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FROM REBELLION TO DE FACTO STATEHOOD: INTERNATIONAL AND TRANSNATIONAL SOURCES OF THE TRANSFORMATION OF THE KURDISH NATIONAL LIBERATION MOVEMENT IN IRAQ INTO THE KURDISTAN REGIONAL GOVERNMENT

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Abstract

In 1991, following its defeat in the first Gulf War and out of fear of a humanitarian catastrophe, the Iraqi army and state-apparatus were forced to withdraw from the three Kurdish-population governorates in Northern Iraq. This left an administrative vacuum that was filled by the leadership of the Kurdish fragmented guerrilla movement – now a de facto Kurdish state in Northern Iraq, known as the Kurdistan Regional Government (KRG). Instead of achieving their goal of an autonomous (and in the long-term even independent) Kurdistan through insurgency or guerrilla warfare, the Kurdish leadership came to see state- and institution-building as the most efficient path.

De facto statehood has had a significant impact on the development of the KRG, its state-building, its interaction with the international community, and its policies. As demonstrated in the growing literature on de facto states, the pursuit of international legitimacy often plays a key role in shaping their conduct and identity, paving the way toward substantial, though fragile, achievements in state-building. The purpose of this research is to contribute to the study of de facto states by exploring the case of the KRG. It argues that the pursuit of legitimacy is essential for the understanding of de facto states, mainly due to its potential to generate interaction between the de facto state and different segments of the international community. Transnational advocacy is found to be particularly significant, including diaspora activism for conveying ideas and encouraging interaction.

By examining the evolution of the Kurdish national liberation movement from 1958 to 2010, this research aims to better explain the dynamics that shape de facto states in general, and to contribute to the study of the KRG as a de facto state in particular, including its development, and its domestic and foreign policies.

Contents

ABBREVIATIONS

- AI – Amnesty International
- AKP – Justice and Development Party (in Turkish Adelet ve Kalkınma Partisi)
- CPA – Coalition Provisional Authority

- HBV – Honour-based violence
- HRR – Human Rights Report (UNAMI publication)
- IGC – Iraqi Governing Council
- INC – Iraqi National Council
- IRI – International Republican Institute
- ITF – Iraqi Turkoman Front

- IWO – Independent Women's Organisation
- KA – Kurdistan Alliance
- KDP – Kurdistan Democratic Party
- KF – Kurdistan Front
- KIE - Kurdistan Institute for Elections
- KNA – Kurdistan National Assembly
- KP – Kurdistan Parliament
- KRG – Kurdistan Regional Government in IR
- KRM – Kurdistan Referendum Movement
- NDI – National Democratic Institute
- NED – National Endowment for Democracy
- OFFP – Oil for Food Programme
- PKK – Kurdish Workers Party (in Kurdish Partiya Karkerên Kurdistan)
- PUK – Patriotic Union of Kurdistan
- SBS – Standards Before Status (Kosovo)
- TAL - Transitional Administrative Law
- UNAMI – United Nation Assistance Mission in Iraq
- UNSCR – UN Security Council Resolution
- USAID – US Agency for International Development

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CHAPTER 1. INTRODUCTION

1.1 DEFINING THE PROBLEM AND THE RESEARCH QUESTION

The subject of de facto states presents somewhat of a challenge to students in the field of International Relations (IR), since it does not settle well into the dichotomy between state and non-state actors to which they have become accustomed. Rather, the de facto state exists in a limbo of international definitions and regulations. In its most minimalist definition, the de facto state is a political entity whose leadership has wide autonomy in both its domestic and foreign policies, has established institutions that usually characterise independent states, and which perceives itself as deserving full legal and institutional independence. Establishing sovereignty through state-and institution-building is a top priority for such actors, and indeed many of the existing de facto states have actually been relatively successful in their state- and institution-building projects. Yet, such entities have been denied one of the most important traits which actually make political and geographical entities into states − international legal/diplomatic recognition. More importantly, even their existence and actions as de facto states are considered to be illegitimate by most members of the international community. This is indeed a problematic existence; yet, it does not render it a subject unworthy of analysis. On the contrary, because of its unique circumstances, the de facto state can actually provide us with some important insight on IR.

The benefits of studying such unchartered territories as de facto states have already been identified by various scholars, who have approached the subject from different perspectives. Most of the studies of the subject, however, tended to approach it from a systemic perspective, utilising the cases of de facto states and their contested existence to examine the state-system, whose members have mostly refused to

recognise the de facto states.[1] Several other studies have diverged from this perspective, focusing on the development, identity and conduct (or policies) of de facto states.[2] The latter studies have been particularly significant because they identified the link between the position of de facto statehood and the development and policy-making processes of de facto states. Particularly important has been the identification of the pursuit of legitimacy as a constituting factor in the development of de facto states.[3]

This research joins the latter group of works, but with the aim of contributing a further dimension: by focusing on the case of the Kurdish national liberation movement in Northern Iraq and its transformation into the Kurdistan Regional Government. This research focuses not on the development of de facto states, but on the manner in which legitimacy actually facilitates changes in the conduct and policy of de facto states. As this dissertation argues, the de facto states' need of international legitimacy is essential, but is not sufficient for their understanding. Rather, the pursuit of legitimacy creates opportunities for changes: as this thesis demonstrates, by constantly interacting with the international community in an effort to legitimise its existence and actions, the de facto state puts itself under further scrutiny and allows more transnational actors to take part in the process of state-building. This compels the de facto state at least to engage in some forms of deliberation and argumentation, which carry with them the possibility of change.

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[1] Most notable examples for that are Scott Pegg, *International Society and the De Facto State* (Brookfield: Ashgate, 1998); Deon Geldenhuys, *Contested States in World Politics* (New York: Palgrave Macmillan, 2009); Pal Kolstø, "The Sustainability and Future of Unrecognized Quasi-states," *Journal of Peace Research* 46, 3 (2006), 723-740.

[2] For most comprehensive projects see Nina Caspersen, *Unrecognized States: the Struggle for Sovereignty in the Modern International System* (Cambridge: Polity, 2012); Nina Caspersen and Gareth Stansfield (ed.), *Unrecognized States in the International System* (Oxon, New York: Routledge, 2011).

[3] See Caspersen, *Unrecognized States*, especially chapter 4, "Internal Sources of Unrecognized State-building," 76-101.

The above hypothesis is inspired to a great extent by the Constructivist approach to international politics, according to which the identity of an actor is shaped by its position in international society, as well as by discourse, ideas and intersubjective meanings of reality.[4] However, the idea that the Constructivist approach could be applied in order to gain a better understanding of the KRG in fact arose in a meeting conducted with a senior KRG official and a long time participant in the Kurdish national liberation struggle in northern Iraq.[5] The purpose of the session was for the KRG representative to present data about the KRG's progress in economic, social and political fields. The audience at the event, which was organised and hosted by a London-based non-governmental organisation (NGO), was comprised of members of the Kurdish diaspora community in Britain, representatives of other NGOs, academics, journalists, representatives of different diplomatic missions in London, potential investors and current and potential donors. During the Questions and Answers session at the end of the event, the speaker was addressed with a question by a representative of an NGO about the dire situation of women in the Kurdistan Region, concerning mainly the KRG's incompetence in preventing such phenomena as "honour" killings, polygamy, domestic violence and female genital mutilation (FGM). To the surprise of those present, the speaker then side-lined the other questions addressed to him, and addressed this question in great detail, elaborating on the KRG's (and particularly his own) dedication to countering such trends and bringing perpetrators to justice.[6]

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[4] I elaborate on the social Constructivist approach below, as it has guided my ontological approach to international politics.

[5] The meeting was held with no restrictions regarding the publication of contents. However, I prefer not to disclose the details of this meeting.

[6] To emphasise his point, he actually reverted to speaking in English, rather than using a translator as he did throughout most of the event.

It was this meeting that provided me with the first explicit example of the manner in which the search for international legitimacy can put leadership of de facto states (or even recognised states) under scrutiny almost voluntarily. It led me to come up with two observations, which were heavily supported by existing literature on de facto states. First, de facto states are in a constant need to legitimise their existence, actions and aspirations. This position, in a limbo of non-recognition, has substantial negative implications for their existence and prospects of any progress. Therefore, the leaderships of de facto states are in a constant pursuit of international legitimacy and recognition. Second, the pursuit of international legitimacy by de facto states, or any other actor for this manner, cannot be independent from developments at their domestic level. In their pursuit of legitimacy, the representatives and supporters of de facto states often rely not on moral claims, but rather on the idea that they are de facto states, namely their autonomy and proven ability to function like a state. Anything that might demonstrate this ability will be highlighted by the leadership of the de facto state in its interaction with other states: control over the territory, general personal security in the region under their control, signs of economic viability, and even the ability to protect its border from invasions, especially by its former parent state.

This second hypothesis paved the way to a third one. There is a tendency in literature on the subject of de facto states to stress their relative success in state-building, and especially successes in democratisation. Most students of the subject tend to view such success as taking place *in spite* of the lack of recognition. However, as this research reveals, non-recognition or illegitimacy can actually play a positive role in facilitating such developments. One may argue, then, that it is *because* of their illegitimate status; it is the search for legitimacy that drives de facto states to go through such positive developments as successful institution-building, guaranteeing

the security of their people, or liberalisation of their political system. This is because the lack of legitimacy often drives the leadership of the de facto states to interact with the international community and engage directly with the norms and ideas that dominate the society of states and the standards that guide its recognition and "admission" of new members. This has entailed a process of learning, in which the elites of de facto states have been institutionalised to understand what it means to be a "good," legitimate government. In most cases, de facto states will not face an explicit international demand to reform their political system, since this would necessarily mean some international recognition. However, through this interaction with the international community, the de facto state's leadership often learns that meeting internationally-held standards of governance, or at least claiming to meet such standards, may pave the way toward recognition. More importantly, this constant interaction often puts the government of the de facto state under greater scrutiny. When its representatives make demands based on their ability to maintain statehood, sovereignty and security, there are at least some actors that might try to hold them accountable: not only those who object to their existence, but also those that aim to promote the same values that de facto states claim to meet. Thus, de facto states' foreign policies often pave the way toward further domestic changes.

What is important to note here is that this is, at the end of the day, a study of national liberation. The vast majority of de facto states emerged out of national liberation movements with ethnically, religiously, or socially-based separatist aspirations. They often transform into de facto states due to dramatic changes in their domestic and international environments. This transformation is bound to have important implications for the identity, policies, strategies and development of such movements. Yet, their final goals of national liberation and national self-

determination usually remain unchanged. Therefore, and based upon the above presented hypotheses, the questions that this research answers are: how does this transformation shape the external and internal strategies of de facto states? How is the interaction between the de facto state and other actors shaped by this transformation? And how does this interaction, in turn, shape the development and evolution of the de facto state?

The KRG serves as an insightful example of a de facto state. The history of the Kurdish national liberation movement in Iraq dates back to the demise of the Ottoman Empire, with the spread of nationalist ideas among the different ethnic and religious groups constituting the Ottoman Empire. Yet, this research actually begins in 1958, with the return of Mullah Mustafa Barzani, the now almost mythical leader of the Kurdish national liberation movement in Iraq, to the country. This return marked a peak in the process of localisation of the Kurdish question in Iraq and the growing concentration of the Kurdish nationalist movement in Northern Iraq in liberation from Baghdad, at the expense of the idea of "Greater Kurdistan." Up until 1991, dynamics in the relations between the Kurds in northern Iraq and Baghdad could be characterised as ones between a central government representing a certain sector of the population and a compact minority based in the periphery. However, following the defeat of the Iraqi army in the Desert Storm Operation in 1991, new dynamics emerged. Forced under United Nations Security Council Resolution (UNSCR) 688 to withdraw its armed forces from northern Iraq, the Ba'th government decided to withdraw its bureaucracy and state apparatus from the region as well. The removal of state bureaucracy from the region was a punitive measure, aimed to drive the Kurdish population to poverty and thus compel it to seek reunification with Iraq. But the unpredictable happened: the Kurdish leadership managed to establish its control over

the Kurdish regions under the protection of the allied forces, namely the US, Britain and France, consolidate its sovereignty, and eventually went through a relatively successful process of state- and institution-building. The initial process of state-building also witnessed an initial democratic transition, with elections taking place in the region for the first time in its history. The process of state-building was severely interrupted during the mid-1990s, when a civil war erupted between the two main Kurdish parties, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK). It was renewed and enhanced, however, following the 2003 American-led invasion of Iraq and the overthrow of the Ba'th regime.

Throughout this period, the armed struggle against Baghdad was almost entirely abandoned, and state-building now became the main form of national liberation. To put it in different terms, guns and landmines were now replaced by legislation and bureaucracy. Since its establishment, international reaction to the development of a Kurdish de facto state shifted from open hostility, through a feeble objection and lip-service to Iraqi territorial integrity from all parties involved, to some legitimacy and acceptance by the international community. Full recognition has never been openly considered, and the Kurdish leadership has never declared independence. It has, nevertheless, striven to expand its autonomy and protect its constantly contested achievements. In a correlation, the interaction between the KRG and the international community gradually became based more on the KRG's effort to exhibit its success, building upon it in an effort to legitimise its existence. This, in turn, further enhanced the same positive developments which were used by the KRG to support its de facto autonomy from Baghdad. This research stops in the year 2010; This is because between 2009 and 2010 the KRG experienced some of its more significant achievements, whether domestically, with the third regional election

campaign taking place; or diplomatically, in terms of its relations with other actors, and especially Turkey.

At first glance, one may ask: should we really focus our intellectual effort on what might seem a marginal subject in international politics? After all, as revealed later in this research, the number of potential cases does not even reach twenty. Among them are: the three separatist entities in the Caucasus, namely Nagorno-Karabakh (seceded from Azerbaijan), Abkhazia and South Ossetia (both seceded from Georgia); Transnistria (Moldova); Kosovo (Serbia); Somaliland (Somalia); the Turkish Republic of Northern Cyprus (TRNC); the Palestinian National Authority (PNA); the Saharawi Arab Democratic Republic (Morocco); the Republic of China (i.e. Taiwan);[7] Biafra; Tamil Elam; Eritrea and South Sudan.[8] Most of these entities are relatively small in territory and are usually insignificant economically. A similar question might be applied to the study of the KRG. Should so much energy be devoted to studying an entity whose existence seems so fragile, when there are other, seemingly more acute issues in this region of the Middle East that deserve our attention?

True, de facto states are scarce in number and are relatively small in terms of their population and territory. Nonetheless, this does not mean that they do not carry weight in international politics. On the contrary, de facto states often play important

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[7] All of these cases have been defined as de facto, contested or unrecognised states by the following authors: Pegg, *International Society and the De Facto State*; Geldenhuys, *Contested States in World Politics*; Pal Kolstø, "The Sustainability and Future of Unrecognized Quasi-states"; Dov Lynch, *Engaging Eurasia's Separatist States: Unresolved Conflict and De Facto States* (Washington DC: United States Institute for Peace, 2004); Tozun Bahceli, Barry Bartmann and Henry Srebnik (ed.), *De Facto States: The Quest for Sovereignty* (Oxon: Routledge, 2004); Pal Kolstø and Helge Blakkisrud, "Living with Non-recognition: State- and Nation-building in South Caucasian Quasi-states," *Europe-Asia Studies* 60, 3 (2008), 483-509; Nina Caspersen, "Separatism and Democracy in the Caucasus", *Survival* 50, 4 (2008), 113-136

[8] The last four on the list no longer exist as de facto states. The latter two are now fully recognised and fully legitimate members of international society; the former have been defeated and re-annexed to the parent-states.

roles in the geopolitics of their region. Their persistent undermining of regional status-quo means that de facto states can constitute a focal point for future developments in the region. Some view them as sources of chronic instability, while others as victims of harsh circumstances and historical injustice. But regardless of the observer's approach or bias, they are undoubtedly important elements in a complex political fabric. Therefore, a better understanding of their motivations and of what guides their policy-making decisions is necessary if we seek to genuinely understand their impact on their regional (or even global) geopolitics. The KRG is an excellent example for that; one would find it hard to explain regional dynamics in the north-eastern part of the Middle East, and in the interaction between Iraq, Turkey Iran and Syria, without a thorough understanding of the changes in the Kurdish national liberation struggle. Indeed, several studies have been conducted about the impact of the Kurdish question on regional geopolitics since 1991,[9] yet they have mostly failed to note the impact of the changing nature of the Kurdish national liberation struggle in Iraq on regional geopolitics. Other studies have taken into account the transformation of the Kurdish national liberation movement in Iraq, but their analysis focused mainly on Turkish foreign-policy making.[10]

There is more, however, to the effort in thoroughly understanding the evolution and conduct of de facto states. International legitimacy, which is defined in this research as an important factor in the process of transformation that de facto states go through, is constituted of various norms and ideas. These norms and ideas, in turn, are constantly given to changes and transformations which are themselves the

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[9] Robert Olson, *The Kurdish Nationalist Movement in the 1990s: Its Impact on Turkey and the Middle East* (Lexington, KY: Kentucky University Press, 1996).

[10] Robert Olson, *The Goat and the Butcher: Nationalism and State Formation in Kurdistan-Iraq Since the Iraqi War* (Costa Mesa, CA: Mazda Pub., 2005); Åsa Lundgren, *The Unwelcome Neighbour: Turkey's Kurdish policy* (London: I.B Tauris, 2007).

products of international negotiations and deliberations. When de facto states interact with the international community they essentially engage with the norms and ideas that constitute legitimacy. Thus, de facto states provide us with yet one more example for the manner in which certain norms and ideas, and more generally globally-held perceptions of statehood and sovereignty, are conveyed from the global level into certain actors and under specific conditions. In this manner, this study follows other existing studies in the field of IR,[11] by adding yet another perspective to the rich repertoire that already exists in the literature.

With regard to the KRG, then, one can say that examining it in the framework of de facto statehood has a double benefit: not only that the case of the Kurdish national liberation movement and its transformation into the Kurdistan Regional Government serves this research in further enhancing our understanding of de facto states, but applying the framework of de facto statehood to the KRG can actually help us to better understand these actors, whose regional significance has been mostly on the increase.

The pattern of research offered in this dissertation requires a methodology that necessarily pays attention to such issues as interaction, learning and communicative action, as well as to the reciprocal relations between the agent and the system (in this case the de facto state and the international community). The Social Constructivist approach to the IR (referred to henceforth as the Constructivist approach) carries in it the necessary tools for such an examination, and this research has been greatly influenced by this approach.

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[11] Thomas Risse-Kappen (ed.), *Bringing Transnational Relations Back In* (Cambridge: Cambridge University Press, 1995); Peter J. Katzenstein (ed.), *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996); Martha Finnemore, *National Interests in International Society* (Ithaca: Cornell University Press, 1996); Margaret Keck and Kathryn Sikkink, *Activists beyond Borders* (Ithaca: Cornell University Press, 1998).

