniting Egypt and Syria lasted only

from 1958-1961, while the United Arab Emirates clearly is neither a multi-national federation nor a democracy.

Although the Kurds seek to enter a multi-national federal system in Iraq, they cannot impose such a federation upon unwilling partners. A federacy might be an imaginative solution to this problem. Under such a system, Iraqi Kurdistan could enter a federal arrangement with the central Iraqi government, while the rest of the country would not be federally organized. Federacy might satisfy the Kurds' desire for federalism, while accommodating the Arabs' wish to maintain elements of a unitary state if that is what they want.

### **WILL FEDERALISM WORK ?**

The best laid plans, of course, can fail to materialize. As Liam Anderson and Gareth Stansfield have noted, Iraq lacks a democratic tradition. For one to develop requires the existence of an implicit consensus on the legitimacy of the underlying order and trust on the part of the minority that the majority will not abuse its power. These, however, are the very ingredients that have "mostly been in pitifully short supply" in modern Iraq. Moreover, as already noted, federalism is a sophisticated division and sharing of powers between a central government and its constituent parts that would probably demand, as a prerequisite for its successful operation, a democratic ethos. Trying to establish federalism in Iraq before that state is able to imbue a democratic tradition may be placing the cart before the horse.

Advocates of a federal solution for the Kurds of post-Saddam-Hussein Iraq might draw at least five lessons from recent multi-national federations that have failed. 1.) A successful Iraqi federation must be a voluntary arrangement, not one regarded as being imposed by the United States or some other outside power. Thus, the federation must be ratified by its various constituent parts. For the Kurds, this must mean a free referendum within Iraqi Kurdistan. The fact an unofficial, but democratically held referendum in February 2004 almost unanimously opted instead for independence illustrates the inherent difficulties federalism faces among the Kurds, not to mention the Arabs, many of whom resent what they see as any challenge to their territorial patrimony. 2.) A federal Iraq must be democratic with the full panoply of liberal democratic rights and institutions so egregiously lacking in Iraq's history. 3.) Positive constructive relations based on mutual trust and recognition must be built among the Kurds, Turkmen, Sunni Arabs, and Shiite Arabs, as well as the smaller minorities of Christians, and others. Although developments within the Kurdish region since 1991 offer some encouragement for implementing this requirement, even here the intra-Kurdish warfare that occurred between 1994-98, not to mention the long history of hostile relationships with the rest of Iraq, offer strong doubts. 4.) Although oil and water resources as well as educational traditions would seem to offer some hope regarding economic distributive possibilities, much new ground will have to be developed before one might reasonably hope for the implementation of success on this score too. 5.) There must be strong constitutional guarantees with accepted judicial conflict settlement procedures to prevent efforts to sabotage the federal arrangement in favor of an authoritarian centralization. In the end, therefore, there must be an accepted default mechanism that would allow the Kurdistan constituent region to opt for

independence if its constitutional status in a federal Iraq is challenged. However, this independence will not solve the problem and it might raise political, human and economic cost for the region. Some type of international protection through a treaty sanctioned by the United Nations with United States support would probably be highly important on this score. Given the failure of attempts to guarantee Kurdish rights in Iraq via international pacts in the past, such legal devices remain problematic. The US is less likely to become the protector of the Kurdish autonomy vis-à-vis millions of Arabs, Persians and Turks. It is neither rational nor possible for the US to become the protector of any group in Iraq.

In considering the possibilities of federalism for the Iraqi Kurds, Kurdish divisions, most noticeably between the Kurdistan Democratic Party (KDP) and Patriotic Union of Kurdistan (PUK) have up to now been glossed over with the easy assumption that the two will somehow end their longtime struggle against each other and join forces to create a Kurdistan federal state. A close study of history and the current situation, however, might quickly disabuse one of such notions. Indeed, their inveterate competition and disunity spilled over into a bloody civil war during the mid-1990s and many underlying divisions still remain. Both warring sides of Barzani and Talabani asked Turkey to send military force as peacekeepers between the two sides. Serendipitously, “the divided system which emerged in the summer of 1996 allowed the KDP and PUK to govern the region without the problems of internal competition, and without antagonising the neighbours.” Might some type of federalism that gave separate institutional recognition to these two separate Kurdish statelets within an independent Kurdistan be the ironic answer to their disunity?

**Other Issues.** A number of other problems face a prospective Kurdish federal state. As mentioned above, an unofficial referendum in February 2004 almost unanimously called for independence despite the opposition of the KDP and PUK leaders who argued that independence would not be practical. In maintaining this position, Massoud Barzani and Jalal Talabani run the risk of losing control of the Kurdish “street” and thus their long-term grip on power. Indeed, in October 2004, Talabani apparently was obliged to share more of his authority within the PUK by an internal party conclave following an apparent dispute between him and the next two senior PUK leaders (Kosrat Rasoul and Nechirvan Mustafa Amin) over their position in Baghdad when dealing with the United States. As for the KDP, Nechirvan Idris Barzani, the nephew of the KDP leader Massoud Barzani, has clearly emerged as his heir apparent. Given the volatility of events, whether these two mainline parties and leaders can continue to maintain their position remains to be seen.

**Kirkuk.** Kirkuk is situated along the line where the Kurdish, Arab and Turkman populations of Iraq meet. It also possesses incredibly large oil reserves. Thus, the Iraqi government and the Kurds have never been able to agree on whether or not it should be included in a Kurdish autonomous region. The uncompromising position Barzani and Talabani seem to be taking on Kirkuk being part of Kurdistan is probably at least in part a result of their fear of losing control of the Kurdish “street,” which considers Kirkuk to be the Kurdish “Jerusalem.” Kirkuk voted against Faisal becoming king of Iraq during the referendum of 1921. Turkey also claimed it until the League of Nations finally handed it over to Iraq, as part of the former Ottoman vilayet of Mosul, in 1926. Indeed, the 1957

census indicated that Kirkuk city (as distinguished from Kirkuk province or governorate) had a slightly larger Turkman (39.8 percent) than Kurdish (35.1 percent) population. The Arabs (23.8 percent) constituted only the third largest group. The 1957 census, however, also showed that Kirkuk province had a Kurdish majority of 55 percent, while the Arabs numbered only 30.8 percent and the Turkmans 14.2 percent.