1.2 A NOTE ON TERMINOLOGY AND THE USE OF THE TERM 'DE FACTO STATE'

Here an important note must be made about the choice to use the term *de facto state* in reference to my unit of analysis. While seemingly an issue of semantics, the choice of such terminology has some implications over the way one approaches the subject. In fact, the manner in which students refer to the phenomenon discussed in this research has been a subject of some controversy and debate. While it was Scott Pegg who first defined de facto states,[12] as those separatist entities that have gained autonomy and been successful in the processes of state-building, but failed in securing international legitimacy, following studies of the phenomenon came out against the use of this term. While accepting the criteria set by Pegg for identifying such actors, later studies preferred to refer to them as separatist,[13] contested,[14] unrecognised,[15] or quasi-unrecognised states.[16] Explaining his objection to the use of the term 'de facto', Deon Geldenhuys, for instance, has argued that the above term is "problematic", since it implies that "these entities are denied de jure recognition." In reality he notes, some of them have actually managed to secure various degrees of recognition, starting from recognition by one state (Russia in the case of Abkhazia and South Ossetia, or Turkey in the case of the Turkish Republic of Northern Cyprus) or from numerous states (as

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[12] Pegg, *The De Facto State and International Society*. To be more precise, Pegg was the first to introduce the definition into the field of IR. The term had been used before by legal theorists, but mainly in reference to questions of property ownership and international responsibility in an era of the demise and birth of new states and governments. See for example Osmond K. Fraenkel, "The Juristic Status of Foreign States, Their Property and Their Acts," *Columbia Law Review* 25, 5 (May, 1925), 544-570; See also T. Baty, "'De Facto' States: Sovereign Immunities," *The American Journal of International Law* 45, 1 (Jan., 1951), 166-170.

[13] Charles King, "The Benefits of Ethnic Wars," *World Politics* 53, 4 (July, 2001), 524-552.

[14] Deon Geldenhuys, *Contested States in World Politics* (New York: Pelgrave Macmillan, 2009); Marc Weller, *Contested Statehood: Kosovo's Struggle for Independence* (Oxford: Oxford University Press, 2009).

[15] Caspersen, *Unrecognized States*.

[16] Kolstø, "The Sustainability and Future of Unrecognized Quasi-states"

in the case of Kosovo and Taiwan).[17] Pal Kolstø, in another instance, insisted on adding the term *quasi* as a prefix to the term 'unrecognized states', arguing that many of these entities, if gaining recognition and thus turning into *de jure* states, are bound to become failed states.[18]

While both Geldenhuys and Kolstø bring up valid points which should be taken into account by any student of de facto states, in this research I chose to employ Pegg's initial terminology of de facto statehood. This is because terms such "contested" or "unrecognised" states necessarily approach the actor from a structural perspective, defining it against the international community's objection to legally and diplomatically recognise the actor as a full member state. The term de facto state, in contrast, directs the reader first and foremost to the agency of the de facto state, namely the autonomy and sovereignty it has achieved through its own actions, rather than to questions of recognition or non-recognition. In essence, the term de facto state sets the actor and its development as the focal point of analysis.

In a more recent critique, James Harvey challenged the use of the word *state* in reference to those actors. As he suggests, political scientists have essentially applied traditional frameworks to the study of those actors, rather than coming up with "a new field of theoretical discourse and new analytical frameworks."[19] This terminology, Harvey suggests, not only perpetuates the state-centric tendencies of the field, but also implies that those entities are unitary or singular in nature. This, according to Harvey,

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[17] Geldenhuys, *op. cit.*, 27. For the same reason Geldenhuys also criticises the use of the term unrecognised states.
[18] Kolstø, "The Sustainability and Future of Unrecognized Quasi-states"; Here Kolstø refers to Robert Jackson's definition of failed states, which I discuss later in this paper. Nonetheless, in a later article Kolstø somewhat withdraws from this bleak perception of unrecognised states and their future. See Kolstø and Blakkisrud, "Living with Non-recognition."
[19] James C. Harvey, "Overstating the Unrecognised State? Reconsidering De Facto Independent Entities in the International System" (PhD diss., Exeter University, 2010), 10.

is particularly acute since the use of the term state might imply that such actors are to become recognised states at some stage, which in reality is rarely the case.[20]

This is an important point, which again deserves careful attention from students of the phenomenon. Yet, by making such an argument Harvey essentially follows the line of his predecessors, as he as well clings to the structure-level at the expense of the agent. More importantly, Harvey misses a significant point – the power that the idea of statehood and the impact of the model of the nation-state has on the actors that fall into this category. A review of the discourse and conduct of de facto states, as done later in this research, reveals that most of these entities have viewed the state as the only model for any future solution of their problems, and as the ideal way to organise themselves in the contemporary international order. This has been true as well for de facto states that have never declared independence, such as the KRG for example. Though throughout its first two decades of existence its leadership constantly insisted that they did not intend to secede from Iraq in the near future, Almost from the moment it gained autonomy from Iraq, the Kurdish leadership began perceive itself and the Kurdistan Region in terms of statehood, establishing institutions that are inherently associated with statehood, such as parliament and judiciary. Harvey is right to point out that de facto states should not be viewed as singular units – but the same argument can be applied to most entities in the field of IR. And as I demonstrate later in this research, all de facto states do share certain characteristics that distinguish them from other forms of statelessness.

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[20] *Ibid*, 12.

1.3 THEORETICAL FRAMEWORK AND METHODOLOGY: SOCIAL CONSTRUCTIVISM IN IR

The Constructivist school in IR is a natural theoretical framework for such an analysis, the primary reason being this school's adherence to the idea that communicative action, discourse and ideas shape the identity and policies of states, and subsequently international relations. Constructivists have mostly accepted the assumption that state actors are self-interested and motivated by the desire to survive amid constant threats in an anarchical environment. Nonetheless, they are intrigued by what leads a certain actor, or a group of actors, to assume that taking a certain action might serve their interest best.[21] By so doing, Constructivists have to challenge another dominant paradigm in IR theory – namely the assumption that states' preferences and patterns of action are given, since they are based on rational calculations of the balance of power or threat at the structural level, as advocated by the Neorealist school that dominated IR during the Cold War era,[22] or the Neoliberal approach to IR which challenged the Realist dominance during different stages of the Cold War.[23]

The hypothesis guiding Constructivist scholars is that actors do not necessarily know what they want in advance, in the sense that they are not guided by a permanent set of aims and interests. Rather, they go through a cognitive process in which they

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[21] Christian Reus-Smit, "Human Rights and the Social Construction of Sovereignty," *Review of International Studies* 27 (2001), 519-538; Marc Lynch, *State Interests and Public Spheres: the International Politics of Jordan's Identity* (New York: Columbia University Press, 1999)

[22] Whose most famous representative was Kenneth Waltz in his *Theory of International Politics* (Boston: McGraw-Hill, 1979).

[23] Best represented by Robert Keohane and Joseph Nye, *Power and Interdependence: World Politics in Transition* (Boston: Little, Brown and Company, 1977). Both schools were referred to by John Ruggie as utilitarian (or neo-utilitarian) approaches to IR, due to their ignorance of the fact that humans are "cultural beings" and their assumption that actors are utilitarian in nature. See Ruggie, "What Makes the World Hang Together? Neo-utilitarianism and the Social Constructivist Challenge," *International Organization* 52, 4 (Autumn, 1998), 855-885.

are socialised to accept certain values, which in turn shape their identity and, consequently, their behaviour.[24] Constructivists essentially view identity as the key for understanding actors' preferences, interests and behaviour toward other objects and actors.[25] Identity, namely the actor's self-perception of its nature and purpose, or its "role-specific understandings" and expectations about self and others, in turn, is shaped through interaction with other actors at the international level.[26] In contrast to Neorealism and Neoliberalism, Constructivists promote the idea that "the security environments in which states are embedded are in important part cultural and institutional, rather than just material… [Those] cultural environments affect not only the incentives for different kinds of state behavior but also the basic character of states--what we call state 'identity'."[27]

Of course, Constructivists were not the first to underline the impact of ideas on policy-making; Idealists, also referred to as "Reflectivists," have often highlighted the importance of ideas in IR, or at least the potential of certain ideas to shape state policies. In some cases, as observed by Judith Goldstein and Robert Keohane, Reflectivists sometimes marginalise material interests and capabilities, and give primacy to ideals over other considerations.[28] But much like other prevailing traditions in IR, Reflectivists often accept the existence of ideas as given and assume that it is in the actor's interests to "pick up" such an idea. Again, the mainstream of Constructivists has never challenged the idea that material incentives and capabilities

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[24] Martha Finnemore, *National Interests in International Society*, 2-3.

[25] Alexander Wendt, *Social Theory of International Politics* (New York: Cambridge University Press, 1999), 1.

[26] Wendt, "Anarchy is what States Make of It," *International Organisation* 46, 2 (1992) 397. Wendt's study focuses almost entirely on the state as the subject of analysis. Later Constructivist scholars have diverged from Wendt's statist tendency to focus on other actors, such as NGOs, International Organisation and Transnational Corporations.

[27] Ronald L. Jepperson, Alexander Wendt, and Peter J. Katzenstein, "Norms, Identity, and Culture in National Security," in *The Culture of National Security* ed. Katzenstein, 33.

[28] Judith Goldstein and Robert O. Keohane, "Ideas and Foreign Policy: an Analytical Framework," in *Ideas and Foreign Policy*, ed. Goldstein and Keohane (Ithaca: Cornell University Press, 1993), 3-31.

are important; but most Constructivists have asserted that such interests are important because of the meaning that actors relate to them.[29] And, just as meanings may change, state preferences are also malleable. Hence, if one seeks to better understand changes in actors' policies and conduct, one should trace changes in the identities of actors. And if one aspires to do that, one should pay careful attention to two important factors: normative shifts in the international society of states, and the interaction between actors and the international society, which often involves the sharing of inter-subjective knowledge between different actors.

Communicative action is a pivotal concept for understanding processes of change. To put it very simply, whereas Neorealists and Neoliberals, due to their utilitarian perception of international politics, hold the view that "words are cheap" and used mainly to screen actors' real intentions, the constructivist approach assumes from the outset the importance of communication between actors to their conduct. Inspired by critical theories of social sciences, and particularly Jürgen Habermas's conception of deliberation as the foundation for political change, constructivists often employ the concept of the *public sphere* and apply it to international politics. For Habermas, the public sphere is the metaphysical or virtual arena where deliberation, argumentation, and persuasion about preferences and identity constantly take place between actors.[30] While for Habermas, the public sphere was confined to the domestic level and its main actors were the individuals within human societies (such as the

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[29] Finnemore, *National Interests*, 6.
[30] Jürgen Habermas, *Communication and the Evolution of Society*, Translated with an Introduction by Thomas McCarthy (London: Heinemann Educational Books Ltd., 1979); Habermas, *The Structural Transformation of the Public Sphere*, Translated by Thomas Burger (Cambridge Mas.: MIT Press, 1989).

bourgeoisie and the government),[31] Constructivists' main task has been to apply it to the international sphere.

Preoccupied with tracing sources of ideational and behavioural changes, Constructivists have identified constant deliberation between actors at the international level, as an important source of normative change. When actors engage in deliberation about "good" and "bad" conduct, they are necessarily engaged in truth-seeking behaviour, which compels them to "be prepared to change their own views of the world, their interests, and sometimes even their identities."[32] As Risse has asserted, communicative action is possible in the state-system because it consists of the two main elements that enable communicative action at the domestic level: a common *lifeworld*, i.e. an environment of shared norms, practices and attitudes that serve as a cognitive background for most people; and a "truth-seeking behaviour," which can lead to a reasoned consensus.[33] Based on that, Marc Lynch argues, even cynical actors formulate their policies and their aims in ideational frameworks and global institutions. Most actors find it necessary, even occasionally, to justify their decisions and policies in a certain public sphere. The expectation from an actor to justify its actions eventually has implications over its behaviour. This is true especially in frameworks where there is an endeavour toward consensus and coordinated action, i.e. in a more institutionalised framework, and when interests and identities become the "focal point for public debate."[34] Globalisation, the decentralisation of communication and the growth of transnational civil society have

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[31] Jürgen Habermas, *The Theory of Communicative Action, Vol.1: Reason and the Rationalization of Society*, translated from German by Thomas McCarthy (London: Heinemann, 1984); *The Theory of Communicative Action, Vol. 2: A Critique of Functionalist Reason*, trans. McCarthy (London: Heinemann, 1987).
[32] Thomas Risse, "Let's Argue! Communicative Action in World Politics," *International Organization* 54, 1 (Winter, 2000), 2.
[33] *Ibid*, 16-19.
[34] Marc Lynch, *State Interests and Public Spheres*, 30.

allowed the creation of new spaces for dialogue. International public spheres can take various forms, whether these are international conferences, media debates, and various virtual forums.[35] The participation in a public sphere, maintains Lynch, "carries a constitutive as well as a strategic dimension," as the transformations that actors may go through when taking part in a deliberation are patterned to a lot of extent by the public spheres in which they take place.[36]

As Risse asserts, however, ideas "do not float freely."[37] The (re)emergence of the literature on ideas and the Constructivist tendency to focus on the construction of policies and ideas eventually gave birth to a rich literature about agents of change, providing us with a comprehensive review of the nature of these actors, their expectations and their strategies. Inspired by theories taken from sociology and comparative politics, Constructivists began emphasising the role of NGOs, IOs and other transnationally-based groups as essential elements of socialisation, and mainly as conveyer belts of ideas from the international environment into the "target-actors" (mainly states, but also non-state actors such as international corporations), instigators of change and mediators between domestic political elites and global actors. As Martha Finnemore has put it, "states are socialized to accept new norms, values, and perceptions of interest by international organizations."[38] Direct intervention has never been described as a necessary mechanism for prompting changes; often the power of such actors has lain in their utility as public spheres which enable that deliberation and argumentation take place and in which new norms emerge and old values are

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[35] Lynch, "The Dialogue of Civilizations," 316.
[36] *Ibid*, 324.
[37] Thomas Risse-Kappen, "Ideas do not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War," *International Organization* 48, 2 (Spring, 1994), 185-214.
[38] Finnemore, *National Interests in International Society*, 5.

being contested.[39] As Emanuel Adler puts it "international organizations are related to power, because they can be sites of identity and interest formation and because states and sometimes individuals and other social actors can draw on their material and symbolic resources."[40]

The idea that certain actors can serve as conveyer belts of new ideas has encouraged students to delve further into the subject of transnationalism. Margaret Keck and Kathryn Sikkink for example, reviewed cases in which transnational coalitions between international NGOs (INGOs), IOs and domestic-level activists and NGOs, to which they have referred to *transnational advocacy networks* (TANs), were successful in pressuring norm-violating governments to reform, mainly by serving as networks between citizens in the target actors to communicate with citizens of other regions.[41] Such networks have been able to persuade powerful and often reluctant governments to internalise the norms which they have been advocating not by coercion, but rather by referring to higher values and norms and by convincing those governments that such actions may garner more international legitimacy. Building upon such initial research, Sikkink and Risse have developed a more complex model of TANs intervention and prospects of success in promoting specific norms and persuading norm-violating governments to meet them. They identified a tripartite pattern of action taken by such actors: putting norm-violating states on the international agenda in terms of moral consciousness-raising, reminding liberal states of their own identity as promoters of human rights; empowering and legitimating the claims of domestic opposition groups against norm-violating governments, thus partially protecting the physical integrity of such groups from government repression;

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[39] Marc Lynch, *State Interests and Public Spheres*, 18-21.
[40] Emanuel Adler, "Seizing the Middle Ground: Constructivism in World Politics," *European Journal of International Relations* 3, 3 (September, 1997), 336.
[41] Keck and Sikkink, *Activists beyond Borders*.

and challenging norm-violating governments by creating a transnational structure pressuring such governments simultaneously "from above" and "from below," thus minimising options for repression.[42]

Their focus on norms, interaction and learning and on ideational changes has also driven Constructivists to pay greater attention to the issue of legitimacy in international relations. Led by the assumption that the state-system is inherently anarchic, in the sense that there is no central leadership, Neorealists and Neoliberals in IR have tended to treat legitimacy as an irrelevant concept in international politics. In such a system actors obey rules either because they are coerced to do so by more powerful actors, or because of pure self-interest. For Realists the latter condition implies that an actor would abandon its commitment as soon as the rule does not seem, any longer, to serve its interests, while Neoliberals accept that coercion or self-interest may lead to gradual internalisation. In contrast, Ian Hurd has argued that that legitimacy in fact facilitates the internalisation of norms by actors. Actors may obey certain rules and decrees because they perceive them, or the forums in which they were formulated, as legitimate and appropriate. This is not to argue that interests do not play a role in an actor's decision to obey a rule or follow a norm – but it is to argue that interests can also be defined as affiliation with a certain society, rather than fearing, let us say, punishment.[43] A similar assumption is brought up by Christian Reus-Smit. For Reus-Smit, international legitimacy should not be seen as a constraint over power, as neo-realists have tended to assume. Rather, it is a source of power for rulers and governments, at the international and the domestic levels alike. Without it,

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[42] Thomas Risse and Kathryn Sikkink, "The Socialisation of Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Risse, Steve C. Ropp and Sikkink (New York: Cambridge University Press, 1999), 5.

[43] Ian Hurd, "Legitimacy and Authority in International Politics," *International Organization* 53, 2 (spring, 1999), 379-408.

governments would have to garner consent for their actions mainly by interacting with purely self-interested actors and based on constant bribery or coercion. It is doubtful whether such actors truly exist, or whether actors can sustain a policy of bribery and coercion over a long-period.[44] The attainment of legitimacy is relevant not only for states, but also for International Organisations (IOs),[45] or even norms and political orders.[46]

Another important feature of the Constructivist approach to international politics is its inclination toward a multilevel explanation of social behaviour. This has been yet another central component of the challenge that Constructivism has set to traditionally dominant schools in the field of IR. Debates within realism, liberalism and their neo-versions with regard to the source of state-actions created something of a dichotomy. Some, especially classical realists, have identified foreign policies as having mainly domestic sources.[47] Others, namely Neorealists and Neoliberals, have identified the structure as the main source of foreign policy-making and state actions.[48] For Constructivists, changes in actors' conduct could be explained better if we take into account simultaneous developments at both levels. Internationally-held norms and ideas often emerge at a certain domestic level, among different societies and states. When those states are considered powerful and influential, their ideas may be absorbed by other states and eventually become international. Now dominating social perceptions at the global level, they might be transferred into other actors which

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[44] Reus-Smit, "International Crises of legitimacy," *International Politics* 44 (2007), 163.

[45] Martha Finnemore and Michael N. Barnett, *Rules for the World: International Organizations in Global Politics* (Ithaca: Cornell University Press, 2004).

[46] Margaret Keck and Kathryn Sikkink, *Activists beyond Borders*; Finnemore, *National Interests in International Society*; Mlada Bukovansky, *Legitimacy and Power Politics* (Princeton: Princeton University Press, 2002).

[47] See for example Henry Kissinger's study of the link between domestic instability and adventurism in international politics, in "Domestic Structure and Foreign Policy," *Daedalus* 95, 2 (Spring, 1966), 503-529.

[48] e.g. Waltz, *Theory of International Politics*; Keohane and Nye, *Power and Interdependence*

may have objected to them initially.[49] Transnational actors play important part in this process serving as public spheres in which various actors "negotiate… the social, cultural, and political meanings of their joint enterprise."[50] But the domestic structure of the target actor, namely "the nature of political institutions, state society relations, and the values and norms embedded in its political culture," is also essential for the understanding of the manner in which ideas are conveyed. Different levels of government centralisation, for instance, can determine the channels that transnational actors might get to the elites in a certain country. Stressing the intertwined nature of international and domestic public spheres, Lynch has argued that if the international sphere in which a state is embedded is viewed as hostile and challenging, it is likely to produce "defensive argumentation" and might even lead the state to repress the domestic sphere. In contrast, if the international public sphere is viewed as a "legitimate site for deliberation over collective identity and interests" then a state may be persuaded to change its preferences and behaviour.[51]

The above paragraphs have provided a very brief review of the Constructivist school in IR. The question then, is why is Constructivism relevant to the subject of de facto states? In fact, each one of the aspects of Constructivism mentioned above can better serve our understanding of de facto states in general, and of the KRG in particular, than any other approach in IR. Primarily, the attention given by Constructivists to interaction, socialisation and identity transformations, buttresses the hypotheses raised in this research. At first glance, it might be seen as if the concept of de facto statehood is irrelevant for understanding the domestic level of an actor; after all, this status is imposed on de facto states by international society that refuses to

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[49] Finnemore, *National Interests in International Society*
[50] Keck and Sikkink, *Activists beyond Borders*, 3.
[51] Lynch, *State Interests and Public Spheres*, 30.

recognise these actors. Nevertheless, the transition of oppressed compact minorities into de facto statehood is likely to entail changes in the identities of such actors: within a relatively short period, the leaderships of such groups become autonomous actors, in charge of running the civilian affairs of its own subjects and representing their new entity at the international level. Naturally, this may also have impact on the nature of interaction between the de facto state and the international community. Socialisation and learning are inherent to this process; as de facto states are preoccupied with legitimising their status, they also endeavour to learn the meaning of statehood or the expectations of international society from potential members. As the case of the KRG reflects, this applies as well to de facto states that do not seek outright independence. This interaction, in turn, has the potential of altering de facto states' decision-making processes not only at the international level, but also at the domestic level. Above it is stated that the lack of legitimacy has the potential to serve as an instigator of changes at the de facto states' domestic level. This is particularly true for processes such as democratic transitions and the liberalisation of the political and economic systems, since they have dominated international society during the last two decades.

The Constructivist focus on transnationalism is relevant as well to the examination of de facto states. This is because the interaction between de facto states and the international community actually facilitates the intervention of transnational actors in the process of state-building in de facto states. Since this interaction revolves mainly around the pursuit of legitimacy, and because legitimation of states has come to revolve around the nature and the achievements of de facto states, they become accountable for their own commitments. TANs consisting of NGOs, international agencies and members of the diaspora can use any public statements made by the

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leadership of a de facto state to hold it accountable. When TANs are perceived as true representatives of what international society stands for, and if they are viewed as friendly toward the causes of the de facto state, or conducive to the survival of the de facto state, they may gain some access to, and leverage on, its leadership. This is particularly true for cases in which the de facto state has a large diaspora community which becomes an integral part of the TAN active in the region.

Due to its nature, Constructivism offers a pluralistic methodology to IR students. In an excellent review of Constructivist methodology, Amir Lupovici traces a combination of methods often used by Constructivists: reliance on case studies, the employment of discourse analysis, process tracing, and the use of counterfactuals to prove certain points.[52] To that Lupovici also adds the *interpretive* method. As he notes, such methods have often been used by scholars of different traditions, but these are Constructivists who have been successful in combining these methods in their research. By *process tracing*, Lupovici refers to "the study of causal processes – causal chains or causal mechanisms that connect the independent and the dependent 'variables'. Further, this method is used to identify and study complex relations between variables, as well as focal points, the influence of expectations, and agent-structure relations." Therefore, this method "provides a way of studying not only the proposed theoretical concepts and of testing research hypotheses, but also of studying ideational factors, the evolution of social phenomena, and the influence of these phenomena on actors' behaviour."[53] By setting the pursuit of international legitimacy as an independent variable, this thesis basically establishes the pursuit of legitimacy as a starting point for the process of transformation that actors such as de facto states

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[52] Amir Lupovici, "Constructivist Methods: a Plea and Manifesto for Pluralism," *Review of International Studies* 35 (2009), 199.
[53] *Ibid*, 202.

have gone through. Changes in policies and decision-making processes are variables which are shaped following the pursuit of international legitimacy.

By the study of *counterfactuals* Lupovici refers to "evaluating theories through the exploration of events that did not happen." As Lupovici maintains, such a method enhances our "ability to study causal relations," but also "improves the analysis of mutual relations between variables and the exploration of constitutive relations."[54] My analysis of de facto states relies on an important counterfactual: the assumption that the actors that fall into the category of de facto states would have acted differently if they had had a different status, namely recognised states or guerrilla movements. Taking the case of the KRG as an example, had the Kurdish national liberation movement gained some of its demands by the end of the First World War, or had the Kurds had a state in northern Iraq during the 1990s, its development would have been greatly different. It is impossible to clearly determine how different; but as this research suggests, searching legitimacy as a de facto state during the post-Cold War era, rather than during the era of decolonisation, for example, probably contributed to the KRG's desire to demonstrate success in state-building and democratisation, because such standards came to dominate the process of recognition of states in this era, at least theoretically.

This research is structured in a manner that reflects the process that the Kurdish national liberation movement has gone through, while emphasising the importance of the wider theoretical framework of de facto statehood and the themes of interaction and socialisation.

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[54] *Ibid*, 203.

1.4 STRUCTURE OF THE RESEARCH

The first chapter presents the theoretical framework of this research. First, it defines the concept of international legitimacy. It then demonstrates how crises of international legitimacy and its pursuit serve as important factors that shape the identity, behaviour and policy-making of actors. The second part of this chapter presents the dependent variable – namely the de facto state. Building upon existing scholarship on the subject, it provides clear criteria for defining an actor as a de facto state and reviews studies which have already been done in the field. It elaborates on the implications of the status of de facto statehood on the evolution of the de facto state. It elucidates the crises of legitimacy that de facto states face, and stresses the importance of the pursuit of legitimacy for the understanding of de facto states. More importantly, it provides a model which takes into account interaction, communicative action and the role of transnational actors in the process.

The second chapter moves on to discuss the case study, namely the Kurdish national liberation movement. It focuses primarily on the Kurdish national liberation movement in Iraq, beginning in 1958 and until 1991, although it does give substantial attention to the subject of the emergence of the pan-Kurdish nationalist movement early in the twentieth century. It demonstrates that throughout this period, the Kurdish national liberation movement, representing an oppressed minority in Iraq, came to define its identity and its aims as an anti-colonialist movement that struggled against Arab colonialism in Iraq (and for this manner in other parts of Kurdistan). The importance of interaction and learning becomes clear already in this chapter: this was the era of decolonisation, where states were carved out of former colonies based mainly on the dominant ethnic or religious majority in the territory. As the chapter shows, this understanding as well was the result of increasing interaction between

Kurdish activists and exiles with other similar movements. Aspiring to gain international legitimacy for their claims, portraying their movement in such terms was seen as the right path for justifying the Kurdish actions and aims.

Chapter 3 moves on to discuss the transformation of the Kurdish national liberation movement into a de facto state, spanning the first decade of de facto statehood between 1991 and 2001. It argues that the transformation of the national liberation movement into a de facto government (KRG) had some important political and ideational implications. During the first years of its existence, the Kurdistan Region experienced the initial stages of democratic transition, with the first comprehensive election campaign in the history of Iraq taking place in the region. The process itself was to a large extent enabled by transnational intervention and members of the diaspora. This success, in turn, was integrated into the KRG's interaction with the international community, with the Kurdish leadership now referring to Kurdistan as the "democratic experiment." It also marked the beginning of a limited process of state- and institution-building, supported by aid from INGOs. Yet, this chapter also shows that the civil war, which erupted in 1994 and lasted till 1997, and which resulted in the division of the autonomous administration, in fact temporarily made the concept of de facto statehood irrelevant for the region.

Chapter 4 examines the second decade of de facto statehood, focusing particularly on the post-invasion era, which also marked the reunification of the KRG. It demonstrates how this new decade allowed the KRG to renew its foreign policy of legitimation, based on its established domestic sovereignty, success in state-building, securitisation and stabilisation of the region, self-proclaimed democratisation and respect for minority rights. Even if those were only limited, the chapter argues that the Kurdish achievements were amplified due to the situation in the rest of Iraq. This

chapter also argues that understanding the importance of proving *domestic* or *earned* sovereignty by the KRG can also shed light on some of the decisions made by the Kurdish leadership, such as its enthusiastic participation in the regional flank of the United States-led global war on terror, or Kurdish attempts to secure control over oil in the region in spite of earlier agreements with the new government in Baghdad.

While the previous chapter focuses mainly on the interaction between the KRG and the international community, the final chapter of this research focuses on the impact of the KRG's interaction with the international community on its development. It argues that this interaction allowed an increased transnational intervention, which combined the activities of INGOs, IOs (and especially UN Agencies such as the UN Assistance Mission in Iraq) and members of the diaspora. This intervention, in turn, further advanced the same processes that the KRG has been using to legitimise its existence and action, namely meeting the international standards of democratisation and political liberalisation. This interaction, this chapter maintains, can explain some of the successes of the KRG in terms of state-building.

The research relies on a number of primary sources, including pamphlets, journals, newspapers and magazines published by the Kurdish parties and other independent Kurdish organisations, such as Kurdish student unions in Europe and North America; diplomatic correspondence between the Kurdish leadership and foreign representatives, when relevant; books and memoires written by Kurdish activists; various reports in international newspapers and information agencies; and the KRG's official website, referred here as KRG.org. Most of the primary sources are in English and Arabic, with some Turkish sources being used as well. Although since 1991 Kurdish has been the language used mainly for regional administration purposes, Arabic and English have also been widely used by the Kurdish

administrations and by the Kurdish national liberation movement. And since interaction and communication with other actors stand at the core of this research, items in the language of interaction have been more relevant for the purpose of this research. In addition, the research relies on several formal and informal interviews. Most of these interviews are not cited directly in this research, but they have greatly contributed to the understanding of different processes within the KRG. Most of the primary sources were gathered in archives such as the British Library of Political and Economic Science at the London School of Economics and Political Science, the School of Oriental and African Studies archives, the Middle East Documentation Unit at Durham University, and the media archives at the Institut Kurde de Paris and Tel Aviv University's Dayan Centre.

CHAPTER 2. DE FACTO STATES: EARNED SOVEREIGNTY AND THE PURSUIT OF LEGITIMACY

Defining the KRG as a de facto state in this research has two purposes: first, using the term can help us to better understand the KRG; and second, using the KRG as a case study aims to help us to better understand the concept of de facto statehood. The centrality of the term in this research requires a clear and careful definition of the concept of de facto statehood. The literature on the subject in the field of IR has become richer and more thought-provoking during the previous decade, but it has still missed an important opportunity to clearly explain how this status of de facto statehood, which is a product of international as much as it is of domestic factors, actually shapes the conduct, development and decision-making processes of de facto states. The status of de facto statehood is a powerful one, since it puts great constraints on the de facto state at both the domestic and the international levels. It is also powerful because it is necessarily associated with temporality; de facto states do not wish to be such, but are rather in the midst of a process of changing their status and gaining legal independence – although this process is reversible and might end in failure. Due to predominant norms of statehood, however, they often face fierce challenges to these endeavours from other members of the international community.

The chapter identifies two key terms for the understanding of a de facto state: *transition* and *international legitimacy*. The de facto state is an entity that experiences a transition, but often views it only as a step toward a greater transition. The term de facto states refers generally to separatist movements which have managed to "liberate" some parts of their claimed territories by driving the central government's forces and state apparatus from those territories. Thus the term de facto state denotes a

transition from insurgency or rebellion into state-building. This transition affects the de facto state's identity and the manner in which it interacts with the international community. International legitimacy, or more precisely the de facto states' pursuit of it, stands at the core of the interaction between de facto states and the international community. Having secured domestic legitimacy, the de facto state's main challenge is to now obtain international legitimacy, for both its existence as such and for its future aspirations. An important task of this chapter, therefore, is to clearly define the concept of legitimacy by deconstructing and presenting the various norms that constitute international legitimacy. It also focuses on the manner in which such norms are actually conveyed to the actors that aspire to become legitimate, a task often marginalised by those who study the subject of legitimacy in international relations. This is followed by a thorough presentation of the concept of a de facto state and this research's approach to the subject.

2.1 CRISES OF LEGITIMACY AND ITS PURSUIT: DEFINING THE CAUSE OF CHANGES

2.1.1 THE CONSTITUTION OF INTERNATIONAL LEGITIMACY AND ITS IMPACT ON ACTORS ASPIRING FOR LEGITIMACY

The concept of legitimacy has become in itself a valid subject of analysis and debate in the field of IR. It is, nevertheless, an elusive concept that requires a clear definition when used.[1] The examination of legitimacy in the IR literature is not an obvious one. The preliminary efforts to introduce legitimacy as a key concept in international politics diverged from the realist assumption that legitimacy is a direct derivative of

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[1] A point brought up by Shane Mulligan, "The Uses of Legitimacy in International Relations," *Millennium* 34 (2006), 349-375.

power, namely that certain actions are legitimised due to the material power and hegemony of the actor that takes these actions.[2] More recent studies of international legitimacy, particularly in the English School and Constructivist traditions, have accepted the connection between power and legitimacy, but rather than viewing power as a source of legitimacy, they have actually come to see legitimacy as a source of power.

Relying on Mark Suchman's definition of legitimacy as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions,"[3] Christian Reus-Smit argues that although actors in the state-system can exist without international legitimacy, such existence is bound to be short-lived.[4] Without legitimacy, an actor would necessarily have to interact solely with self-interested actors, constantly bribing them in order to maintain its position, or even to survive. Even if purely self-interested actors do exist in the international system, not too many actors can actually afford such bribing. Hence, most actors do find it an existential necessity to obtain some degree of legitimacy. Based on that, Reus-Smit maintains, legitimacy should actually be seen as a source of power in the system: actors considered to be generally legitimate can rely on the active support of other actors that would invest "their resources and energies in the project that lies behind them"; they could also "draw on simple compliance, the behaviour of other actors in accordance with their rules, decisions, or commands"; as well as "benefit from low

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[2] This implies, of course, that legitimacy did matter to realist students of international politics, in contrast to the assertion that realists did not consider legitimacy in their writing. See Ian Clark, *Legitimacy in International Society* (Oxford: Oxford University Press, 2005), 20.

[3] Mark C. Suchman, "Managing Legitimacy: Strategic and Institutional Approaches," *The Academy of Management Review* 20, 3 (July, 1995), 574

[4] Reus-Smit, "International Crises of Legitimacy," 158.

levels of opposition, which reduces the costs of coercion and bribery."[5] Reus-Smit's assertion about the link between international legitimacy and power is also shared by Mlada Bukovansky, who argues that "sovereignty is conditioned by legitimacy, and this has international as well as domestic implications."[6] Tracing the rise of democracy as an international legitimating norm, Bukovansky argues that "The existence in the system of a form of rule considered to be the most powerful and legitimate involves not only material but also cultural conditions… cultural conditions help facilitate the accumulation of material preponderance; legitimacy is not reducible to material power but is in fact a crucial aspect of power.[7]

The argument that international legitimacy is essential in international politics dates back to the work of Martin Wight, who associated the concept with the recognition of an actor as a member of international society by its other members, thus defining international legitimacy as "[T]he collective judgement of international society about rightful membership of the family of nations." Such judgement is expressed not only through legal mechanisms such as admission to international organisations, but also through other collective actions of other members of the international society. The great powers' intervention in the affairs of the Ottoman Empire and China during the nineteenth century, or their partition of Poland "on the ground of its incurable misgovernment and disorders," constitute examples for international society's collective judgement.[8] Whereas during the Cold War the field of IR was dominated largely by materialist theories, which associated power mainly with material capabilities, the post-Cold War scholarship witnessed a renewed interest in international legitimacy. One of the most notable students of international

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[5] *Ibid*, 163-164.
[6] Mlada Bukovansky, *Legitimacy and Power Politics*, 3.
[7] *Ibid*, 8.
[8] Martin Wight, "International Legitimacy," *International Relations* 4, 1 (1972), 1-2.

legitimacy during the era was the legal theorist Thomas Franck, who became preoccupied with understanding the manner in which seemingly powerless international institutions, lacking mechanisms of (direct) coercion, managed to compel great powers to follow their resolutions. As Franck manifested, "Teleologically speaking, one might hypothesize that nations obey rules of the community of states because they thereby manifest their membership in that community, which, in turn, validates their statehood."[9] In other words, then, states, and even the most powerful among them, often make efforts to meet the demands of seemingly powerless IOs because compliance with such norms is tantamount to statehood. He therefore defined international legitimacy as "a property of a rule or rule-making institution which itself exerts a pull toward compliance on those addressed normatively because those addressed believe that the rule or institution has come into being and operates in accordance with generally accepted principles of a right process."[10] The existence of a community, and the sense of obligation which it generates, is central to such a process.

The question remains, though: what actually constitutes international legitimacy? Franck's hypothesis has served as a platform for studying both the power of institutions,[11] as well as to examine the legitimating power of certain norms at the global level, and especially the increasing validity of democracy as a legitimating norm. During the first decade of the post-Cold War era, and largely based on Franck's theory, international legal and IR theorists embraced either the idea that parliamentary

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[9] Thomas M. Franck, *The Power of Legitimacy among Nations* (New York: Oxford University Press, 1990) 8.
[10] *Ibid*, 24.
[11] E.g. Ian Hurd, "Legitimacy and Authority in International Politics."

democracy should become a condition for recognition,[12] or that it actually became one.[13] These ideas were inspired to a great extent by the post-Cold War reality and the emergence of the new post-Soviet states. Such association, nevertheless, should be made with some caution. Most of the studies that identified democratisation and liberalisation of politics as sources of legitimate membership in international society have failed to trace the evolutionary nature of international legitimacy and the changes in its constituent principles and values. The idea that principles of international legitimacy change throughout history has already been highlighted by Wight. According to Wight's historical review, in post-Westphalian Europe (1648) the legitimate state was one governed by an absolute monarch; in the era of the great revolutions during the seventeenth and eighteenth centuries, the norm shifted toward popular rule and self-determination; self-determination continued to serve as a foundation for recognition well into the inter-war era, although parliamentarism and respect for minority rights were now introduced as new "standards of civilization." During the post-War era, recognition came to be based mainly on the principle of decolonisation, that is, the recognition of new states based on the boundaries drawn by the colonialist powers, often based on the existence, and demands, of the majority ethnic community in the newly created units.[14]

Whereas Wight recognised that norms change throughout history, he failed to explain the causes of such changes, a task which was taken by other students of the English School. Examining transformations in international legitimacy through the

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[12] Allen Buchanan, "Recognitional Legitimacy and the State System," *Philosophy & Public Affairs* 28, 1 (Winter, 1999), 46-78; Franck, "The Emerging Right to Democratic Governance," *The American Journal of International Law* 86, 1 (Jan. 1992): 46-91.