During the 1960s and 1970s, Kirkuk was perhaps the most important point of disagreement between Mulla Mustafa Barzani (Massoud Barzani's legendary late father) and the Iraqi government. Illustrating how strongly he felt about the issue, the elder Barzani reputedly declared that even if a census showed that the Kurds were only a minority in Kirkuk, he would still claim it. Showing his ultimately poor judgment on the matter, Barzani also stated that he would allow the United States to exploit its rich oil fields if the United States would support him. Thus, the Iraqi Arabs had reason to believe that—given the Kurdish links to the United States and Israel—handing Kirkuk to the Kurds, in effect, would be giving it and its rich oil reserves to the United States and Israel. Given its oil and geostrategic location, Kirkuk's Kurdish majority was diluted over the decades by Saddam Hussein's Arabization policies so that today the city has roughly equal populations of Kurds, Arabs, and Turkmans, as well as a considerable number of Christians. Indeed, the census taken in 1977 showed that Kirkuk province had an Arab plurality of 44.41 percent, while the Kurds numbered 37.53 percent and the Turkmans 16.31 percent. Saddam Hussein accomplished this demographic legerdemain by expelling and killing many Kurds, replacing them with Arab settlers, and gerrymandering the province's boundaries. The Iraqi government even officially renamed Kirkuk as Tamim (Nationalization), supposedly in honor of the nationalization of the oil fields in 1972.

In a theoretical victory for the Kurdish position, Article 58 of the TAL declared that “the Iraqi Transitional Government . . . shall act expeditiously to take measures to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work, and correcting nationality.” The TAL, however, was not able to settle on a time schedule to implement these decisions, speaking only of “a reasonable period of time” and declaring “the permanent resolution of disputed territories, including Kirkuk, shall be deferred until . . . a fair and transparent census has been conducted and the permanent constitution has been ratified.”

Although tens of thousands of Kurds have returned to Kirkuk and filed claims for homes and property lost when they were expelled, by the beginning of 2005, no claims have been settled. As for taking a census, the Kurds, of course, argue that one should only be taken after all the expelled Kurds have been allowed to return to Kirkuk and the Arab newcomers returned to their original homes. To summarily oust the new Arab population after it has lived in Kirkuk for some 30 years, however, would simply create new injustices. In addition, the Turkish military has suggested that it would take it only 18 hours to reach Kirkuk if the Kurds insisted on tampering with the city's population to their own benefit and to the detriment of the Turkmans. On the cusp where most of Iraq's ethnic and sectarian divisions meet, Kirkuk is a microcosm of Iraq's ethnic and sectarian

tensions and a likely place for a possible civil war to be ignited, especially given the lack of any group—including most noticeably the Kurds—manifesting any desire to compromise on their maximal demands.

**Tentative conclusion.** Based on the above analysis, it would be very difficult for the Kurds to obtain the type of federalism that will satisfy their demands. Moreover, even if the Kurds were able to achieve some type of meaningful federalism in theory in the final version of the new constitution, Iraq's lack of a democratic culture would make actual federalism very difficult to implement.

## **INDEPENDENCE?**

If, for any of the reasons analyzed above, a federal Iraq proves impossible to construct, many Kurds have asked rhetorically, why not an independent Kurdish state? What would be so sacred about the territorial integrity of a failed state like Iraq that was becoming increasingly unstable? Indeed, within the past decade, both the Soviet Union and Yugoslavia broke up into numerous new states. Earlier, Singapore split off from Malaysia, Bangladesh from Pakistan, and, more recently, Eritrea broke away from Ethiopia and East Timor from Indonesia. The United Nations also has in the past officially approved self-determination for the Palestinians and black South African majority.

Why do the Arabs so rightfully demand a state for the Palestinians, but still deny one for the Kurds? Why do the Turks demand self-determination for the Turkish Cypriots, but question the same for the Iraqi Kurds? Until legitimate Kurdish rights are satisfied, the Kurdish issue will increasingly destabilize the Middle East.

The Iraqi Kurds, however, would be well advised to proceed with the consent of the United States, Turkey, and the other involved regional neighbors because without their consent an independent Iraqi Kurdistan would prove impossible to sustain for obvious geopolitical reasons. The first step to achieve this seemingly impossible task is for the Iraqi Kurds to be seen giving their all in trying to make a democratic federal Iraq work. Only if such an Iraq proves impossible to achieve, will the Iraqi Kurds then be seen as having the right, in the name of stability that also will benefit the United States and neighboring states, to move towards independence.

The Iraqi Kurds must realize, however, that the fear of partition or Kurdish secessionism drives Turkey's foreign policy towards Iraq, in general, and the Kurds, in particular. Turkey's evolving policy (which in effect means no policy) is based on three principles: the elimination of the Kurdistan Workers Party (PKK) from Iraq and Turkey; the prevention of Kurdish statehood or ethnic federation in Iraq in the name of maintaining the territorial integrity and political unity of Iraq; and the protection of the newly "discovered" Turkman minority in Iraq. Thus, Turkey fiercely resists Kurdish control of the city of Kirkuk in northern Iraq where a large number of the Turkmans live.

Thus, the Iraqi Kurds must convince Turkey and the other concerned states that in return for their support of Iraqi Kurdish independence, an independent Iraqi Kurdistan would

not foment rebellion among the Kurds in neighboring states either directly or indirectly. These states' guarantee of an independent Iraqi Kurdish state would be a powerful incentive for the Iraqi Kurds to satisfy them on this point. Furthermore, the Iraqi Kurds must proceed in a manner that their neighbors—including the Iraqi Arabs, Turkey, and Iran—would perceive to be fair to them. This will mean compromise on the maximalist Kurdish demand for oil-rich Kirkuk as the capital of Iraqi Kurdistan.