[13] David Caron, "The Legitimacy of the Collective Authority of the Security Council," *American Journal of International* 87 (1993), 552-588; Sean Murphy, "Democratic Legitimacy and the Recognition of States and Governments," *International and Comparative Law Quarterly* 48 (1999): 545-581.

[14] Wight, "International Legitimacy," 5-22.

collapse of Yugoslavia, John Williams argues that there is one fundamental norm in international society that shapes the shifts in international society's perception of international legitimacy: the need for order and stability.[15] Ian Clark further develops this idea in his study of international legitimacy, contending that to understand legitimacy means to understand international society. This is because international society is in fact a "set of historically changing principles of legitimacy… not necessarily expressed in institutions… And too informal to be classed as rules."[16] Much like Williams, Clark traces normative changes in international society's desire to maintain international stability and order. Such normative changes are gradual and protracted, and they usually reach fruition at the end of major wars, during the signing of peace agreements. This is because "at these periods the impetus for speculation is strongest, and appeal to broad principles most likely. On the other [hand], the spirit of pragmatism is equally prominent when the international order has collapsed, and the imperative is to rebuild consensus, usually in the most inauspicious of circumstances."[17]

The end of the Cold War, Clark suggests, should be seen as one such peace agreement, which in fact concluded also the Second World War.[18] With the surrender of the Soviet Union and the communist world, its constituent parts gradually embraced the norms common in the victorious West. Western states, in turn, were keen on promoting these norms guided by the idea that democratisation and liberalisation of both politics and the economy would guarantee international

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[15] John Williams, *Legitimacy in International Relations and the Rise and Fall of Yugoslavia* (Basingstoke: Palgrave Macmillan, 1998).
[16] Clark, *Legitimacy in International Society* 7.
[17] *Ibid*, 8.
[18] Clark already makes this argument about the end of the Cold War in *The Post-Cold War Order: The Spoils of Peace* (Oxford: Oxford University Press, 2001).

stability.[19] As Clark maintains, "These democratic ideals now lie deeply embedded in contemporary international policies on economic development, on post-conflict reconstruction and nation-building, and also explicitly in those actual admissions that have taken place, to such 'mini-international societies' as NATO and the European Union," as well as the Act of African Union and Inter-American Democratic Charter.[20] The argument that Clark is making is not an easy one to digest: it is essentially Western-centric, in the sense that it reflects mainly ideas that have been promoted by Western actors. Indeed, many members of the international community do not adhere to the standards set by the West in the latter stages of the Cold War and are still considered part of this "society of states." Yet, several important notes redeem this argument from essentialism. First, it applies mainly to the process of recognition of new states, thus accepting that already established actors had the dubious privilege of being protected from external impositions. Second, Clark also indicates that such principles were at least theoretically embraced as ideals even in regions where there is (or was) a large number of states that do not actually follow these terms, namely in Africa and Latin America. Finally, Christian Reus-Smit has also indicated how decolonisation movements during the era of decolonisation, including those that have turned into non-democratic governments, actually embraced the discourse of human rights and democratisation to establish their right to sovereignty.[21]

Notwithstanding their significant contribution to the general understanding of constitution of international legitimacy, most studies of the subject have fallen short of explaining an important aspect of international legitimacy: the manner in which actors concerned with international legitimacy actually come to understand, embrace

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[19] Clark, *Legitimacy in International Society*, 173-175.
[20] *Ibid*, 175.
[21] Christian Reus-Smit, "Human Rights and the Social Construction of Sovereignty," 519-538.

and internalise the norms of international legitimacy. Rather, current focus remains on the manner in which norms develop at the international society and are used by it to include (or exclude) new members.[22] Clark does make one exception, when he highlights *socialisation* as the manner in which actors in international society understand the meaning of membership in international society. As he suggests, socialisation is not merely absorbing "what they see around them," but rather can take "more self-conscious forms. The leading, and more successful, states set an example that may then be purposefully emulated by others."[23] Even in this case, nonetheless, Clark eventually confines his theory to the structural level, focusing more on international society's choice of whether to accept or reject a certain actor as a member of international society.

The concept of *crisis of legitimacy* provides an essential platform for avoiding this tendency to marginalise the actors who are in a pursuit of legitimacy. As Reus-Smit suggests, *crises* are "critical turning points in which the imperative to adapt is heightened by the immanent possibility of death, collapse, demise, disempowerment, or decline into irrelevance." An actor or an institution is facing a crisis of legitimacy when "the decline in its legitimacy or its failure to cultivate sufficient legitimacy, has reached a critical turning point."[24] Under such circumstances, "[in order] To reconstitute its legitimacy, an actor or institution must, first, recalibrate the relationship between its social identity, purposes, and practices, and the prevailing

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[22] E.g. Clark, "Democracy in International Society: Promotion or Exclusion," *Millennium* 37, 3 (2009), 563-581.

[23] Clark, *Legitimacy in International Society*, 173-174.

[24] Reus-Smit, "International Crises of Legitimacy," 166-167.

social norms that define the parameters of rightful agency and action; and, second, realign its realm of political action with its social constituency of legitimation."[25]

The idea of crises of legitimacy underlines the importance of communicative action to the process of legitimation and the pursuit of international legitimacy. Adaptation to a certain society's expectation requires not only socialisation, but also interaction and communication with the members of society. As Risse has argued, the manner in which actors come to judge which norm applies and what values constitute a "good" behaviour, is through argumentation and deliberation.

> When actors deliberate about the truth, they try to figure out in a collective communicative process (1) whether their assumptions about the world and about cause-and-effect relationships in the world are correct (the realm of theoretical discourses); or (2) whether norms of appropriate behavior can be justified, and which norms apply under given circumstances (the realm of practical discourse).[26]

Hence, through argumentation, actors challenge common assumptions and normative beliefs, seek consensus about their claims, but also justify them. "In arguing mode, actors try to convince each other to change their causal or principled beliefs in order to reach a reasoned consensus about validity claims."[27] Bukovansky describes legitimacy as a discursive and cultural phenomenon. Focusing on the role of revolutions in shaping international society's normative perception, she holds that revolutions did not change political systems, but were rather the tools through which challenges to the systems were percolated and transferred, through transnational interaction.[28] Bukovansky's idea is also echoed in Reus-Smit's argument that

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[25] *Ibid*, 167.
[26] Thomas Risse, "Let's Argue", 7.
[27] *Ibid*, 9.
[28] Bukovansky, *Legitimacy and Power Politics*, 216.

Actors establish their legitimacy, and the legitimacy of their actions, through the rhetorical construction of self-images and the public justification of priorities and practices, and other actors contest or endorse these representations through similar rhetorical processes… Establishing and maintaining legitimacy is thus a discursive phenomenon, and the nature of this discursive phenomenon will depend heavily upon the prevailing architecture of social norms, upon the cultural mores that govern appropriate forms of rhetoric, argument, and justification, and upon available technologies of communication.[29]

In short, then, applying the idea of a communicative action is important if we indeed accept the argument that actors may change their identity and conduct through the pursuit of international legitimacy.

The idea that students of IR should pay more attention to the manner in which actors engage with the concept of international legitimacy, does not mean ignoring the process of transformation of norms and ideas at the international level. On the contrary, as the examination of de facto states might reveal, actors' understanding of international legitimacy and its principles often changes according to transformations at the global level. The consolidation of democratisation and respect for human rights as legitimating norms in the post-Cold War era has had important implications for other states, and especially states aspiring to achieve international legitimacy. This is actually inevitable if we accept the idea that socialisation and communicative action are important for the evolution of de facto states and their understanding of international expectations. Such an assertion of course necessitates a thorough understanding of the evolution of such norms at the international level.

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[29] Reus-Smit, "International Crises of Legitimacy," 163.

2.1.2 INTERNATIONAL LEGITIMACY IN THE POST-COLD WAR ERA: DEMOCRATISATION, HUMAN RIGHTS AND STATEHOOD

The emergence of democracy and the protection of human right as theoretical standards of recognition toward the end of the Cold War marked a strong shift from the preceding period. As noted earlier, during the Cold War era, the main mechanism of self-determination was decolonisation. State capacity, prospects of some economic independence, or even general public support for the newly established state were rendered irrelevant. Self-determination came to be based on the perceived national aspirations of the dominant ethnic or religious group in a certain colony, in what was defined by Wight as the "majoritarian principle" and by Ali Mazrui as "racial sovereignty."[30] This resulted in the creation of numerous weak quasi-states that have suffered from chronic economic and political stability, and which have often survived mainly because of their recognition as states.[31] It is interesting to note here the association made between human rights and national sovereignty during the era of decolonisation. Decolonisation, in turn, gave birth to the norm of *territorial integrity* i.e. the "presumption of international society in favour of a state trying to maintain its territorial integrity in the teeth of centrifugal forces, as a presumption against minorities seeking to establish a position which will enable them to claim international legitimacy."[32]

The immediate post-Cold War era opened a window of opportunities for certain regions to secede from their central governments and still be recognised by

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[30] Wight, "International Legitimacy," 1972, 14; Ali Mazrui, *Towards a Pax Africana: A Study of Ideology and Ambition* (London: Weidenfeld and Nicholson, 1967), 21-23.

[31] Robert Jackson, *Quasi States: Sovereignty, International Relations and the Third World*, paperback edition (Cambridge: Cambridge University Press, 1993).

[32] Wight, "International Legitimacy," 13-14; see also Rick Fawn and James Mayall, "Recognition, Self-Determination and Secession in Post-Cold War International Society," in *International Society after the Cold War*, ed. Fawn and Jeremy Larkins (New York: St. Martin's Press Inc., 1996), 193-220.

international society, the most notable examples being the former Soviet and Yugoslav republics. The emergence of democratic legitimacy meant something of a return to the phases of history where the "relationship between those who govern and those governed" was actually significant for recognition, as was the case after the treaty of Westphalia.[33] Nonetheless, this was a narrow window with very limited opportunities. With the outburst of domestic violence in the former Yugoslavia, international community's aversion of secession was further enhanced. This turned out to be disastrous for many of the separatist movements which would eventually become de facto states.

Although scholars trace the origins of modern democratic legitimacy in the era of great revolutions,[34] Ian Clark identifies a first explicit effort to establish democracy as a de facto standard of recognition in the idea of defining the League of Nations as the "League of Democracies." This idea was embraced by both the American President Woodrow Wilson and the French government, but was rejected eventually by other members of the League.[35] Murphy identifies two main factors in the early twentieth century which eventually led international society to accept democracy as a legitimating norm: the first was the perception among members of the League of Nations that states' failure to protect their minorities may destabilise international peace and order. Consequently, during the interwar era, the League made membership (though not recognition) of new states conditional on their guaranteeing the cultural and political rights of ethnic and religious minorities in their territory, which applied

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[33] Murphy, "Democratic Legitimacy," 549.
[34] E.g. Thomas Franck "The Emerging Right to Democratic Governance;" James Mayall, "Democracy and International Society," *International Affairs* 76, 1 (January, 2000): 61-75; Bukovansky *Legitimacy and Power Politics*.
[35] Clark "Democracy in International Society," 564-565.

particularly to the new republics emerging in Central and Eastern Europe.[36] The second key development, Murphy suggests, was "the emergence of global international human rights instruments," and particularly the 1948 Universal Declaration of Human Rights, which called for "the right to take part in the government of [one's] country"; and the 1966 International Covenant on Civil and Political Rights, which called for the rights to "participate in public affairs and to free elections." Although those did not legally bind the practices of state-formation with democracy and the maintenance of human rights, they came to serve as "important benchmarks when States weighed recognition of a new State," such as the case of international non-recognition of the apartheid-governed Rhodesia in 1965.[37] In contrast to the common dissociation of decolonisation from democratisation and good governance, Mayall points out the fact that some signs for the future importance of democratisation could actually be traced during this era. He counts two reasons for that: first, the leaders of the decolonisation movements used the increasing importance of democracy to undermine the legitimacy of the colonial empires to control the colonies;[38] and second, democratisation became to be associated for many of the anti-colonialist activists with modernisation.[39]

More direct efforts by the West to bind legal recognition and international legitimacy with democratisation and the liberalisation of the political system began during the later stages of the Cold War. One of the first milestones in this process was the Helsinki Final Act, signed at the end of the Conference on Security and Co-operation in Europe which hosted both Western European states and members of the

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[36] Here Murphy brings the example of the Treaty between the Allied and Associated Powers and Poland (Protection of Minorities), 28 June 1919, which demanded that "All Polish nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language, or religion", in "Democratic Legitimacy," 551, note 22.
[37] *Ibid*, 552-553.
[38] See also Reus-Smit, "Human Rights and the Social Construction of Sovereignty."
[39] Mayall, "Democracy and International Society," 64-65

Eastern Bloc for negotiations about security cooperation in Europe. The Act stated that,

> The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion… The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere. They will constantly respect these rights and freedoms in their mutual relations and will endeavour jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them.[40]

Even though not immediately implemented by the communist states that participated in the conference, such as Romania, Bulgaria, Poland and Czechoslovakia, the conference and the Final Act laid the foundations for the 1990 Charter of Paris. The signatories of this charter, defined by Ian Clark as one of these major, norm-changing peace agreements,[41] declared their "steadfast commitment to democracy based on human rights and fundamental freedoms; prosperity through economic liberty and social justice; and equal security for all our countries," adding that "We will build consolidate and strengthen democracy as the only system of government of our nations."[42] The Charter also set a clear mechanism for such process of democratisation and political change to take place, namely *free elections*.[43] The Charter of Paris was followed by the Vienna Declaration of 1993, which built upon its preceding declarations in establishing democracy as a formal standard of

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[40] OSCE, "Conference on Security and Cooperation in Europe Final Act," Helsinki, Finland, 1975, Article VII, Clause (a), section 1. <http://www.osce.org/documents/mcs/1975/08/4044_en.pdf>, (September 7, 2009 [henceforth all bracketed dates indicate last entrance).
[41] Clark, *The Post Cold War Order*, 1.
[42] OSCE, "Charter of Paris for A New Europe," Paris, France, 1990, 2. <http://www.osce.org/documents/mcs/1990/11/4045_en.pdf≥, (September 7, 2009).
[43] *Ibid*, 3.

recognition. Reviewing these conventions and declarations, Clark contends that they "suggested transmutation of a principle of domestic legitimacy into a principle of international legitimacy: it is because of the individual's right to democracy that international society has a duty to prescribe and monitor its implementation."[44]

The above declarations did not remain confined to the discourse of international lawyers and diplomats. The initial secession attempts of Soviet and Yugoslav republics provided the victorious West with the first opportunity to apply these principles, and the process of recognition of new states served as a laboratory for their implementation. In its *Declaration on the Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union* and the *Declaration on Yugoslavia*, both published on December 16, 1991, the European Community (EC) stated its "readiness to recognise subject to the normal standards of international practice and the political realities in each case, those new States which have constituted themselves on a democratic basis." Such constitution was to be demonstrated through a "respect for the provisions of the Charter of the United Nations and the commitments subscribed to in the Final Act of Helsinki and in the Charter of Paris, especially with regard to the rule of law, democracy and human rights", and the "guarantees for the rights of ethnic and national groups and minorities in accordance with the commitments subscribed to in the framework of the CSCE."[45] The US followed the EC's lead, conditioning its recognition of Croatia and Slovenia, the first two Yugoslav republics to declare their desire for secession, by their governments' ability to demonstrate "Support for democracy and the rule of law, emphasizing the key role of elections in the democratic process; Safeguarding of

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[44] Clark, "Democracy in International Society", 571.
[45] Danilo Türk, "Annex 1: Declaration on the 'Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union'," *European Journal of International Law* 4, 1(1993), 72

human rights, based on full respect for the individual and including equal treatment of minorities; and respect for international law and obligations, especially adherence to the Helsinki Final Act and the Charter of Paris."[46]

That democratisation (mainly demonstrated through elections) and protection of minority rights were embraced as the new norms of international society and as preconditions for legal recognition, was most clearly demonstrated by the efforts made by the new candidates for recognition to prove their ability to meet them. Lithuania, Latvia and Estonia, the Soviet Baltic republics which were also the first to declare their desire to secede from the Soviet Union, were quick to exhibit the democratic nature of their decision to withdraw from the union, by highlighting the use of plebiscites to support their declarations, or by underscoring the fact that the governments that declared independence were elected democratically (following the perestroika in the Soviet Union).[47] A plebiscite also served Slovenia when its government applied for recognition of its right to secede from Yugoslavia. Macedonia, in turn, "did not request but responded to the EC's proposal of recognition on a conditional basis and was deemed to have met the criteria. Leading political parties… acknowledged that secession had to occur according to certain principles, including a plebiscite."[48] In contrast to these cases, the Badinter Arbitration Commission, which was formed in order to advise the EC about developments in the Balkans, had some misgivings about recognising Croatia, since its newly established government failed to protect the rights of the Serb minority in its territory. The Croatian government, nonetheless, did not reject the Commissions' right

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[46] Ralph Johnson, "Yugoslavia: Trying to End the Violence". Testimony by Ralph Johnson, Deputy Assistant Secretary of State for European and Canadian Affairs, October 17, 1991," *Foreign Policy Bulletin* (November-December 1991), 42; also Susan L. Woodword, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington, D.C: Brookings Institution, 1995), 61

[47] Fawn and Mayall, "Recognition, Self-determination and Secession," 198-199. Williams, *International Legitimacy*, 83-84.

[48] Fawn and Mayall, "Recognition," 202.

to intervene in its affairs or its guidelines. Rather, it justified its behaviour by pointing out to the threat the Serb minority constituted to the integrity of Croatia.[49]

The earlier stages of the process of recognition of the new states in the post-communist space disclose a form of communicative action taking place between the parties involved. The conventions, conferences and negotiations have in fact become international public spheres in which the norms of international society, through the debate about the preconditions for recognition, were being moulded and formulated. The directly concerned parties were of course those aspiring for recognition and those that bestowed it, but the debate had important implications for other actors, e.g. emerging and potential separatist movements within the newly established states. The process of democratisation was not straightforward and many of the newly recognised states (such as Croatia) did not fully meet the standards set by the Western international society. Yet, the deliberations around the subject have also contributed to the consolidation of the link between democratisation and statehood, which is particularly important for the analysis of de facto states.