In addition, the Iraqi Kurds should encourage Turkey's begrudging democratic reforms that will help lead to eventual Turkish membership in the European Union (EU) and thus help solve the Kurdish problem in Turkey without secession. If Turkey joins the EU, its fears about Iraqi Kurdistan would most likely abate since EU membership would guarantee Turkish territorial integrity. Furthermore, once Turkey joins the EU, the influence of the Turkish military on political decisions regarding such issues as the Iraqi Kurds would diminish, a work already in progress as Turkey's EU candidacy proceeds. A more civilian directed Turkish government within the EU would be less likely to fear an independent Iraqi Kurdistan.

On the other hand, if Turkey were kept out of the EU, Turkey would be more likely to continue to view the Kurdish issue through traditional national security issues hostile to an independent Iraqi Kurdistan. Cast adrift from the EU and the United States, Turkey would be more likely to seek succor from Syria and Iran, both of which remain very hostile to any concept of an independent Iraqi Kurdistan.

The stability achieved by an independent Iraqi Kurdistan supported by Turkey would also encourage stronger economic relations between the two. These relations have been suffering for years because of the instability caused by Iraq's wars against Iran and the United States, as well as the U.S.-led sanctions against Iraq that in turn have hurt Turkey. Improved economic relations between Turkey and the Iraqi Kurds in turn would also help benefit the Kurds in Turkey who so badly need a better economic situation.

In conclusion, Turkey should come to realize that as the more powerful partner by far, it would become the natural leader and protector of an independent Iraqi Kurdistan, a state that would also serve as a buffer between Turkey and any lingering instability to the south. Historic Turkish fears of a Kurdish kukla devlet (puppet state) are anachronistic and will only help create a self-fulfilling prophecy. The late Turkish president Turgut Ozal's imaginative initiatives towards the Kurds during the early 1990s illustrate that these arguments concerning Turkish-Kurdish cooperation are not divorced from reality.

## **POLICY RECOMMENDATIONS**

As noted above, it would seem unlikely that the Iraqi Kurds will be able to achieve the type of federalism they seek given the lack of a democratic culture in Iraq and the inability of Iraq's various groups to agree upon their joint future. Given this situation, the United States should realize that its ability to remake Iraq is limited. It also means that the United States should not seek to become the protector of just the Iraqi Kurds because this would turn the Arabs, Turks, and Iranians against the United States. It also would result in never ending economic, human, and political costs for the United States. Given

today's technology, the United States can continue to play a leading role in Iraq without maintaining actual bases on the ground.

The United States had a very positive standing in Turkey due to the Cold War and its support for the Muslim communities in the Balkans. This pro-American public opinion, however, has been diminishing as a result of U.S. policies in Iraq. The United States failed to understand Turkey's sensitivity on the Kurdish question. Some powerful U.S. lobbies, especially the neoconservatives, even seemed to want to create an independent Iraqi Kurdish state. The United States began making competing commitments to the Iraqi Kurds and Turks at the same time. A clearer, more forthright U.S. policy is needed based on an even-handed policy towards all ethnic and religious groups. While the rights of all groups must be supported, maximalist goals of any one group must be discouraged..

This will most likely result in a future Iraq dominated by the Shiites. However, it also will be an Iraq in limbo—at least for the coming decade—because the Shiites will not be able to impose their will on the rest of Iraq. This means that in practice the Kurds and Sunnis will enjoy a great deal of autonomy or de facto federalism despite all that has been said above about the problems in implementing de jure federalism. What longer-term prospects develop will depend on how well this de facto federal Iraq in limbo serves the needs of its different groups and is accepted by its neighbors.

#### **ENDNOTES**

Toby Dodge, *Inventing Iraq: The Failure of Nation Building and a History Denied* (New York: Columbia University Press, 2003).

For a copy of the Transitional Administrative Law, see <http://www.cpa-iraq.org/government/TAL.html>.

In general, see Kemal Karpat, *An Enquiry into the Social Foundations of Nationalism in the Ottoman State: From Social Estates to Classes, from Millets to Nations* (Princeton: Center of International Studies, 1973); Halil Inalcik, *The Ottoman Empire: The Classical Age, 1300-1600* (London: Weidenfeld & Nicolson, 1973); Stanford Shaw and Ezel Shaw, *History of the Ottoman Empire and Modern Turkey. Vol. II: Reform, Revolution, and Republic: The Rise of Modern Turkey, 1805-1917* (Cambridge: Cambridge University Press, 1977); M. Hakan Yavuz, *Islamic Political Identity in Turkey* (New York: Oxford University Press, 2003); and more specifically, see Paul White, *Primitive Rebels or Revolutionary Modernizers? The Kurdish National Movement in Turkey* (London: Zed Books, 2000), pp. 56-57.

Bernard Lewis, *The Emergence of Modern Turkey* (2nd ed.; London: Oxford University Press, 1968).

David McDowall, *A Modern History of the Kurds* (London: I.B. Tauris, 1966), pp. 38-65.

For a detailed history of modern Iraq's earlier decades, see Stephen H. Longrigg, *Iraq*,

1900 to 1950: A Political, Social, and Economic History (London: Oxford University Press, 1953). More recently, see Phebe Marr, *The Modern History of Iraq* (2nd ed.; Boulder, Colo.: Westview Press, 2004); and Charles Tripp, *A History of Iraq* (2nd ed.; Cambridge: Cambridge University Press, 2000). For further background, see Majid Khadduri, *Socialist Iraq: A Study in Iraqi Politics Since 1968* (Washington: The Middle East Institute, 1978); and Marion Farouk-Sluglett and Peter Sluglett, *Iraq Since 1958: From Revolution to Dictatorship* (London: Kegan Paul International, 1987).

For an excellent discussion of this point, see Andreas Wimmer, *Nationalist Exclusion and Ethnic Conflict: Shadows of Modernity* (Cambridge: Cambridge University Press, 2002), pp. 156-95.