Even more important in this regard has been the Standards-before-Status policy (SBS) applied to the recognition of Kosovo. Much like other de facto states, Kosovo declared its secession from its parent-state Serbia without the central government's consent. But unlike the other post-Yugoslav states, Kosovo was an autonomous region before Yugoslavia's dissolution, rather than an autonomous republic. As such, it did not have the constitutional right to secede. Thus, any decision taken with regard to Kosovo's status and future status has been carefully viewed and studied by other separatist movements and de facto states. The question of Kosovo's

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[49] Allain Pellet, "The Opinions of the Badinter Arbitration Committee: A Second Breath for the Self-Determination of Peoples," *European Journal of International Law* 3 (1992), 178.

status became particularly acute after the Kosovo war in 1998-1999 and the revelation of war crimes perpetrated by Serbian forces, such as the Račak operation, and the subsequent NATO intervention in the war. The UN Security Council (UNSC) and the other actors involved initially eschewed the idea of an independent Kosovo, and the UN Mission in Kosovo (UNMIK), established by the UNSC in 1999, focused more on building autonomy within Serbia. To do so, the UN founded, in 2001, the Provisional Institution of Self-Government (PISG), a collection of local administrative bodies, including an executive authority, national assembly and regional presidency, which held "a full range of powers governing a wide range of areas."[50] While the UNMIK representatives insisted that the formation of the PISG did not mean acceptance of Kosovo's secession from federal Yugoslavia, the leadership of the Albanian majority viewed the formation of the PISG as an indication in that direction. Therefore, they enhanced their pressure on the UN to reconsider Kosovo's status. The SBS policy, according to James Ker-Lindsay, in fact meant to ease the pressure off UNMIK and earn it more time in establishing a policy for Kosovo.[51] Indeed, the EU and the US had already realised at this stage that the integration of Kosovo into Yugoslavia was impossible, due to the bloody past of Kosovo's struggle for independence; nonetheless, Kosovar secession meant a clash not only with Yugoslavia, but also with Russia.

The most noticeable distinction between the process of recognising Kosovo and the other post-Yugoslav and post-Soviet states was the fact that Kosovo was presented with clear standards of recognition. Rather than basing its right for statehood by applying to certain, maybe vague, international norms, the Kosovar

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[50] James Ker-Lindsay, *Kosovo: the Path to Contested Statehood in the Balkans* (London: I.B Tauris, 2009), 17.
[51] *Ibid*, 18.

government had to meet the preconditions set by those who could bestow it with recognition. The first standard in the document is "Functioning Democratic Institutions," which basically referred to the conduct of "regular, transparent, free, and fair" elections for the provisional government institutions, representing the whole range of Kosovars, including refugees and internally displaced people, and of political parties.[52] The term Kosovars referred to all linguistic, ethnic and religious groups, as well as to "effective action to eliminate violence against women and children, trafficking and other forms of exploitation, including preventative education and provision of legal and social services to victims."[53] In addition, the SBS, as expressed in the UNMIK's "Standards for Kosovo" document, called for the establishment of a "range of private, independent print and broadcast media exists, providing access to information for all communities throughout Kosovo… Publicly-funded media devotes a full and proportionate share of its resources and output to all ethnic communities."[54] Other standards included the implementation of the rule of law; freedom of movement, which included the "free use of language"; sustainable returns and the rights of communities and their members, including the guarantee of the safe return of refugees and their integration in the economy; the establishment of a competitive market economy; the "fair enforcement of property rights" which is "essential to encourage returns and the equal treatment of all ethnic communities"; regional and national dialogue between the various groups within Kosovo; and the establishment of the Kosovo Protection Corps.[55] What the SBS was aiming to do, therefore, was not

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[52] UNMIK, "Standards for Kosovo," *UNMIK Press Release 1078*, 2003.
<http://www.unmikonline.org/press/2003/pressr/pr1078.pdf> (September 16, 2009).
[53] *Ibid*; this was one of the first instances in which the issue of violence against women was identified as a standard of recognition.
[54] *Ibid*
[55] *Ibid*

only to support the efforts of an aspiring state, but in fact to regulate statehood,[56] or to create a "member state."[57]

Initially the PISG failed to meet some of the standards set by the SBS, particularly those relating to protection of the rights, property and in some cases, such as the March 2004 clashes between Albanian and Serb Kosovars, the lives of the Serb minority.[58] In spite of that, the discussions on Kosovo's status were renewed in 2005, leading eventually to the Kosovo Status Settlement (KSS), which treated Kosovo as a state in all but name.[59] The KSS still kept using the discourse of democratisation, further expressing the relevant parties' commitment to guarantee the rights of the ethnic minorities in Kosovo which it defined as "the provisions necessary for a future Kosovo that is viable, sustainable and stable."[60] Thus, Regardless of UNAMI's declared intentions, the SBS came to serve as a base for discussing Kosovo's status – and the nature of the future state in Kosovo.

The case of Kosovo and the KSS underlines the international community's inconsistency with regard to bestowing legitimacy based on its own norms of governance. This was also noticeable in the case of Croatia, which was recognised in spite of its government's violation of the rights of the Serb minority in the country. And it became painfully clear when Macedonia was denied recognition, because the Greek government, fearing territorial disputes with the newly established country,

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[56] Jean d'Aspremont "Regulating Statehood: the Kosovo Status Settlement." *Leiden Journal of International Law,* 20 (2007), 649–668

[57] Aidan Hehir, "UNMIK – Facilitating Kosovo's Final Status or its Future Status? Reconceptualising the Problem, Changing the Solution," in *State Building: Theory and Practice*, ed. Aidan Hehir (London: Routledge, 2007), 133-134.

[58] Ker-Lindsay, *Kosovo*, 20-21; Jean d'Aspremont "Regulating Statehood"; Susan L. Woodward, "Is Democracy Possible in the Balkans? On Pre-Conditions and Conditions in Bosnia, Kosovo, and Serbia," A Report Prepared for the National Council for Eurasian and East European Research (June 2007).

[59] D'Aspremont "Regulating Statehood," 654.

[60] UN Security Council, "Letter dated 26 March 2007 from the Secretary-General Addressed to the President of the Security Council," S/2007/168, March 26, 2007, 6; See also Ker-Lindsay, *Kosovo*, 27.

pressured the EC to reconsider its recognition of Macedonia as long as the latter does not change its name into the Former Yugoslav Republic of Macedonia. Such discrepancies between the international community's declarations and its policies on ground have led some to argue that democracy could never become a standard of recognition in a world of power politics.[61] Others have gone further to describe the Western democracy promotion as an imperialistic project aimed mainly to protect Western interests and hegemony in other parts of the world,[62] an idea which gained even more popularity in the aftermath of the US-led invasion of Iraq and the overthrow of the Ba'th regime in 2003.[63] Such perceptions of democracy promotion, nevertheless, miss the long-term impact that such discourse have had on the international society and its norms of statehood and recognition. Fawn and Mayall phrase it vividly when arguing that

> despite the continued predominance of power political over legal or ethical considerations, one cannot discount altogether the impact of liberal ideas of the state and international society. The positing of democratic criteria for self-determination is not just a rhetorical veneer masking the real interests of the powers. It also reflects the fact that there is no longer any alternative macro political and economic scheme which can legitimise the exercise of state power. To this extent the establishing of criteria for democratic statehood represents a genuine attempt to bring practice into line with the only available principle.[64]

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[61] Donald Horowitz, "A Right to Secede?" in *Secession and Self-Determination,* ed. Stephen Macedo and Allen Buchanan (New York: New York University Press, 2003), 50-76.
[62] E.g. Steve Smith, "US Democracy Promotion: Critical Questions," in *American Democracy Promotion: Impulses, Strategies, and Impacts*, ed. Michael Cox, John Ikenberry and Takashi Ingoguchi (Oxford: Oxford University Press, 2000), 63-84; William Robinson, "Promoting Capitalist Polyarchy: The Case of Latin America," in *American Democracy Promotion*, 308-325.
[63] Michael Cox, "Empire, Imperialism and the Bush Doctrine," *Review of International Studies* 30, 4 (2004), 585-608; Edward Rhodes, "The Imperial Logic of Bush's Liberal Agenda," *Survival* 45, 1 (Spring, 2003): 131-154.
[64] Fawn and Mayall, "Recognition, Self-Determination and Secession," 214.

In other words, then, one does not need to render power politics irrelevant in order to accept the idea that post-Cold War democracy promotion has been significant for the debate about the nature of statehood and international legitimacy.

2.1.3 *IDENTIFYING THE AGENTS OF CHANGE: TRANSNATIONAL ACTORS AND THE CONVEYANCE OF NEW IDEAS TO THE DE FACTO STATES*

The concepts of communicative action, interaction and learning help to further explain, and consequently support, the idea that democratisation and political liberalisation have indeed become the predominantly legitimating norms in international society. Ideas do not emerge in an empty void and are not just picked up by actors randomly.[65] Rather, ideas are developed, contained and then conveyed by actors committed to such ideas. Sometimes such actors convey different ideas by merely reflecting them in their "literature, official documents, theology, curricula, and organizational culture."[66] In other cases, such actors have done so by directly intervening in the affairs of their target actors (mainly states). Reviewing the process of decolonisation in the British Empire, Philpott hinges it to a large extent on the eruption of nationalist sentiments among residents of the colonies. Such ideas, Philpott argues, were imported into the colonies by different actors which have been in constant interaction with the international society. As he indicates, nationalism as a solution to the problems of the colonised communities was initially an alien concept to many in Africa and Asia.[67] But it was through their participation in three wider institutions, namely religion, education and war, that several groups and individuals

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[65] Thomas Risse-Kappen, "Ideas Do Not Float Freely"
[66] Daniel Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton: Princeton University Press, 2001), 54.
[67] *Ibid*, 191.

from within the colonised communities came to embrace nationalism, and convey it to their own communities. The first to bring ideas into the British colonies were those educated in the West – such as slaves from the US who got education in black colleges of the period and returned to Africa as part of the "back to Africa movement." The church was one forum in which members of the colonised communities came to be exposed to European ideas about nationalism and self-determination. Such ideas were amplified by the inability of the members of the colonised communities to reach the higher ranks in the church. Finally, soldiers who served in the metropolitan armies during the two world wars were also exposed to ideas about nationalism and self-determination, which they conveyed to their colonies upon their return from the wars. The writings, speeches and activism of those individuals played a crucial role in shaping the protest movement in the colonies, which eventually drove the Empires to view the colonies as a burden.[68]

The link between the role of ideas at the international level, advocacy networks and domestic changes has been applied enthusiastically to cases of reforms, democratic transitions and liberalisation, especially when such cases experienced a relatively brief or a rather sharp transition. Transnationalism has been a repetitive theme in the studies of global normative changes and their impact on domestic transitions. Particularly the study of TANs has marked an important shift within the study of democratisation and liberalisation. A pioneer in this field was Thomas Risse. In one of the earlier post-Cold War studies of transnational activism, Risse argued that

> the impact of transnational actors and coalitions on state policies is likely to vary according to: 1) differences in *domestic structures*, i.e. the normative and organizational arrangements which form the 'state', structure society, and link

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[68] *Ibid*, 190-203.

the two in the polity; and 2) degrees of *international institutionalization*, i.e., the extent to which the specific issue-area is regulated by bilateral agreements, multilateral regimes, and/or international organizations.[69]

In other words, domestic transformations inspired by global normative shifts are contingent upon two factors: the nature of the norm; and the nature of the target actor. The domestic structures "are likely to determine both the availability of channels for transnational actors into the political systems and the requirements for 'winning coalitions' to change policies." The key here is the level of government centralisation:

> On the one hand, the more state dominates the domestic structure, the more difficult it should be for transnational actors to penetrate the social and political systems of the 'target' country. Once they overcome this hurdle in state-dominated systems, though, their policy impact might be profound, since coalition-building with rather small groups of governmental actors appears to be comparatively straightforward. On the other hand, the more fragmented the state and the better organized civil society, the easier should be the access for transnational actors. But the requirements for successful coalition-building are likely to be quite staggering in such systems.[70]

A similar argument is made by Jeffrey Checkel, who argues that "From an institutionalist perspective, an important factor affecting the ideology-organization nexus is the broader structure of the state." In centralised states, in which "bureaucratic units and elites are insulated from the broader societal forces… there is a greater probability that organizational ideologies will become embedded [than in less centralised states]."[71] Checkel, nevertheless, adds one more dimension to this argument, relevant to the case of de facto states: "a changing international environment creates windows of opportunity [for policy entrepreneurs] by fostering a

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[69] Thomas Risse-Kappen, "Introduction," in *Bringing Transnational Relations Back In,* ed. Risse-Kappen (Cambridge: Cambridge University Press, 1995), 6.
[70] Risse-Kappen, "Introduction," 7.
[71] Jeffrey Checkel, *Ideas and International Political Change* (New Haven: Yale University Press, 1997), 11.

sense of crisis or uncertainty… which can open policy windows that allow decision makers to engage in an information search as they define preferences and state interests; decision makers will be in the market for new ideas."[72] In other words, a sense of crisis may provide an opportunity for agents of change (to which Checkel refers to as policy entrepreneurs) to affect government policies.

The link between globally-held norms, TANs and domestic structures has served several studies concerned with globally-inspired democratic and liberal transitions. In their study of domestic transformation and human rights-violating governments' willingness to embrace international norms, Thomas Risse and Kathryn Sikkink build upon Risse's earlier studies of transnational activism. Nonetheless, they identify one more element: the manner in which actors view themselves and the international society. As they suggest,

> The very idea of "proper" behaviour presupposes a community able to pass judgement on appropriateness… People sometimes follow norms because they want others to think well of them, and because they want to think well of themselves… People's ability to think well of themselves is influenced by norms held by relevant community of actors… Human rights norms have a special status because they both prescribe rules for appropriate behaviour, and help define identities of liberal states. Human rights norms have constitutive effects because good human rights performance is one crucial signals t others to identify a member of the community of liberal states.[73]

Coalition-building is an important aspect of the success of such change generated by intervention of TANs. Upon gaining access to the target actor, it is the ability to establish coalitions with local actors that will determine the level of impact the

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[72] *Ibid*, 8.
[73] Thomas Risse and Kathryn Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights*, ed. By Risse, Stephen C. Ropp and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), 7-8.

network would have domestically. The power of these coalitions/TANs stems from their purposes which "constitute necessary conditions for sustainable domestic change in the human rights area": Putting norm violating states on the international agenda, i.e. "shaming" both these states and international society into taking action; empowering, protecting, and hence mobilising, domestic opposition, social movements and NGOs; challenging governments from above and below;[74] to that one can add the exposure of actors to international ideas, norms and practices. Strategies often used by human rights TANs include the careful documentation of abuses, making states aware of their accountability for those abuses under international law, and developing mechanisms for exposing abuses of human rights.[75]

The debate about the nature of international legitimacy in the post-Cold War era is essential for an analysis of de facto states. The de facto states are mostly a product of this period in international history and their conduct and evolution have been highly affected by this process. This is especially true because of the de facto states' constant crises of legitimacy and their pursuit of it. The following sections move on to discuss the de facto state and its definition, justify the use of the term and the examination of the unit and demonstrate how paying attention to the understanding of the pursuit of international legitimacy by the de facto states would help us in better understanding both such actors, as well as the concept.

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[74] *Ibid*, 5.
[75] Keck and Sikkink, *Activists beyond Borders*, 183.

2.2 THE DE FACTO STATE: CONTESTED SOVEREIGNTY AND THE PURSUIT OF LEGITIMACY

2.2.1 DEFINING THE DE FACTO STATE: THE PARADOXES OF SOVEREIGNTY AND RECOGNITION

Not unlike other questions on sovereignty and domestic conflicts, the de facto state has emerged as an explicit subject of interest in the IR discipline following the end of the Cold War and the collapse of the Soviet Union and Yugoslavia. But it was in the post-Cold War era that the term became a distinct subject of study in the field of IR. The dissolution of the multi-ethnic Soviet and Yugoslav federations witnessed the emergence and recognition of about twenty new states, most of them with heterogeneous populations as well, but with much less resources and territory. Many of the minority groups in those states constitute a compact minority, concentrated in certain parts of the state, and often in proximity to their communities across the border.[76] Furthermore, the rise of nationalist sentiments which played crucial roles in the state-building processes in the newly established states, had an immense impact on their minority communities. Anxious about their own future in the new nation-states, but also inspired themselves by the nationalist wave, some of those ethno-religious or linguistic minority communities began to claim their rights for self-determination in their territory. Claiming historical rights over their lands, their distinct ethno-linguistic identity, and history of persecution, many of these groups launched a separatist conflict against their central governments (often referred to in the literature as their "parent-states"). Launching guerrilla wars against government security forces and civilian administration, several of those separatist movements succeeded in bringing

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[76] For a discussion about the term see Gabriel Ben-Dor, "Minorities in the Middle East: Theory and Practice," in *Minorities in the Middle East*, ed. Ben-Dor and Ofra Bengio (Boulder: Lynne Rienner Publishers, 1999), 1-30.

the collapse of state authority in some parts of their claimed territory. This left an administrative vacuum, which was soon filled by the leaders of the national liberation movements. Out of necessity, and sometimes even unexpectedly, those leaders transformed rather rapidly from rebel movements, often led by guerrilla militias, into de facto governments. Such developments took place in Nagorno-Karabakh (seceding from Azerbaijan), Abkhazia and South-Ossetia (Georgia), Transdniestria (Moldova), Kosovo (Serbia) and Republika Srpska (Bosnia-Herzegovina).

The de facto state, subsequently, can be seen as a more advanced stage of secessionist struggles, an interim stage between the violent armed struggle and the establishment of an independent state (which may never emerge). In other words, de facto states are still national liberation movements. Most often, their aims remain unchanged upon their transition; but their strategies change dramatically. Such strategy is now based more on state-building than the use of violence against the central authorities. As Charles King contends, "the territorial separatists of the early 1990s have become the state builders of the early 2000s, creating de facto countries whose ability to field armed forces, control their own territory, educate their children, and maintain local economies is about as well developed as that of the recognized states of which they are still notionally a part."[77] Similar events of state-collapse and exploitation of this vacuum took place in northern Iraq, with the autonomy gained by the Kurds in the aftermath of the Gulf War in 1991; Somaliland in Somalia; Eritrea in Ethiopia during the early 1990s; the Turkish Republic of Northern Cyprus (TRNC); Biafra in Nigeria; and the Republic of China (Taiwan). In almost all of these cases, with the exception of Taiwan, it was a combination of the collapse of the central government and the infiltration of ideas about nationalism that led to the creation of

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[77] Charles King, "The Benefits of Ethnic War," *World Politics* 53, 4 (2001), 525.

these de facto states. In some cases, such as the KRG or the TRNC, external intervention also played a part in the emergence of a de facto state. Yet, the intensity and rapidity of the unfolding events in Eurasia and Balkans, their proximity to Europe and the prospects of violence in these often heavily armed regions prompted a wider scholarly curiosity.

The first to introduce the concept of de facto statehood into the IR literature as a legitimate theoretical framework for analysis was Scott Pegg. With the aim of distinguishing between this status of de facto statehood and other forms of statelessness, namely bandits, territories controlled by warlords, peaceful secessionist movements or even puppet-states established by imperialist powers, Pegg defined the de facto state as an

> [O]rganized political leadership which has risen to power through some degree of indigenous capability; receives popular support; and has achieved sufficient capacity to provide government services to a given population in a specific territorial area, over which effective control is maintained for a significant period of time. The de facto state views itself as capable of entering into relations with other states and it seeks full constitutional independence and widespread international recognition as a sovereign state. It is, however, unable to achieve any degree of substantive recognition and therefore remains illegitimate in the eyes of international society.[78]

A reader informed about the history of statehood and recognition would probably identify a clear reference here to the basic principles of statehood set in the 1933 Montevideo Convention on the Rights and Duties of States: a functioning government, territorial boundaries, a permanent population and capacity to enter relations with other actors in international society. The term *functioning government* refers to the de facto state's Weberian monopoly over coercion in a specific territory,

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[78] Scott Pegg, *International Society and the De Facto State*, 13.

ability to collect taxes, and the ability to provide at least rudimentary services to its population. Domestic legitimacy, namely the notion that the idea of de facto statehood and autonomy are supported by the population it aims to represent, is central as well to Pegg's definition. Another criterion that Pegg set was that of longevity or perseverance; Pegg sets two years of survival as a criterion for de facto statehood.[79] Initially, Pegg had also defined a formal declaration of independence as a criterion for defining an entity as a de facto state. However, he later revoked it, accepting the idea that an actor can be defined as a de facto state without officially declaring independence.[80] The latter point is significant, because it further shifts the weight from external recognition to domestic capacities in the examination of de facto states.