Hugh Seton-Watson, *Nations and States: An Enquiry into the Origins of Nations and the Politics of Nationalism* (Boulder: Westview Press, 1977), p. 148. For more important work on how modern states have sought to create nations, see Ernest Gellner, *Thought and Change* (London: Weidenfeld and Nicholson, 1964); and Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1991).

Human Rights Watch/Middle East, *Iraq's Crime of Genocide: The Anfal Campaign against the Kurds* (New Haven: Yale University Press, 1995); and Kanan Makiya, *Cruelty and Silence: War, Tyranny, Uprising and the Arab World* (New York: W.W. Norton & Company, 1993), pp. 151-99. Also see Samir al-Khalil (Kanan Makiya), *Republic of Fear: The Politics of Modern Iraq* (Berkeley: University of California Press, 1989)

For a discussion see Michael M. Gunter, *The Kurds of Iraq: Tragedy and Hope* (New York: St. Martin's Press, 1992), pp. 49-95.

Michael M. Gunter, *The Kurdish Predicament in Iraq: A Political Analysis* (New York: St. Martin's Press, 1999), pp. 111-26; Gareth R.V. Stansfield, *Iraqi Kurdistan: Political Development and Emergent Democracy* (London and New York: RoutledgeCurzon, 2003); and Kerim Yildiz, *The Kurds in Iraq: The Past, Present and Future* (London and Ann Arbor, MI: Pluto Press, 2004).

Michael M. Gunter, "United States Foreign Policy toward the Kurds," *Orient* 40 (September 1999), p. 433.

The following discussion is largely based on Ofra Bengio, *Saddam's World: Political Discourse in Iraq* (Oxford: Oxford University Press, 1998), pp. 109-20.

Adeed Dawisha and Karen Dawisha, "How to Build a Democratic Iraq," *Foreign Affairs* 82:3 (May/June 2003), pp. 36-50.

Donald L. Horowitz, *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985), pp. 563-652.

Ali Allawi, "Federalism" in Fran Hazelton, ed., *Iraq Since the Gulf War: Prospects for Democracy* (London and New Jersey: Zed Books Ltd., 1994), p. 219.

For further analysis, see M. Hakan Yavuz, "Provincial not Ethnic Federalism in Iraq," *Middle East Policy* 11 (Spring 2004), pp. 126-31.

For background analyses, see Ronald L. Watts, *Comparing Federal Systems in the 1990s* (Kingston: Ontario: Institute of Intergovernmental Relations/Queen's University, 1996); Ursula K. Hicks, *Federalism, Failure and Success: A Comparative Study* (London: Macmillan, 1978); and Thomas M. Franck, *Why Federations Fail: An Inquiry into the Requisites for Successful Federation* (New York: New York University Press, 1968).

Liam Anderson and Gareth Stansfield, *The Future of Iraq: Dictatorship, Democracy or Division?* (New York: Palgrave Macmillan, 2004), p. 10.

The following discussion is based largely on cogent points made by Brendan O'Leary, "Multi-National Federalism, Federacy, Power-Sharing & the Kurds of Iraq," paper presented to the conference on "Multi-Nationalism, Power-Sharing and the Kurds in a New Iraq," George Washington University, Washington, D.C., Sept. 12, 2003, pp. 13-18.

Nihat Ali Ozcan, "Could a Kurdish State Be Set Up in Iraq," *Middle East Policy* 11 (Spring 2004), pp.119-122.

Stansfield, *Iraqi Kurdistan*, p. 175.

Directorate of Population, Ministry of Interior, *Iraq's General Statistical Census for 1957*.

Nouri Talabani, *Mantikat Kirkuk Wa Muhawalat Taghyeer Wakiiha Al-Kawmy* [The Kirkuk District and Attempts at Changing Its National Reality] (London, 1999), p. 81.

"Military Issues Dire Warning on Iraq," *Briefing* (Ankara), Nov. 8, 2004, p. 11.

See, for example, Ralph Peters, "Break Up Iraq Now!" *New York Post*, July 10, 2003; Leslie H. Gelp, "The Three-State Solution," *New York Times*, Nov. 25, 2003; Peter W. Galbraith, "How to Get Out of Iraq," *New York Review of Books*, May 13, 2004; and Christopher Catherwood, "Everything about Iraq Says: Chop It in Three," *The Times of London*, Dec. 26, 2004.

See, for example, U.N. General Assembly Resolutions 2672 C (XXV), in *UN Chronicle*, 1971, no. 1, p. 46; 3236 (XXIX), in *UN Chronicle*, 1974, no. 11, pp. 36-74; and 33/23, in *UN Chronicle*, 1978, no. 11, p. 80.

See, for example, U.N. General Assembly Resolutions 2396 (XXIII), in *UN Chronicle*, 1969, no. 1, p. 94; and 31/61, in *UN Chronicle*, 1976, no. 1, p. 79.

For further arguments along these lines, see Edward N. Luttwak, "Iraq: The Logic of Disengagement," *Foreign Affairs* 84:1 (January/February 2005). Also see the pessimistic warnings in Peter W. Galbraith, "Iraq; The Bungled Transition," *New York Review of Books*, Sept. 23, 2004; and Douglas Jehl, "2 C.I.A. Reports Offer Warnings on Iraq's Path," *New York Times*, Dec. 7, 2004.

### **Comments by Jeff Klein, Senior Editor, KurdishMedia.com**

I would just like to preface my speech by conveying the greetings of Dr. Rebwar Fatah, the head of our newspaper, KurdishMedia.com, who unfortunately could not make it to this conference. I spoke to him earlier today and he is doing well, and I am quite confident that he would disagree with much of what I have to say today.

Any discussion of federalism and independence must first begin by addressing the principle of self-determination. The International Covenant on Civil and Political Rights, adopted by the United Nations in December of 1966, begins by stating, "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." This idea of self-determination has as much political currency today as it did decades ago, and remains an important concept with widespread recognition. As we all know, it is absolutely absurd to speak of any right to self-determination, if the Kurdish question, the question concerning the world's largest nation with no nation-state to call its own, is ignored.

Specific to each individual, it must be recognized that among each person's inalienable rights is the sacred right to live in a free and dignified manner with one's identity. For decades, the Kurds have been victims of genocide and experienced various forms of persecution including the specific denial of the existence of a Kurdish identity. In many cases, it was the insistence of the Kurdish people to live as Kurds that was cited as their oppressors' motivation to commit large-scale atrocities. These atrocities, to a certain extent, continue to the present day in many areas of Kurdistan, including the largest segment, which is governed by a regime that ironically enough, is sometimes cited as a secular, democratic model for the Middle East.

The establishment of the Kurdish safe haven following the 1991 uprising, which was encouraged and then abandoned by the United States, and the subsequent creation of a de facto autonomous Kurdish mini-state in Iraq governed by the Kurdistan Regional Government, necessitated the discussion of a federal solution for Iraq. With Iraq partitioned into two regions with different governments, cultures, languages, flags, and currencies, the Kurdish demand for autonomy was no longer a demand for an abstract, ideal system of governance. Rather, it became a simple demand for the status quo in northern Iraq to be preserved following the fall of the Ba'athist regime. Non-Kurdish

Iraqis wishing to work against the regime had no choice but to deal with the Kurds, the only group of Iraqis already presiding over a liberated portion of the country. The federal solution was discussed and ultimately agreed upon in principal by the Iraqi opposition.

Certain parameters must be agreed upon before coming to any conclusion regarding a choice between federalism and independence and discussing any relationship between the two ideas. If we are speaking in abstract terms about an ideal situation, the most just and favorable solution to the Kurdish question in Iraq and all parts of Kurdistan, for that matter, is the creation of a united, democratic Kurdish nation-state including all Kurdish land with the Turkish-occupied ancient city of Amed, presently known as Diyarbakir, as its capital. I support this solution and I am confident that most people here do as well. However, if we seek to take into account the realities of the current situation in the Middle East and address the Kurdish question pragmatically, then we must admit that, at the time being, the idea of a united nation-state of Kurdistan including all Kurdish land is simply not possible, due to a variety of reasons including the interests of the US government and its so-called allies in Turkey.

In today's Iraq, the Kurdish leadership, backed by tens of thousands of armed men and millions of civilians, has made it clear that the new Iraq must include a Kurdish federal unit. The masses have gone a step further, declaring in an unofficial referendum coinciding with Iraq's recent national general election, that they would prefer independence to remaining part of Iraq. I certainly understand these sentiments, but I must state that I believe that, at the moment, any sudden unilateral steps taken to establish a Kurdish state in present-day Iraq, a mini-state encompassing only a small portion of Kurdistan, could prove to be unwise and very counterproductive for the Kurdish people.

If a Kurdish mini-state in Iraq is unilaterally established, it may very well only include the current KRG region. This landlocked region is comprised of only a segment of southern Kurdistan, three provinces in total, and most notably excludes Kirkuk, which remained under the control of forces of Iraq's Ba'athist regime until one day after the regime lost control in Baghdad. Kirkuk, with almost half of Iraq's total oil reserves, is coveted by various parties, and its future status remains uncertain. If a newly established Kurdish mini-state does not include Kirkuk, it will lack substantial natural resources. With or without Kirkuk, it will almost certainly be born into a state of war, causing further loss of life and damage to the infrastructure, and, following the war, it will then enter into a state of siege. Mutually beneficial economic relationships with businesses to the north in Turkey, which unknown to most are quietly but substantially increasing each day, will likely disappear. The lifespan of this new mini-state may or may not be long, and there is no doubt that the quality of life of its citizens would decrease substantially as a result of economic and military pressure following a declaration of independence. Looking beyond Iraq's current borders, there can be little doubt that the unilateral creation of a Kurdish mini-state in present-day Iraq and the partial or complete siege to follow would cause increased pressure on Kurds in other portions of Kurdistan occupied by the repressive Turkish, Iranian Islamic, and Syrian Ba'athist regimes.

The federal solution and the inclusion of Kirkuk into a Kurdish federal unit are two demands not open to debate that have been made by the Kurdish leadership for years, going back to Iraqi opposition conferences preceding the fall of Saddam's regime. When I was in Iraqi Kurdistan attending a session of the parliament shortly after the fall of the regime, a senior official from the PUK flatly told me that there was to be no debate concerning Kirkuk, it was part of Kurdistan and will be treated as such. This sentiment has been reiterated repeatedly by KDP leader Mes'ud Barzani and numerous other Kurdish political figures.

Federalism is conceptually a middle ground between centralism and full separation, but it is still not being recognized as any sort of compromise by certain influential Iraqi figures, some of whom stalled in signing the Transitional Administrative Law due to its language regarding Kurdish autonomy and, others who are still haggling with the Kurdish leadership on the specifics of federalism prior to the formation of Iraq's new government. This does not bode well for the new Iraq and those in Iraq who choose to follow the example of their Turkish neighbors to the north who, to this day, respond to many expressions of Kurdish identity with a type of violently allergic reaction, should remember that the Kurdish leadership, backed by tens of thousands of armed men, will not allow any backward steps to be taken with respect to Kurdish self-rule and, if the leadership did attempt to take such steps, the masses would not tolerate it. Ultimately, Iraqi Kurdistan will continue to govern its own affairs, will have its own regional parliament, and will continue to raise the national flag of Kurdistan.