To sharpen his analysis, Pegg associates the concept of de facto statehood with Robert Jackson's distinction between *positive* and *negative* sovereignty. The former term refers to the

> capabilities which enable governments to be their own masters. It is a substantive rather than a formal condition. A positively sovereign government is one… which possesses the wherewithal to provide political goods for its citizens. Positive sovereignty… is not a legal but a political attribute if by political is understood the sociological, economic, technological and psychological wherewithal to declare, implement and enforce public policy both domestically and internationally.[81]

Negative sovereignty, thus, is the opposite, namely a political act which involves the "act of general recognition," which at least theoretically protects states of external intervention in domestic affairs.[82] De facto states, according to Pegg's definition, have

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[79] *Ibid*, 30-42.
[80] Pegg, "From De Facto States to States-Within-States: Progress, Problems and Prospects," in *States-within-States*, ed. Paul Kingston and Ian Spears (New York: Palgrave Macmillan, 2004), 38
[81] Robert Jackson, *Quasi States*, 29.
[82] *Ibid*, 30.

established positive sovereignty. What they lack, nevertheless, is a negative one. The international community has generally refused to formally recognise de facto states emerging out of a separatist struggle.[83] One reason for that is the international community's antipathy toward secession, and particularly non-consensual secession. Especially when the aspirations for secession are considered to be based on ethnic affiliation, they are bound to be seen by international society as a source of international and regional instability. As many of the existing states are ethnically heterogeneous, the idea of ethnically-based secession is associated with an endless cycle of violence around the globe.[84] In addition, de facto states are generally perceived by international society as law-breaking entities, whose leadership is engaged with smuggling and other illicit activities, as well as with ethnic cleansing. In other instances, they are perceived as puppet-states, serving the interests of external powers.[85] Deon Geldenhuys has further refined this definition, suggesting that unrecognised de facto states face a *double non-recognition*: First, the international community objects to these entities' right to secede and become independent states. Likewise, the de facto states' statehood, that is, their positive sovereignty, is denied by international society. Hence, "For all contested states their interaction with the outside world is highly contentious, with attempts to keep them outside the international mainstream."[86]

Perhaps it is Stephen Krasner's definition of sovereignty that helps to better illustrate the position of de facto statehood. According to Krasner, the concept of sovereignty has different meanings and dimensions: domestic, international-legal,

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[83] As such, the de facto states are the mirror image of Jackson's *quasi states*, namely those entities that enjoy from, indeed survive as states because of, negative sovereignty and their recognition by other states.

[84] Marc Weller, *Contested Statehood*, 16-20; Deon Geldenhuys, *Contested States*, 36-40.

[85] Dov Lynch, *Engaging Eurasia's Separatist States: Unresolved Conflict and De Facto States* (Washington DC: United States Institute for Peace, 2004), 4.

[86] Geldenhuys, *Contested States*, 3.

Westphalian and interdependence sovereignty. *Domestic* sovereignty refers to "effective political authority [actors have] within their own borders."[87] *International legal* sovereignty, on the other hand, refers to legal recognition of an entity as a state by other states and IOs, and the institution of diplomatic relations. *Westphalian* sovereignty refers to actors' right to exclude external actors from their territory.[88] And interdependence sovereignty refers to the ability of states to practically control (with an emphasis on control rather than *have authority over*) their borders and regulate the passage of people, goods or even economic activities with their territory.[89] As Krasner notes, an entity might possess some of the dimensions of sovereignty, but lack the others.[90] De facto states, one can argue, are entities that had achieved Westphaliann sovereignty, which then facilitated the achievement of domestic sovereignty, but have failed to secure international legal, and subsequently maybe interdependence sovereignty.

By so-defining the de facto state, Pegg did not merely try to explain a certain phenomenon. Rather, he formulated a model of de facto statehood in world politics, thus urging IR scholars to pay more attention to this phenomenon. He did so by relying on a relatively small number of case-studies: Eritrea between 1991 and 1993 (before independence), Tamil-Elam in northern Sri Lanka, Somaliland in the horn of Africa and the TRNC. Pegg's model of de facto statehood has been mostly embraced by subsequent students of the phenomenon, and has been applied to other case-studies, such as the Palestinian National Authority, Kosovo, Chechnya and the three

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[87] Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), 12
[88] *Ibid*, 20.
[89] *Ibid*, 12-13,
[90] See also Krasner, "Problematic Sovereignty," in *Problematic Sovereignty*, ed. Krasner (New York: Columbia University Press, 2001), 2.

de facto states in the Caucasus, namely Nagorno-Karabakh, Abkhazia and South Ossetia.[91]

Notwithstanding its wide acceptance, Pegg's model has been the subject of some critique. Ian Spears, for example, accepts the idea that non-recognised entities with empirical attributes of statehood deserve scholarly attention. He rejects, nevertheless, most of Pegg's criteria of de facto statehood and uses only the Weberian monopoly over power in a certain territory to isolate his actors, which he prefers to define as *states-within-states*.[92] At least some of the cases reviewed in this volume, edited jointly with Paul Kingston, overlap with cases which have been defined as de facto states by Pegg and his followers, e.g. Somaliland, which indicates at least some controversy around the use of the term. In another case, Geldenhuys has rejected the use of the term *de facto* state. As he noted, even if most of those entities defined as de facto states are not recognised by the UN, most of them are recognised by at least one actor (TRNC by Turkey, Nagorno-Karabakh by Armenia, Abkhazia and South Ossetia by Russia), and in some cases by a relatively large number of states (Taiwan recognised by more than 20 states; Kosovo by almost 70 states, including the US, Japan, Canada and most EU members). Moreover Geldenhuys stresses that although not recognised, most of the de facto states are not isolated from the rest of international society. Rather, de facto states are in a constant interaction with

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[91] See for example the volume edited by Tozun Bahceli, Barry Bartmann and Henry Srebrnik, *De Facto States: The Quest for Sovereignty* (Oxon: Routledge, 2004); Lynch, *Engaging Eurasia's De Facto States*; Pal Kolstø, "The Sustainability and Future of Unrecognized Quasi-States," *Journal of Peace Research* 43, 6 (2006), 723-740; Nina Caspersen, "Separatism and Democracy,"113-136.

[92] Ian Spears, "States-Within-States: An Introduction to their Empirical Attributes," in *States-Within-States: Incipient Political Entities in the Post-Cold War Era*, ed. Spears and Paul Kingston (New York: Palgrave Macmillan, 2004), 15-34.

international society, through trade, international aid and more channels.[93] The de facto state, hence, is not entirely illegitimate.

A more recent critique of the study of de facto statehood is presented by Gareth Stansfield and James Harvey. Paying more attention to the complex nature of sovereignty, they highlight the limitations that existing studies have faced in theorising the concept of unrecognised statehood. They indicate various factors that have hindered such theorisation: first, they assert, unrecognised states are often schizophrenic in nature, since they depend on patronage systems and are often authoritarian or semi-authoritarian in nature, but they aspire to be seen as "embracing democratization strategies" in their pursuit of international legitimacy.[94] Another difficulty, they add, lies in the fact that unrecognised states have been shaped by their regional and domestic context as well historical circumstances.[95] Moreover, as they rightfully point out, most unrecognised states are juxtaposed near, above or below the state, but this is in spite of the fact that most chances are that they will never become sovereign states. The question, they ask, is whether this concept of de facto statehood contains enough "flexibility and robustness" to encompass very different entities in many respects. They identify a key to this problem, namely the tendency of most existing studies to view secession as the key motivation driving the leaderships of de facto states. Secession, they argue, might serve as an initial factor in the emergence of de facto states, but it cannot explain later stages of their development.[96]

Harvey and Stansfield are justified in highlighting the schizophrenic nature of de facto states, reminding students that arguments brought up by de facto states

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[93] Geldenhuys, *Contested States*, 26-28.
[94] James Harvey and Gareth Stansfield, "Theorizing Unrecognized States: Sovereignty, Secessionism and Political Economy," in *Unrecognized States in the International System*, ed. Nina Caspersen and Gareth Stansfield (Oxon and New York: Routledge, 2011), 11.
[95] *Ibid*, 12.
[96] *Ibid*, 16-17.

should not be taken at face value. Yet, as the study of the KRG, as other cases of de facto states, shows, this schizophrenia can be "treated"; and the key to this treatment lies in the pursuit of international legitimacy itself and the interaction which it entails. Moreover, although unrecognised states are certainly diverse actors whose developments are shaped to a great extent by historical and political circumstances, this is also true for most recognised, de jure states. This does imply that the students of de facto states should be aware of the different circumstances and highlight the similarities between such actors.

Perhaps the most important point that Harvey and Stansfield make is to emphasise the fact that the act of secession itself is less relevant for understanding the development of such actors. Nonetheless, that formal secession might not play a role in the development of de facto states does not render the concept of statehood irrelevant for the study of such entities. Emerging in an international society in which the nation-state is perceived the most effective institution in protecting the rights of nations, is as vague as the concept may be. Even if secession remains a remote possibility, the model of the state and its institutions and the logic of sovereignty play an important in the way in which de facto states view themselves and the way to maintain their sovereignty. Here, as Harvey and Stansfield acknowledge as well, Krasner's definition of sovereignty as a multidimensional concept comes in handy in the analysis of de facto states and their development.

The Yet, the existing study of de facto statehood suffers from some major and notable weaknesses. Current approach to the subject is still rather limited. Starting from Pegg, most studies of de facto states have approached the subject from a structural perspective. To put it simply, scholars mainly tend to utilise de facto states to examine and explain international society, its practices of recognition (or non-

recognition) and its concern with regional stability. A minimal effort has been made to actually understand the de facto state, its leadership, its conduct and its development. No real effort has been taken to assess the manner in which this status of de facto statehood has actually shaped the development of the entities that fall under this category, their identity, their perception of security and their interaction with other states and organisations. Subsequently, students of de facto statehood as a phenomenon, and of de facto states, could better understand them if they focus more on the agent level, namely the de facto state itself, its policies, conduct and developments. The term de facto statehood should not serve solely to describe a certain entity; it should serve to understand and explain it. As detailed below, most de facto states share several traits – the most important of which is their need for and pursuit of international legitimacy. The following paragraphs stress the need to put the de facto state at the centre of research and the importance of isolating the pursuit of international legitimacy as an independent variable.

2.2.2 PUTTING THE DE FACTO STATE IN THE CENTRE

A good starting point for the understanding of the above argument is the Constructivist approach to security as developed by Buzan et. al. According to this approach, actors in international politics are comprised of several different sectors: the military, social, economic, and environmental. Each sector faces different kinds of threats – whereas the armed forces are preoccupied with "traditional security threats,"[97] the main threat to the political sector, or to the political organisation, relates

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[97] Barry Buzan, Ole Waever and Jaap De Wilde. *Security: A New Framework for Analysis* (London: Lynne Rienner Publishers, 1998), 47-70.

to legitimacy and recognition.[98] In other words, the main threat to the political sector is to be delegitimised, domestically and internationally. As argued above, most de facto states emerge out of guerrilla militias, engaged with fighting the central authorities. Under such circumstances, the military sector is often the dominant one in such movements; the political sector may often be minimal. The development of state-institutions and civil governance that characterises the emergence of a de facto state necessarily entails growing dominance of a political sector. Therefore, the establishment of a de facto state unavoidably means a greater concern with legitimation and the pursuit of international legitimacy.

At this stage, a question should be asked: what are the implications of lacking international legitimacy for de facto states? In other words, why are state-actors so concerned with securing international legitimacy? The de facto states provide the best example of why international legitimacy is so significant. Not being legally recognised means that de facto states are blocked from access to international aid, have limited ability to enter into formal trade contracts with other states, or even export their products. Moreover, not being protected by codes and practices that at least theoretically guide international community, de facto states are constantly exposed to encroachment of their sovereignty by other states and cannot even protest against it in international forums. At the domestic level as well, decisions taken by de facto states are often portrayed as illegitimate and even as harmful to the residents of the de facto states.[99] Again, it should be noted that even if not legally recognised, de facto states are not completely ostracised by the international community. As Geldenhuys argues, in spite of international society's bias against secession, the de

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[98] *Ibid*, 141-161.
[99] Pegg, *International Society and the De Facto States*, 43; Lynch, *Engaging Eurasia's Separatist States*, 48.

facto state still constantly engages with international society. Whether through (a limited) trade, the provision of international aid (through NGOs and UN agencies), or even allowing the representatives of de facto states some platform to present their grievances (usually as representatives of subnational groups, e.g. minorities and never in forums which are exclusively for states), international society practically acknowledges the existence of such actors. Furthermore, de facto states in fact do have some legal responsibilities according to international law: according to the laws of war, de facto states can be considered as belligerents, expected to comply with the laws of war, and are liable for war crimes. This is especially true for situations of prolonged conflicts which at some stage obtain the shape of a full scale war, which often occurs in the case of de facto states.[100] But such limited legitimacy has never been enough for the leaders of de facto states.

One of the first to identify and highlight the de facto states' desperate desire for legitimacy has been Barry Bartmann. According to Bartmann, de facto states suffer from a chronic and continuous crisis of legitimacy. For states that face such a crisis, "self-justification becomes a foreign-policy priority reflecting both the lack of confidence in the state itself and the perceived scepticism or indifference of the outside world. This is all the more true for governments of unrecognized states in waiting."[101] In order to survive, de facto states constantly justify their existence and try to legitimise their conduct which is usually associated with norm-violating behaviour. Here Bartmann makes an important distinction between *moral* and *practical* legitimacy. When de facto states highlight their moral legitimacy, they refer

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[100] For the application of the laws of war to a de facto state see Schoiswohl study of Somaliland. Michael Schoiswohl, *Status and (Human Rights) Obligations of Non-recognized De Facto Regimes in International Law: the Case of 'Somaliland'*, (Leiden: M. Nijhoff, 2004).
[101] Barry Bartmann, "Political Realities and Legal Anomalies," in *De Facto States*, ed. Bahceli et. al., 15-16.

to their historical rights over their claimed territories, their right to self-determination, past promises for statehood, or grievances about discrimination and persecution of their people by the state. Practical legitimacy, on the other hand, means exhibiting success in meeting what is perceived by the international community as good statehood.[102] Separatists often begin by justifying their actions based on moral legitimacy. When they turn into a de facto state, practical legitimacy becomes part of this endeavour. In other words, the transition into de facto governance entails an ideational transformation and subsequently in the interaction with international society. The attainment of positive sovereignty drives de facto states to view themselves differently and therefore justify their existence and actions in a different manner. The threat posed by the armed forces of the central government to the well-being of the population and the survival of the militias is now overcome by the threat of annihilation of sovereignty and state-institutions. The more successful the process of state-building is, the more it will dominate the discourse of de facto states. Unfortunately, Bartmann fails to elaborate on this important point.

One scholar that has taken one step further in this regard is Nina Caspersen. Examining Abkhazia, South-Ossetia and Nagorno-Karabakh, Caspersen has highlighted these entities' success in state-building, with a focus on democratic transitions. According to Caspersen, the relatively successful process of state-building, which those de facto states have gone through, has become central to their effort to secede from their metropolitan states. As Caspersen demonstrates, as part of their effort to gain international legitimacy for their aspiration to secede, these de facto states have emphasised what Caspersen defines as their *earned* sovereignty, namely their ability to function relatively well despite the lack of recognition – or in

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[102] *Ibid*, 16.

other words, their de facto statehood (and thus the equivalent to Bartmann's practical legitimacy). This discourse has come to replace what Caspersen defines as *remedial* legitimacy, namely claims for legitimacy based on the idea that recognition would do justice to the separatist movements by giving them control over their usurped land, or would rescue them from historical persecution and discrimination (i.e. Bartmann's *moral* legitimacy). As she puts it, "Recently… these aspiring states have caught on to what they perceive as a normative change in the international arena… These entities now argue that they have proven their viability as democratic states and thereby earned their sovereignty."[103] In another place, Caspersen has suggested that de facto states basically "play the recognition game": By emphasising such credentials, the unrecognised states are attempting to shed their associations with instability, shadow economies, ethnic cleansing and external puppeteers, and create entities that are deemed acceptable and therefore 'worthy' of recognition. De facto states are consequently trying to imitate what "good", recognised states should look like.[104] And elsewhere she noted that:

> The statehood proclaimed in these entities has therefore been significantly influenced by international developments; or rather by *perceived* changes in international norms and practices of recognition… not only are they trying to demonstrate their own democratic credentials, they are also claiming to be more democratic than their parent states and they frequently describe themselves as 'islands of democracy' in otherwise authoritarian waters.[105]

Here Caspersen identifies the importance of the SBS on the aspirations and conduct of de facto states and other separatist movements in the Balkans and Eurasia. Sharing the same cultural and political space with Kosovo, the de facto states in these

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[103] Caspersen, "Separatism and Democracy," 114.
[104] Caspersen, "Playing the Recognition Game: External Actors and De Facto States," *The International Spectator* 44, 4 (2009), 52.
[105] Nina Caspersen, *Unrecognized States* (Cambridge: Polity, 2012), 71.

regions were quick to grasp what they perceived as a normative change following the "supervised independence" of Kosovo and Montenegro, and the now visible dominance of liberal political ideas in the discourse on recognition.[106] The discourse of earned sovereignty has been to a great extent a response to what these actors have seen as the emerging demands of the international community, or the preconditions for statehood, and especially democratisation and liberalisation upon all of their components. That Kosovo in fact was not successful in meeting the standards set by international society did not deter the Eurasian de facto states. On the contrary, they began emphasising even further their own successes, in contrast to Kosovo's failures. Caspersen quotes Arkady Ghukasia, the former president of Nagorno-Karabakh, who declared that 'if the world community is ready to recognize the independence of … Kosovo, I think it will be very hard for them to explain why they don't recognize Nagorno-Karabakh'.[107] Such references serve as indications of the fact that the leaderships of de facto states have gone through some processes of learning through their endeavours to establish statehood. This also undergirds the notion that de facto states, even if not recognised, are not isolated from developments at the international level.

Another interesting case is that of Taiwan. Several works have highlighted the incorporation of democratisation in the pursuit of legitimacy for its de facto secession from the rest of China and aspiration for recognition. With the demise of Taiwan's long-standing dictator, Chiang Kai-shek, the voices calling for the ROC to give up its claims to rule the whole of China and establish an independent state in Taiwan grew

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[106] This was also identified by Rick Fawn, referring to it as the "Kosovo – and Montenegro – effect". See Fawn, "The Kosovo – and Montenegro – Effect," *International Affairs* 84, 2 (2008): 269-294.
[107] Taken from Victor Yakubyan, 'Kosovo-Karabakh – Strategic Fork', *Regnum,* 13 November 2006, <http://www.regnum.ru/english/737310.html>. As cited in Caspersen, "Separatism and Democracy," 113.

louder. Prior to that, such an idea was considered taboo. In addition to this shift, Taiwan also experienced a gradual process of liberalisation with Chiang Kai-shek's death. This liberalisation began initially in the economic sphere, but was expanded during the late 1980s into the political sphere. By 1996 Taiwan held national democratic elections for the first time. The elected president Lee Teng-hui from the ruling Kuomintang party (KMT) declared publicly that Taiwan would become an independent state, side by side with the People's Republic of China (PRC). Ambiguous as his real intentions may have been,[108] this statement still marked an important shift and strengthened those calling for an independent Taiwan. This shift did not only alienate those in Taiwan who kept seeing the ROC as the legitimate ruler of the whole of China, but mainly the PRC itself. The latter immediately launched a diplomatic war against what it defined as a renegade region. In response, Taiwan launched its own legitimation campaign in which its long sustained domestic sovereignty came to play an important role. As part of this campaign, Taipei adopted a more "proactive foreign policy," which "among other things, has firmly reminded the world of a new political entity's achievement, aspirations and unfulfilled ambitions."[109] This involved a constant reminder of Taiwan's democratic nature vis-à-vis the totalitarian nature of the PRC. This is reflected in a speech made by the Taiwanese Foreign Minister, Hung-mao Tien: "We will strengthen our efforts in publicising Taiwan's outstanding achievements in economic development and political democratisation to make the international community understand better the significant role we can play."[110] Robert Madsen has referred to this as Taiwan's

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[108] Chien-min Chao and Bruce J. Dickson argue that Lee Teng-hui did not necessarily believe in the idea of an independent Taiwan, in "Introduction: Assessing the Lee Teng-hui Legacy," in *Assessing the Lee Teng-hui Legacy in Taiwan's Politics*, ed. Chao and Dickson (New York: M. E. Sharp, 2002), 11.
[109] Chen Jie, *Foreign Policy of the New Taiwan* (Cheltenham: Edward Elgar Pub., 2002), 1.
[110] Hung-mao Tien, "Speech of the Minister of Foreign Affairs of the Republic of China (Taiwan) Dr. Hung-mao Tien before the Foreign and Overseas Chinese Affairs Committee, Legislative Yuan," June

pursuit of "alternative legitimacy," through a greater reliance on its economic liberalisation and democratisation.[111] Rather than noting the different influences on Taiwan's perception of the normative order, Madsen actually identifies the potential impact that Taiwan may have on other de facto states, noting that "polities that have lately become isolated have presumably concluded from Taiwan's experience that their situation is not dire and that opening new channels of communications to other countries will be a fairly straightforward matter."[112]

In Somaliland as well, awareness of international expectations of liberalisation and democratisation became evident during the 1990s. The idea of practical legitimacy has been even more relevant in this case than in other de facto states, mainly because the case for remedial legitimacy has been weaker in the case of Somaliland, whose residents come from the same ethnic and religious group as in Somalia (although Somalilanders have often claimed clan-based persecution). Since the mid-1990s, Somaliland has consistently tried to prove its ability to meet international expectations about "good" statehood. True, democratic elections also served to solve disagreements and divisions which led to a civil war in the early 1990s; yet, success in advancing some liberal reforms and establishing a proto-democracy have been integrated in Somaliland's constant campaigns for international recognition.[113] Not just Somaliland authorities, but also supporters of Somaliland's cause have embraced democratisation as a credible justification for sovereignty. In an interview with Mark Bradbury for his 2007 study of Somaliland, a senior political

5, 2000, cited by Unrepresented Nations and People's Organization, <http://www.unpo.org/article/539> (September 4, 2011).

[111] Robert Madsen, "The Struggle for Sovereignty between China and Taiwan," in *Contested Sovereignty*, ed. Stephen Krasner (New York: Columbia University Press, 2001), 158. Others have actually preferred to describe Taiwan's policy not as diplomacy, but rather as propaganda. See for example Gary D. Rawnsley, "Selling Democracy: Diplomacy, Propaganda and Democratisation in Taiwan," *China Perspectives* 43 (May-June 2003), 1-12.

[112] Madsen, "The Struggle for Sovereignty," 167.

[113] Mark Bradbury, *Becoming Somaliland* (Oxford: John Curry, 2008), 8.

leader in Somaliland stated that 'democratisation must come before recognition. We will only know if it is working after three elections. If it fails then there is no point in seeking recognition'.[114] As Bradbury documents, the first president of Somaliland, Ibrahim Egal, has declared on various occasions the idea that a multiparty system is the right path toward recognition, and that Somaliland was making the right steps toward this path.[115]

Caspersen highlights an important point, namely the importance of domestic sovereignty to the de facto states' legitimation campaign. By so doing, she diverts from the general tendency in the literature to examine de facto states only from a structuralist perspective. She, and several other recent students of de facto statehood, noted the important link between the success of de facto states in the process of state-building and their foreign policy and interaction with other members of the international community.[116] By so doing, these authors have also identified and highlighted the centrality of the pursuit of legitimacy to the conduct of de facto states. One should bear in mind, however, that domestic or earned sovereignty go well beyond democracy. Security and economic viability have been no less important for de facto states in their discourse of earned sovereignty, particularly given the fact that their aspirations for statehood have been denied, based on their low economic prospects or their depiction as sources of instability in the region and as habitats of transnational criminal activity. Referring to the harsh economic conditions of Abkhazia, one local politician declared that "Given its natural wealth, important strategic position, and active and enterprising population, one can positively assess the

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[114] *Ibid*

[115] *Ibid*, 131, 184.

[116] Caspersen is not the only one to pay what can be defined as disproportional attention to democratisation in her analysis of state-building and earned sovereignty. Others have been Oisín Tansey, "Democratization without a State: Democratic Regime-building in Kosovo," *Democratization* 14, 1 (2007), 129-150; and Oleh Protsyk, "Representation and Democracy in Eurasia's Unrecognized States: The Case of Transnistria," *Post-Soviet Affairs* 25, 3 (2009), 257–281.

perspectives for dynamic economic development. The numerous Abkhazian diaspora communities all over the world will undoubtedly also contribute to the economic recovery and prosperity of Abkhazia."[117] Similar comments were also made by the leadership of Nagorno-Karabakh, emphasising as well its diaspora community (Armenian diaspora) as an important source of revenue.[118] Somaliland, in a different context, has actually been striving with displaying to international community its potential contribution to one of the most burning regional and global security issues, namely the global war on terror. Referring to several Islamist attacks on targets within Somaliland, its recently elected president, Dahir Riyale Kahin, declared that 'The United States and United Kingdom should include Somaliland and other small nations in the fight against terrorism.'[119] And Somaliland's Foreign Minister, Mohamed A. Omar, bound Somaliland's democratic achievements with the war on terror, noting that 'Somaliland has been attacked by terrorists not only because they hate us, what I think what they are attacking is the principles and values we stand for, which is democracy'.[120]

Bringing up the above two subjects is not coincidental. Understanding the de facto states' motivation to prove their earned sovereignty could also help us understand why their leadership might decide to take unilateral steps or follow adventurous policies with regard to natural resources or, alternatively, participation in such international campaigns as the global war on terror. As argued later in this

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[117] Viacheslav Chirikba, 'Abkhazia: Economic and Political Situation and Perspectives'. <www.abkhazia.org/chirikba19990411.html>. As cited in Pal Kolstø and Helge Blakkisrud, "Living with Non-recognition: State- and Nation-building in South Caucasian Quasi-states," *Europe-Asia Studies* 60, 3 (2008), 493. Kolstø and Blakkisrud have actually used economic viability as a criterion for assessing the development and prospects of survival of de facto states.
[118] *Ibid*, 495-496.
[119] As reported by Mohamed Olad Hassan, "Police Hold Somaliland al-Qaida Suspects," *Associated Press Online*, September 24, 2005.
[120] Associated Press, "More American Diplomats and Aid Workers will Travel to Somaliland," October 16, 2010.

research, the KRG's desire to prove its domestic sovereignty has driven it to take several unilateral steps with regard to oil in its territory, in terms of oil extraction and export, or served as a motivation for the KRG to take further part in the war on terror, even though domestic Islamist terrorism has been less of a problem in the Kurdistan Region than in other parts of Iraq or the Middle East.

An even more noticeable gap in the literature on de facto states, in addition to the overemphasis on democratisation at the expense of other dimensions of the conduct of de facto states, is the lack of attention to the connection between the position of de facto statehood, the pursuit of legitimacy and success in state-building, consolidation of domestic sovereignty and democratisation. International crises of legitimacy are treated as given, and there has been a limited effort to actually understand how the de facto states' reaction to such crises can explain their development and evolution. Once again, Nina Caspersen comes closest to actually pointing out the connection between the lack of international legitimacy and the potential for domestic reforms and particularly democratisation. She notes that although often beginning as a mere façade, often democratic reforms can actually lead to some genuine transition, as took place in Somaliland, Nagorno-Karabakh and Abkhazia, where strongmen and warlords actually lost their grip on power following national elections.[121] But for Caspersen, the source of these changes was mainly domestic; the circumstances under which de facto states were created, the homogenisation of the following events of forced population exchange (such as in the Caucasus), or the need for the leadership of the de facto state to legitimise their rules internally, all allowed political transitions and reforms. Caspersen acknowledges the relevance of the lack of legitimacy when she identifies it as an incentive for

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[121] Caspersen, *Unrecognized States*, 86-87.

democratisation; but she treats this as a given, as a process which is bound to happen, without elaborating on its importance and contribution to the process of reform.[122]

In this research I argue that one cannot understand de facto states and their development without fully comprehending their pursuit of international legitimacy. As I demonstrate through the case of the KRG, the pursuit of international legitimacy necessarily involves communicative action, interaction, learning and argumentation. When the de facto states declare that they aspire to meet international standards for their recognition, they open the door for further scrutiny of their actions not only at the international, but also at the domestic level. Agents of change may get new opportunities to convey their ideas by advocating them to the governments of de facto states, primarily by emphasising their value to securing international legitimacy and sovereignty. True, adopting certain standards of governances considered as preconditions of recognition is utilitarian in essence; and more importantly, reforms inspired by such interaction are not irreversible or complete. In most cases of de facto states, we may see partial democratic transitions, which are often contested by the interests of the ruling elites. Still, such transitions are important both because they have an impact on the future course of the de facto state and its conduct at the regional and international levels; and because they actually provide us with some interesting insights into changes and transitions which can take place in international politics.

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[122] Somewhere else she refers to it as "playing the recognition game," thus focusing solely on the strategic nature of such reforms. See Caspersen, "Playing the Recognition Game," 47-60.

2.2.3 CRISES OF LEGITIMACY AND ITS PURSUIT: TOWARD A BETTER UNDERSTANDING OF DE FACTO STATES

As noted earlier in this thesis,[123] the domestic structure of a certain actor is crucial for the manner in which certain ideas or norms, and especially such ideas the actor had not been fully exposed to in the past, are carried into and implemented in the actor's domestic sphere. This is joined by three other factors: the international environment, the actor's level of interaction with it, and the manner in which actors perceive themselves. The previous sections reviewed the international environment, emphasising the normative shift in its conception of recognition and legitimation toward a greater reliance on capabilities and the implementation of norms relating to democratic governance and human rights. They also reviewed the manner in which the actors with which this research is concerned, namely de facto states, view themselves and the international society to which they aspire to belong. What is left now is to analyse and explain the domestic structure of the de facto state; as well as the nature of the agents of change in the context of the de facto states.

Regarding the first aspect, it is worthwhile to go back to the model set by Thomas Risse in his examination of the impact of ideas conveyed by transnational coalitions on different governments. Risse, as well as Checkel, have noted the link between government centralisation and success in introducing and implementing new ideas. Risse, nevertheless, provides a more comprehensive analysis of different forms of governance, which can help students in cataloguing different actors. According to Risse, governments vary with regard to their domestic structures, namely the relations between government and society and their level of centralisation. He defines six categories: *State-controlled* domestic structure, in which the government is strong and

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[123] See page 22.

the level of societal organization is weak; *State-dominated* domestic structure, in which the government is strong but there are stronger intermediate organizations channelling societal demands into the political system and/or more consensus-oriented decision making norms. As Risse notes, "The political culture of such systems often emphasizes the state as caretaker of the needs of its citizens"; *Stalemate* domestic structure, in which a relatively strong state is facing "strong social organizations in a highly polarized polity and a political culture emphasizing distributional bargaining"; *Corporatist* structure, in which "powerful intermediate organizations such as political parties operate in consensus oriented political culture, resulting in continuous bargaining processes, geared toward political compromises"; Society-dominated structure in which fragmented political institutions face "strong social interest pressure"; and a *Fragile* domestic structure which combines "fragmented state institutions, a low degree of societal mobilization, and weak social organizations."[124]

De facto states in general share some common characteristics with regard to their emergence. In most cases, de facto states have emerged out of an armed liberation struggle and their leadership has arisen out of the paramilitary movements that have often conducted guerrilla warfare against a central government. Thus, the leadership in many de facto states often began its way with a centralised structure, where paramilitary leaders became political leaders. Nina Caspersen, in her comprehensive study of de facto states, traces this in Abkhazia, Nagorno-Karabakh, Transnistria and Somaliland,[125] and Pegg points out to similar realities in Tamil Elam

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[124] Risse-Kappen, "Introduction," in *Bringing Transnational Relations back in*, 23-24. It should be noted that neither category refers to the level of democracy. Risse himself uses two different democratic systems to exemplify his categorisation: France represents the state-dominated domestic structure; while the US represents the Corporatist structure.

[125] Caspersen, *Unrecognized States*, 84-88.

and Eritrea.[126] One could probably define the Taiwanese leadership as such, since it was led by the former General Chiang Kai-shek, who ruled Taiwan mostly through emergency-laws, as well as the KRG. Yet, in most cases de facto states do not fall under the category of *state-controlled* entities since they lack an important element of such structure, namely isolation from their population. In most de facto states, the population has some access to their leadership, mainly because in many cases the wide population played an important part in the struggle for national liberation and will potentially play an important part in any future struggles. This is particularly true in cases where there is a large diaspora community, since the diaspora community often becomes an integral part of the domestic society in the target actor.[127] In addition, the formation of a de facto state entails the emergence of rudimentary forms of civil society activists, especially among students, intellectuals and trade unions.[128] . Hence, most de facto states fall into what Risse has defined as *state-dominated* domestic structure.

This leads this section to the issue of transnational intervention and the nature of the transnational agents of change in de facto states. Those agents of change have been transnational coalitions of major INGOs, IOs and individuals, working together with local NGOs and individuals. Here, the circumstances of the emergence of the de facto states are highly relevant. First, the majority of de facto states were established following devastating wars, which often took place in their own territory.[129] Once

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[126] Pegg, *International Society and the De Facto State*.

[127] Caspersen, "Separatism and Democracy in the Caucasus," 124-125, 130; Kolstø and Blakkisrud, "Living with Non-recognition"

[128] For a thorough analysis of the potential contribution of diaspora communities as transnational actors to their homeland, and the importance of incorporating diasporas into IR theory, see Fiona Adamson and Madeleine Demetriou, "Remapping the Boundaries of 'State' and 'National Identity'," *European Journal of International Relations* 13, 4 (2007), 489-526. Interestingly, Adamson and Demetriou rely on the example of the Turkish Kurdish diaspora community in Europe, as well as the Cypriote community in the UK.

[129] Kolstø and Blakkisrud, "Living with Non-recognition," 505.

again, Taiwan is somewhat of an exception, since it actually went through a process of de-recognition, starting as the solely recognised government of the whole of China, but ending up the illegitimate government of what has become a "renegade province" of the PRC.[130] Second, as stated above, many of the de facto states have emerged out of paramilitary structures. Their leadership often had no experience in running civilian affairs. In order to fill this vacuum, experienced and well educated individuals were needed to help building the de facto state. These conditions paved the way for international aid organisations, governmental and non-governmental alike, since it has meant that the leaderships of de facto states have had a desperate need for international guidance and aid. And since aid has been scarce because of the lack of recognition, those who have been willing to offer their assistance and provide some aid also gain a significant opportunity to influence the target-government. This is because their help has portrayed them as committed to justice. It has also given them access to the leaderships as experts in their fields. Referring to the case of Abkhazia, Kolstø and Blakkisrud have demonstrated how local NGOs have managed to successfully lobby the government in 2008 to lift some legal bans on freedom of expression after establishing a coalition with British NGOs.[131] In the case of the KRG, the combination of tremendous devastation by continuous wars in the region, as well as a suffocating embargo, have facilitated the entry of a growing influence of international aid organisations, different individual experts and members of the

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[130] Leonard Unger, "Derecognition Worked," *Foreign Policy* 36 (Autumn, 1979), 105-121.
[131] Freedom House, *Freedom in the World 2009 - Abkhazia [Georgia]*, 2009.
<http://www.freedomhouse.org/template.cfm?page=22&country=7744&year=2009> (October 15, 2010).

diaspora to build close contact with both the authorities and the public in the Kurdistan Region since 1991.[132]

The diaspora has often been an essential component of transnational activism, principally because members of the diaspora community have had the advantage of residing in the West, but have still been considered legitimate members of their homeland.[133] Residing in the West, members of the diaspora have been constantly exposed to ideas about the nature of governance, democracy and liberalisation. Having the ability to travel and sometimes even live in both worlds, members of the diaspora community and returnees can play an important part as conveyers of new ideas into their homeland, or as mediators between the leadership of the de facto state and the international community and its ideas.[134] This is particularly true for societies that are opened to members of the diaspora and which allot an important place for their experiences, such as the Kurdish society.[135] In addition, members of the diaspora usually enjoy certain immunities that are often denied from the residents of the de facto states, especially when facing a more centralised government. Unlike residents of the de facto state, members of the diaspora have the backing of their governments in their homes, and can avoid punitive measures taken by a potentially oppressing government. As such, members of the diaspora community have the ability to amplify the domestic demands of the population of their homeland with less worry about any

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[132] See Denise Natali, *The Kurdish Quasi State* (Syracuse: Syracuse University Press, 2010). I elaborate on this in chapter 6.

[133] Or maybe "homeland," as many diaspora activists have been second or even third generation born outside the homeland.

[134] For a thorough analysis of the potential contribution of diaspora communities as transnational actors to their homeland, and the importance of incorporating diasporas into IR theory, see Fiona Adamson and Madeleine Demetriou, "Remapping the Boundaries of 'State' and 'National Identity'," *European Journal of International Relations* 13, 4 (2007), 489-526. Interestingly, Adamson and Demetriou rely on the example of the Turkish Kurdish diaspora community in Europe, as well as the Cypriote community in the UK.