The official and internationally-recognized establishment of a legally-sanctioned Kurdish federal unit within Iraq that includes most, if not all of Iraqi, or southern, Kurdistan is the ideal solution for the Kurdish people at this time, for both those within Iraq's borders and those in other parts of Kurdistan. Federalism can and will serve two major purposes. First, to address a principal not necessarily dear to the hearts of most Kurds, it will legally preserve the territorial integrity of Iraq, a matter of curiously great importance to many major powerbrokers, including the US, Turkey, and the most prominent religious leader in Iraq. Secondly, given the proper and necessary security arrangements, it will provide a degree of independence to the Kurds of Iraq and guarantee their security and freedom to live as Kurds. At the same time, it will allow for an easier future transition to independence if need be, while avoiding or mitigating many of the negative consequences of an immediate, and in my opinion premature and unwise, declaration of independence. There is no doubt that the Kurdish federal unit to prosper and enjoy relative peace, just as the KRG region has, regardless of whether or not the frequency of terror attacks in Iraq's center and south decrease. If remaining a part of Iraq proves to be troublesome, that is, if, for example, another Arab chauvinist dictator emerged in Baghdad or religious politicians attempted to enforce strict Islamic law on Kurdistan, the prosperous, militarily defensible, and legally recognized federal unit would then more easily be able to effect separation if this radical step proved necessary to protect the right of the Kurdish people of the region to live in a free and dignified manner as Kurds.

Thank you.

## **Comments by Dr. Fouad Darweesh, Past President of KNC**

Mr. Chairman Honored Guests, Dear colleagues, It is a great pleasure to be a part of this panel of distinguished members and to be allowed to address you. You are a wonderful audience. In advance I am asking your forgiveness for the accuracy of the information and my personal ideas and studies regarding Federalism and independence. Federalism is a compromise between an extreme concentration of power and a loose confederation of independent states. Federalism has the virtue of retaining local pride, traditions, and power, while making possible a central government that can handle common problems.

The American history has seen federalism defined and applied in various patterns:

- 1: Cooperative Federalism which assumes the two levels: the central and the regional or sub divisional governments are essentially partners.
- 2: Creative Federalism which has common planning and decision-making.
- 3: Dual Federalism wherein the two levels are functionally separate.
- 4: Horizontal Federalism which involves interactions and common programs among the 50 states.
- 5: Vertical Federalism: The traditional form of federalism, in which national government actions are supreme within constitutional sphere.
- 6: Picket-Fence Federalism which implies that bureaucrats and clientele groups help determine intergovernmental programs, and
- 7: Marble- cake Federalism, which is characterized by an intermingling of all levels in policies and programming.

Distribution of power as in the USA

- 1: Dividing power between the national & state governments under a federal system.
- 2: Separating power between the three major branches: Legislative, Executive and Judicial, giving each branch a check upon the operations of the others.

When it comes to choose between a federal system versus independence for the Kurds, I would vote for independence, as the majority of the Kurds did in southern Kurdistan. or what is called northern Iraq. How would you force the Kurds to be exposed again and again to all kinds of atrocities? It is immoral not to support the largest ethnic-nation in the world without a state of their own. The Kurds have repeatedly shown the world that they are an ally of the civilized world. The Kurds are grateful for the protection of at least the small part of their land in Southern Kurdistan. The people and the leadership have proved to the world how civilized they are by creating a modern civil society, converting the previous Iraqi regime's torture centers into museums, libraries, and parks, spending millions on construction of roads, hospitals, schools, colleges, and universities, creating jobs, having a parliament, and establishing good relations with its neighboring countries, and the rest of the world. The Kurds are capable of governing themselves. It would be a terrible immoral mistake of the civilized world, especially the USA and UK, if they miss

the opportunity to have a very reliable democratic independent Kurdistan. How could we have peace in the middle east when there are more than thirty million disappointed and angry Kurds without having their basic human rights? They deserve the right of self determination-independence in the same lands where they have been living for thousands of years. The Kurds have suffered abuse by every government who declared and signed a treaty that they are responsible for the protection of all their citizens. If for reasons I cannot comprehend of denying the Kurds their right to independence, the people of Kurdistan and the leadership have to undertake more efforts to further improve the economy, security, education, health care, agriculture, energy and oil, and every governmental ministry. The Kurds need to develop more friends and allies. I am optimistic of the future, as long as there are brave, intelligent, human right activists and peace loving people like you. The Kurds will achieve their independence.

Thank you.

### **REFERENDUM AND THE KURDISH STATE - Dr. Munther Al-Fadhul**

Are there any lawful bases to establish Kurdish state in Kurdistan? Is the public referendum for Kurds a betray to country or it is a peaceful & legal expression for the rights of kurds in deciding their destiny?

Does Arabic mind respect the Culture of difference if he does not respect the other's rights?

Why does the one side of thinking are spreading without any consideration for others rights even if he is a partner in home & history & shared destiny?

All these questions are always in my mind to reach to the better way to live peacefully between nationalities & religions away from fanatics & cancellation policy & betray accusing in a new federal Democratic Iraq based on peaceful civilized conversation & respecting human rights & ruling of law & consolidate the culture of difference.

Hundred thousand of kurds people go out in Kurdistan & all over the world in a peaceful way to express their desire to do the referendum under the supervision of the UN & to confirm their real desire about their future, existence & their lives in their land . It is a natural & lawful right guaranteed by the bases of international law & the universal declaration of human rights & the international treaties attached with it because it is considered part of their rights in deciding their destiny.

The matter which attract attention, the declarations of some Iraqi officials & the issuing of many assays & internet sites , these declarations criticizing Kurds for their peaceful expression of their rights & some of these declaration are very sever & injuring the

feelings of millions of kurd people because of its hardness & some of these are accusing kurds in Iraq who participate in referendum with betray & it is a harsh description astonished & shocked many Arab & kurds as well as other nationalities.

For the purpose of spotting light about this subject, we will try to know more about the origin of kurds & how it is legal to express their opinion peacefully & other matters related with this matter affirming on bases of civil conversation, respect others, spreading multi-cultures & being away from accusing others with betray when ideas contradict or does not coordinate with each other because of the variation in attitudes.

The importance of this matter appears through the necessity to respect opinion & the other opinion & leaving fanatics & exaggeration because still some of them preserving the Arabic national attitude based on delusive slogans bring to us more calamities & imaginary victories like the slogans of ( liberating Al-qudus through Baghdad ) . Perhaps the most dangerous thing which faces Democratic forces which love peace & moderation is facing fanatic national thinking & religious dictatorship from the forces of political Islam because they share the same one closed way of thinking & worshiping character & refusing others.

#### **Who are the Kurdish People?**

Kurdish people are part of the Kurdish nation divided between some countries. The history of Kurds turns back to 5000 years . Their land called (Kurdistan) which is Kurds homeland . The old name of Kurds are ( Midiyon ) in old books like ( old testament ) so the existence of Kurds on their land in west Iran & south Turkey up to Sinjar & Himrin mountains are fixed historically , that is to say that their existence in mountain land or ( media ) are before others . This area divided especially after first world war & the curd nation divided into small parts lived in Kurdistan Iraq. ( Southern Kurdistan) , West Iran , Northern Kurdistan in Turkey , & in Syria in addition to many kurds immigrated to Jordan & Lebanon & other countries searching for security & peace.

We would like to attract the attention that ( Kurd Fillies ) are part of the Kurds nation where as many historians refer that they are remnant of Ilamiyeen & Kuteen in middle & south Iraq (Mandily, Badra , Jasan , Khanakhin , Zirbatya , Kirkuk , Baghdad ) & other Iraqi cities beside other Iranian cities . Kurd Fillies return to known Kurds tribes lived in khozstan & east Iraq especially east tigris , it is one of the oldest historical areas in Iraq which established the oldest legislations . We also would like to add that Kurds were one of the ancient people settled in these areas & some of them followed Uzidi or Jewish religion & little of them followed Christian religion & most of them are Moslems . This religious variation is a clear evidence for the historical , ancient existence for Kurds in this area.

If Kurd people are one of the ancient peaceful nations so they should seek their freedom & peace & practice their human rights like others & these rights are acknowledged by religions , customs , national laws , international law & the Universal declaration for human rights & the charters attached with it . These rights are fixed & firm taken from

them without justifications. This stand obliged them to protect their existence & their rights with force. This is provisional way for free people because peoples do not die.

The right of deciding the destiny generally includes two sides :

**First** – The right of choosing brotherly unity in one unit & one state in other words the right of shared living in a satisfactory agreement. In this agreement duties & rights are fixed in the constitution & law & this is exactly the choice of Kurdish people in Kurdistan for example the decision of Kurdistan council in 4th of Oct. 1992 , this council choose federalism as a way to organize the relationship between Kurds & central Iraqi state & this concept emphasized in the law of administrating the state for the transitional period . This occurred in the fourth item as follows: ((The kind of regime in Iraq is republic, federal, democratic, multipolitic , dividing authorities between united Government & regional government & governorates & local administrations . The united regime based on Geographical & historical facts separating between authorities & it is not based origin, rote, nationality, religion etc...) This principle emphasized in the decision of the Security Council No. 1546 for the year 2004.

**Second** – Separation & establishing independent entity in other words establishing independent state like Eastern Taimor & the right for Palestinians in having their independent state & this independent entity decided by the people who were concerned in establishing such state according to referendum & under the supervision of UN like what happened in so many places in the world as one of the rights for peoples to decide their destiny according to the international law & international agreements which we are going to refer to it so practicing this right is not a treason but it is a practice of lawful right fixed internationally & humanly for the people who suffered from injustice & persecution along years especially when it comes from a people have a long history in free movement longer than the history of Iraqi state itself , we mean by this Kurdish people & its free national revolution . Kurds sacrificed hundred thousands on the way of freedom & protecting the right of living & existence.

Now, the question is there any lawful basic for kurds to choose the second solution that is to say establishing Kurdish state if shared living based on chosen unity impossible ? Is the choice of establishing independent state a treason or practicing a lawful right ?

**Kurds are people without state or nation without state ?**

No doubt, that people, area, political system & legal government are the bases for any state & all peoples have international laws & items No. 7/ 1 from international charter for cultural & political rights attached to universal announcement for the year 1948.

No doubt, that the legal bases to establish Kurdish state are represented in two points :

**First - The Bases for Kurdish State:**

**1 - People:** Kurdish people was founded in Kurdistan since thousands of years , its name mentioned in the old testament under the name medies so kurds are ( medies ) whom

distributed etc...) between many countries ( Turkey , Iraq , Iran , Syria , Lebanon , Jordan ) Kurds are a big nation divided among these countries & the reason for this division are ( Syxpico agreement in 1916 ) This division still up to this date in contrary to his desire, Kurdish people in Iraq are (people without state) although that Sefer agreement in 1920 dictated to the Kurdish people right in having his independent state . This agreement broke down by Lozan agreement in 1932 without any right & kurds faced dangerous international crimes from various regimes especially Al-Baath Party & Saddams regime . It reached to the ugliest average similar to the nosiest regime . One of these crimes are attacking Halabcha City with Chemical weapons & bringing hundred thousands of people alive in common graves & other crimes like destroying villages & planning millions of mines & depending upon purification policy for the purpose of destroying human kind . this crime are dangerous & incident international crime prohibited by all international agreements & international law bases . The biggest emigration for Kurdish people happened in 1991 because of the former regime severeness & torment then the security council issued his decision No.688 in April 5/ 1991 to protect kurds & respect human rights . Kurdish people have a peaceful struggle in Iraq then armed struggle to protect his right of living & existence according to the decisions of United Nations which recognize openly the legal armed struggle for dominated peoples in its decision 2955 in 12th Dec. 1972 & in 17th of Dec.in 1976.

Kurdish people in Kurdistan owns all the elements of any people, these elements are necessary to activate the principle of deciding destiny & these elements are ( Kurdish language , Kurdish culture , sharing the same history & distinguished identity & sharing specific area with its geographical , historical , lawful borders ) . This people has been attached to the Iraqi State after the second world war without his desire & acceptance as Kurdish people have no referendum about this regulation so the regulation is un legal & the Romanian base says what is built on illegal is illegal already so the followed Iraqi governments did not keep its commitments towards Kurdish people.

**2 - Area:** Kurds have area called Kurdistan & it is for Kurds from thousands of years although the Kurdish nation has been divided into many states according to syxpico agreement in 1916 . Kurdish people settled in its homeland really without losing its legitimate lawful & human rights including the right of deciding destiny which is confirmed in the international law & in the treaty attached to the universal deceleration for human rights . This area has its fixed geographical , historical , & legal borders , this emphasized also in the law of administrating the state for the transitional period in Iraq (item 53 ) . Kirkuk is part of these borders.

**\*\*\*The lawful position for Kirkuk city\*\*\***

We believe that the historical, geographical, social, cultural & economical position of Kirkuk city refers without any doubt that Kirkuk is an important Kurdistan city situated inside Iraq kurdistan borders historically, geographic & legally in fact Kirkuk is the heart of Kurdistan. Kurds are the majority of population in Kirkuk & its countryside .Although, there are other nationalities like Arab, Turkmen, and Aserian etc... but Kurds are the Majority & the most important evidence. The account of population in 1957 &

also Kurd graves which were deformed or destroyed by Albaath government especially after the inquire of Mula Mustafa Al-Barazani about accounting graves as an evidence that Kirkuk is part of Kurdistan.

All these events happened in the negotiations between Mula Mustafa & government delegation in 1970, this encouraged the followed regimes especially in Al-baath reigm to adopt an aggressive policy against kurds & other nationalities as purification policy & dominating natural fortunes, this is contrary to human rights. All these policies affect the social texture , rote , compound , infrastructures & geographical borders . This aggressive policy adopting by authorities reached to cemeteries when when they try to deform & destroy graves & bury Arab in Kirkuk & inhabiting ten thousands of Palestinians in Kirkuk besides changing names of districts & Kurdish areas into Arabic or fanatic Baathi names like ( Al-Baath , Al-nakhwa , Al-amal Al-shaaby , Al-qadisya , Amal-Maarik , Saddam , Summod etc...)

According to the account of 1957 , the percentage of kurds in Kirkuk are 48,3% . This account was agreed upon in Athar deceleration in 1970 , then the percentage of kurds decreased in 1977 account & became 37,33% due to the Arabic & purification policy . The percentage of Turkmen were 21,5% then became 16,3% in 1977 account . Concerning these facts , Dr. Hasan Al-chalabi refers in his speech about federalism for kurd in Kurdistan about Kirkuk city says : "Concerning Kurdish area, appears what is called Kirkuk complex , the question was if Kirkuk inside Kurdistan area or not ? From historical , actual , & population facts , Kirkuk consists of kurds ( majority ) Turkmen , then Arab so absolutely we can say that kurkuk is part of kurdstan in federal union or other way "

We should also refer to the brave stand of Mula Mustafa Al- barazani , he said during negotiations of 1970 to the government delegation concerning Kirkuk said : "Kirkuk is part of kurdstan & if account shows that the majority of population are not kurds , I will not confess that because I can not bear the responsibility of letting down Kirkuk in front of kurds " Also we have to mention that many of Arab & kurd judges consider Kirkuk as part of kurdstan .

**3 - Political Regime:** Kurds in Iraq have an elected legitimate government (item 53) from the law of administrating the state for the transitional period. This means that there is political regime administrating kurdstan according to law:

In Kurdistan there is an elected parliament & constitution institutions & Kurdish people administrating his affairs independently from 1992 up to now whereas the above mentioned parliament decided in 1992 to establish these institutions & choosing federal solution under chosen union. Above all this , there are many countries deal with Kurdistan government & receive guests & political leaders of many governments in separate way from the central government in Baghdad according to the national law & the law of administrating the state for transitional period .

**Second - The basic law driven from the concept of people's right to decide their destiny**

This law principle suits basically to put law solutions for peoples problems & this principle have the obliging power as it changed to an obliging international law base , this is clear from these documents :

1. The UN charter dictates the second item from the first material that (flourishing friendship relations between nations on the base of respecting the principle of equalizing in rights among peoples & all peoples have the right to decide their destiny ...)
2. First item / 1 from international convention concerning civil & political rights for the year 1966 which dictate that all peoples have the right to decide its destiny by itself according to this right peoples are free to decide its political center & free to seek the ways to achieve its economical , social & cultural development .
3. Second item from deceleration of giving independence for countries & peoples dominated according to the decision of general assembly of UN No. 1514 / D 155 in 14th of Dec. 1960 which dictated that all peoples have the right to decide its destiny by itself according to this right , people are free to choose its political center & to seek freely the ways to achieve its economical , social & cultural development .
4. This was emphasized in the deceleration of international law principle in 1970 issued according to the decision of general assembly of UN No. 2625 in 25th of Oct. 1970 & also 8 item of Hilsinki convention in 1975 & also Algeria deceleration in 1976 etc..
5. To achieve this aim & establish kurdish state , the UN can be a supervision on the Referendum between Kurdish people in kurdstan to be informed about his decision of destiny to stay inside chosen unity in Iraqi state which was decided in the law of administrating the state for the transitional period & the decision of security council No. 1546 or establishing his legal & independent entity & establishing independent state on his land according to law bases mentioned previously & according to the international experiences in this field . In according to **the national law in Iraq & international law allow Kurdish people in kurdstan to establish their Kurdish state & it is an enough basic law for kurds right in its state & land .**

On the other hand , the bases of international law & the law of administrating the state for the transitional period can not permit living by force as force can not be a base for living but desire & free will of people only desire the kind of living . So kurds in Iraq may decide to live inside a chosen unity based on equal & fair sharing or independence & establishing Kurdish state associated to convention in a confederal form with the state or Arabic state & this is legitimate right decided in the bases of international law & kurds only can decide & it is not allowed to referend others about the kind of relation & the nature of living because this is contrary to logic .