[135] Diane E. King, "Back from the 'Outside': Returnees and Diasporic Imagining in Iraqi Kurdistan", *IJMS* 10, 2 (2008), 208-222.

potential repercussions. A good example is that of Somaliland, where the diaspora was one of the main engines for political reforms. The Somali diaspora was a pivotal element in the process of state-building in Somaliland already since its inception. It heavily contributed to its financial system, mainly by sending remittances to their families in the region, but also played an important role in advocating the cause of Somaliland at the international level and lobbying foreign governments for recognition.[136] This provided the Somali diaspora more leverage in pushing for political reforms in the country. Already in the mid-1990s, the Somali diaspora managed to put pressure on the tribal elders to agree for national elections in the country and the delegation of some of their authorities to an elected government.[137] Whereas some members of the diaspora have been hesitant to return Somaliland due to regional instability,[138] others have become more and more active in the region itself. Thus, many of the presidential and parliamentary candidates in the 2010 elections were members of the diaspora community in London.[139] In addition, members of the diaspora have become involved in civil society activism in the region, and mainly in democracy and women's rights promotion NGOs.[140]

An important factor in maintaining the long-term durability of policies and reforms instigated by transnational activism is the level of the government's success in meeting and applying the ideas conveyed by the leadership of the de facto state. As noted earlier, the foreign policy of de facto states is often oriented toward

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[136] Mark Bradbury, *Becoming Somaliland*, 176.

[137] This was in combination with the elders' desire to secure international aid. Stig Jarle Hansen and Mark Bradbury, "Somaliland: a New Democracy in the Horn of Africa?" *Review of African Political Economy* 34, 113 (September 2007), 464.

[138] Seth Kaplan, "The Remarkable Story of Somaliland," *Journal of Democracy* 19, 3 (July, 2008), 152.

[139] Laura Hammond, "A Voice across the Miles," P*ublic Service Review: International Development* 16 (2010), 43-44.

[140] Laura Hammond, Mustafa Awad, Ali Ibrahim Dagane, Peter Hansen, et. al, "*Cash and Compassion: The Role of the Somali Diaspora in Relief, Development and Peace-building,* Technical Report of a Study Commission by UN Development Programme (UNDP) Somalia (December, 2011), 68. <http://www.so.undp.org/docs/Cash%20and%20compassion.pdf> (January 24, 2012)

demonstrating their success in state-building and democratisation to the international community. Taking the example of Taiwan again, several observers have highlighted Taiwan's constant use of its success in democratising and liberalising the system in its interaction with the international community. In addition to constantly highlighting its democratic credentials, the Taiwanese parliament now began exchanging "democracy emissaries" with other parliaments across the globe, for the purpose of exchanging ideas, and by doing so also lobbying other parliaments for recognising Taiwan. Similar efforts were also taken by different NGOs that proliferated in Taiwan since the late 1990s.[141] Such form of diplomacy was enhanced through the mediation of the Taiwanese informal diplomatic representations spread across the globe, mainly taking the forms of trade chambers or even of private enterprises.[142] The claims brought up about Taiwan's democratisation were then returned to Taiwan by those who were advocating transition within Taiwan, linking "the goal of democratization directly to the issue of Taiwanese identity and the principle of self-determination."[143] Michael Yahuda, a close observer of Taiwanese history, noted this development as well, stating that "The process of democratization was at once a product and an instigator of a dynamic change to the domestic order which could not but alter the basis of Taiwan's claim to international recognition."[144]

Based on that, one can identify a cyclical movement: The dialogue or interaction between the de facto state and the international community may pave the

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[141] To this Chen Jie referred as "parliamentary diplomacy," the "diplomacy of political parties," or in general total diplomacy. In *Foreign Policy of the New Taiwan*, 223-277. Such parliamentary democracy has involved various actors, including Taiwanese-sponsored democracy NGOs and parliamentarians, whose interaction with other actors was mediated by Taiwan's informal diplomatic representations across the globe.
[142] Madsen, "The Struggle," 165-166.
[143] Hung-mao Tien and Yun Hun Chu, "Building Democracy in Taiwan," *The China Quarterly* 48 (December, 1996), 1144.
[144] Michael Yahuda, "The International Standing of the Republic of China on Taiwan," *The China Quarterly* 48 (December, 1996), 1320.

way for transnational intervention and increased cooperation with local factors, at both the elite and the public level. Such intervention may lead to changes at the domestic level, which are soon integrated in the de facto state's "foreign policy" and interaction with the international community. To simplify this argument, one can actually represent this cyclical movement of interaction-intervention-reform-interaction in this diagram:
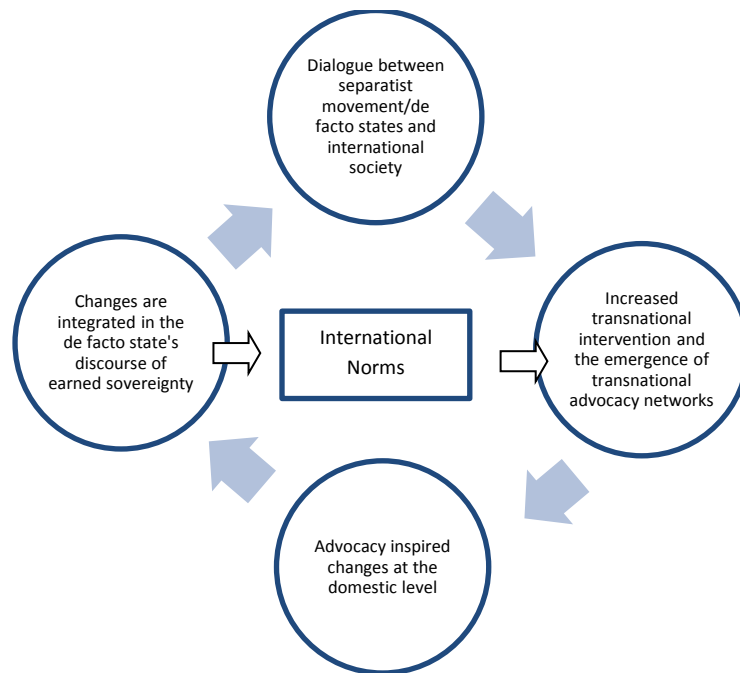
Changes in one of the links of the cycle are bound to affect the whole cycle, but when all conditions exist, the cycle might prevail over a long period. The case of the KRG, as detailed later in this research, serves as an excellent example for this cyclical movement as well: the KRG's democratisation and its legitimating efforts based this democratisation and liberalisation opened the door for transnational pressure, which in turn resulted in further domestic reforms, which were then again incorporated in the KRG's interaction with the international community.

The idea that internationally-inspired reforms carried into target actors through interaction may actually create this cyclical and long-term process of change, has also

been applied to other cases of the pursuit of legitimation and recognition. In his study of European Union (EU) candidate states' implementation of EU standards as preconditions for membership, Amichai Magen shows how the superficial implementation of reforms in the areas of the rule of law and official corruption in Turkey and Romania actually served as a platform for the opposition to enhance such reforms; or how new governments coming to power through such reforms actually expanded them after coming to power.[145] This is precisely the point made in this research – certainly, reforms and other measures, and especially those inspired by external intervention, are embraced out of utilitarian or strategic calculation. But they may actually be maintained and further augmented when there is still a need for international legitimacy; when there are actors that are interested in expanding such reforms and developments; and when those actors have some access to the process of policy-making. All three conditions are highly relevant for many de facto states, including the KRG.

Here, it should be noted: de facto statehood and the pursuit of international legitimacy do not necessarily guarantee successful state-building and democratisation. Not all de facto states are democratic in essence and some of them have actually failed to build even rudimentary state-institutions. Pegg brings the example of Tamil Elam, dominated by the Liberation Tigers of Tamil Elam (LTTE) as an example for a de facto state led by a fundamentally undemocratic movement that relied extensively on terror and personality cult to establish control over its proclaimed state.[146] The Eritrean de facto state (1991-1993), hailed by Pegg as relatively progressive and

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[145] Amichai Magen, "A Comparative Qualitative Evaluation of European Rule-of-Law Promotion in Romania, Turkey, Serbia and Ukraine" (PhD diss., Stanford University, 2008), especially 301-366.
[146] Pegg, *International Society and the De Facto State*, 79.

inclining toward popular representation,[147] turned, after its recognition, into a single-party human-rights violating government.[148] Caspersen has made a similar argument, noting that "The need for external legitimacy does not necessarily translate into an emphasis on effective, democratic statehood."[149] Moreover, she indicates that several de facto states which had demonstrated some genuine progress at some stage, later failed to further progress, as in Abkhazia, and even reverted to a period of autocracy, such as the case of Nagorno-Karabakh.

This, however, should not undermine the importance of pursuit of legitimacy as an engine of change for de facto states. It does underscore the importance of the existence of all other conditions, namely interaction and the existence of actors that are able to advocate certain ideas and hold the governments somewhat accountable for their statements. If we take the case of Tamil Elam for example, the LTTE government chose to remain mostly isolated from the international community, thus lacking a significant form of interaction. In another example, in 2011 Freedom House downgraded Nagorno-Karabakh's status for the first time from *partly free* to *not free*. The research for this report was conducted shortly after the signing of the diplomatic normalisation agreement between Turkey and Armenia, which led some to believe that Nagorno-Karabakh's status would be settled – namely in a period in which the leadership of Nagorno-Karabakh may have felt more internationally legitimate.[150]

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[147] *Ibid*, 62

[148] Other observers, however, noted that the Eritrean Liberation movements, such as the Eritrean People's Liberation Front, have used the term democracy in a rather vague manner and were actually wary toward mass popular representation. See David Pool, *From Guerrillas to Government: The Eritrean People's Liberation Front* (Athens, OH: Ohio University Press/Oxford: James Currey, 2001), 168-170. On the other hand, Pool also noted that the EPLF was indeed progressive in its attitude toward women in society, which was somewhat undermined during the transition into statehood; for other accounts of human rights violations in Eritrea see Human Rights Watch, *Eritrea: Ten Long Years* (New York: HRW, 2011).

[149] Caspersen, *Unrecognized States*, 73.

[150] Freedom House, *Freedom in the World 2011 – Nagorno-Karabakh*, 2011. <http://www.freedomhouse.org/template.cfm?page=363&year=2011&country=8170> (October 15, 2011).

And in the case of South Ossetia, Kolstø and Blakkisrud suggest that "Tskhinvali [South Ossetia's capital] has never given high priority to building a state, since the aim has been to join Russia as soon as possible."[151] In other cases, such as Eritrea or Kosovo, one can argue that the pursuit of legitimacy has been a relatively short process, as both were bestowed wide international legitimacy already at an early stage of their existence. This is in contrast to other de facto states that have gone through prolonged processes of legitimation such as Taiwan, TRNC (both in existence since the 1970s), the KRG and Somaliland (both de facto states since the early 1990s). Thus, at least in some cases, the less an entity relies on the pursuit of legitimacy, the less it engages with the international community. Caspersen has also indicated that, noting that "If international recognition is deemed unobtainable, or immediate survival is a more pressing concern, then the support of a few external patrons may be substituted for general international acceptability, and these patrons may care less about the kind of entities that are created, or may take demands that do not reflect hegemonic international values."[152] Again, nonetheless, Caspersen reduces the pursuit of legitimacy to strategic engagement, without taking into account the element of interaction which is so essential for any change.

Of course, there are many other factors that should be taken into account when explaining success in state-building. With regard to de facto states, one may argue that they have been more successful than their parent states or other quasi-states in the process of state-building because, unlike the latter, de facto states are often more

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[151] Kolstø and Blakkisrud, "Living with Non-recognition," 506. Interestingly enough, in 2011 Freedom House downgraded Nagorno-Karabakh's status for the first time from *partly free* to *not free*. The study for this report was conducted shortly after the failed peace-agreement between Turkey and Armenia, which led some to believe that Nagorno-Karabakh's status would be settled. See Freedom House, *Freedom in the World 2011 – Nagorno-Karabakh*, 2011. <http://www.freedomhouse.org/template.cfm?page=363&year=2011&country=8170> (October 15, 2011).
[152] Caspersen, *Unrecognized States*, 73.

ethnically or religiously homogenous due to actions of ethnic cleansing or population-exchanges. After all, it is much easier to be tolerant toward minorities when those constitute only a small and almost insignificant percentage of the population and are not perceived as competing with the majority for resources. To this one may add other factors; for instance, at least during the first years of its existence, the leadership of the de facto state may enjoy wide popular support, being considered the liberators of their people. This has been true for many currently independent states, where the national liberation movement also took power with popular support after recognition. This research does not reject the idea that domestic factors as well are essential for explaining reforms and transformations. International politics, nevertheless, is multi-layered and the domestic and the international are inevitably intertwined. In many de facto states the transitions and reforms began as an elite-initiated project, but were then embraced and utilised by the population and other actors involved in the process.

Maybe surprisingly, given the documented antipathy of the international community toward secession, successful examples of state-building in de facto states did generate some debate in the international community. In the case of Taiwan, the US Congress issued a resolution calling for the Clinton administration to adopt a 'One China, One Taiwan' policy. Based on Taiwan's democratic credentials, namely the establishment of a "vibrant democracy on the island of Taiwan," and because "the people of Taiwan through their democratically elected leader, President Lee Teng-hui, for the first time ever referred to Taiwan's ties with China as a `state-to-state' relationship," the resolution urged the US government to "commend the people of Taiwan for having established a democracy on Taiwan over the past decades and for repeatedly reaffirming its dedication to democratic ideals; and… recognize Taiwan's independence if the people of Taiwan opt for such status through a democratic

mechanism, including a plebiscite."[153] The case of Somaliland as well has also won

some supporters in academia, media and politics. As Gerard Prunier, a historian of

Africa, has argued, "The irony is that the "international community" refuses to

recognise this oasis of peace and democracy, while it continues to give legitimacy to

Somalia on the basis of the 1960 unification, even though it is a state in name only,

incapable of meeting any democratic criteria or of re-establishing peace."[154] Seth

Kaplan, another close observer of developments in Somaliland, has also highlighted

the inherent hypocrisy of democracy promotion, but denying such a 'success story', as

he views it, as Somaliland of recognition.[155] As shown later in this research, the

stabilisation, sovereignty and de facto independence of the KRG have also prompted

different individuals to promote the idea of a Kurdish state in northern Iraq. At this

stage, nevertheless, most de facto states probably still face very stark chances of

recognition.

2.3 CONCLUSION

This chapter has established the theoretical framework in which this study takes place.

First, it has defined the term de facto state, based on the existing literature, as an entity

which has obtained domestic and Westphalian sovereignty, in the sense that it has

managed to acquire autonomy from its parent state and establish at least some of the

rudimentary institutions that characterise states. Based on existing accounts, this

chapter has also noted that many of the existing de facto states have gone through

some successful process of state-building, which has also included some process of

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[153] US House 106th Congress, "H. Con. Res. 166: Expressing the Sense of the Congress that the United States Should Adopt a 'One China, One Taiwan Policy' which Reflects the Present Day Reality that Taiwan and China are Two Separate Nations," First Session, July 29, 1999.
[154] Prunier, "Somaliland: an African Exception," *Le Monde Diplomatique*, October 01, 2010.
[155] Kaplan, "The Remarkable Story of Somaliland".

democratisation and liberalisation. While in most cases such successes are treated as anomalies, this chapter has argued that the situation of de facto statehood actually carries within it the potential for such processes, and by applying the concept de facto state we could actually get a better understanding of the actors that fall under such a category. The chapter has also counted the elements of such change: first, the transition of a national liberation movement preoccupied with warfare with its parent state into a de facto state affects the separatist leadership's identity, interests and interaction with international society – guns and landmines are now replaced by institution-building and legislation as the main mechanisms of national liberation; the pursuit of international legitimacy is an important factor in shaping the domestic and foreign policies of de facto states; and finally, both levels are intertwined, since success in achieving domestic sovereignty often serves de facto states in their effort to achieve international legitimacy. The chapter ended by demonstrating that although de facto statehood does not necessarily guarantee reforms and political progress, and that political reforms or success in state-building are not irreversible, it does carry the potential for such reforms.

The following chapters analyse the inception and development of the KRG as a de facto state, whose roots lie in the Kurdish national liberation movement in northern Iraq. The developments detailed in the following chapters will be constantly analysed against the framework laid in this chapter.

CHAPTER 3. THE EMERGENCE OF THE KURDISH NATIONALIST STRUGGLE IN IRAQ: DECOLONISATION AND THE MORAL LEGITIMACY OF A MINORITY 1958-1991

This chapter opens the second part of analysis, namely the empirical part which focuses on the evolution of the Kurdish national liberation movement in northern Iraq into a de facto state and the impact of this transition on the movement's national liberation struggle and strategies. It focuses primarily on the period between 1958 and 1991, although the first sections provide a short (but detailed) review of the Kurdish national liberation movement since its gradual surfacing and consolidation in the late nineteenth- early twentieth century. During this period, the Kurdish national liberation movement in northern Iraq began to define its aims within Iraq (and to a lesser extent within the larger Kurdish nationalist movement), and established a front against the Arab-dominated central governments in Baghdad.

Although it is the Kurdish de facto state in northern Iraq that stands at the core of this research, I found it necessary to provide an elaborate account of the Kurdish national liberation movement in its earlier incarnation as a nationalist movement employing armed resistance to protect the Kurdish compact minority in Iraq from the oppression of the government in Baghdad. The logic behind focusing on this period relies on the importance of *transition* and *interaction* to this research and to the understanding of de facto states. The Kurdish national liberation movement in Iraq (and in other parts of Kurdistan) was getting increasingly exposed to the international community during this period, aspiring to understand the meaning and preconditions

of statehood. As noted in the previous chapter, both Bartmann and Caspersen have noted that prior to the transition into de facto statehood, national liberation movements had tended to rely more on claims for *moral* or *remedial* legitimacy, namely group rights, past independence or oppression by the central authorities. What they did not refer to is that such understandings as well derived from interaction and learning. The Kurdish national liberation movement was no different than other de facto states, and thoroughly examining the period preceding its transition into a de facto state also underscores the shift in the forms of interaction and legitimation. In addition, though the Kurdish insurgents during this period tended to avoid taking over large swaths of territory, the foundations for the Kurdish de facto state, including for the process of institution-building, were laid during this period. Finally, this chapter is necessary in establishing the importance of interaction to the process of learning and the conveyance of ideas from one level to another, as it demonstrates the impact of interaction on Kurdish political thought already from an early stage of its existence.

3.1 THE EMERGENCE OF THE KURDISH NATIONALIST MOVEMENT IN THE EARLY TWENTIETH CENTURY

It seems as if every study of the Kurdish nationalist movement and any survey of the Kurdish question begin with the following question: who are the Kurds? This question has multiple answers and the debate around the sources of modern Kurdish national identity has been long and painful. After more than a century of Kurdish nationalist activism, one can argue that a Kurd is a person who views himself or herself as one, who speaks one of the Kurdish dialects (the most common among them are Kurmanji, Sorani, Zaza) and who identifies himself or herself with the Kurdish culture and

history. The majority of Kurds are Sunni Muslims, with Shiite (known as Faili), Yezidi and Christian minorities.[1] Prior to the major urbanisation and industrialisation processes of the twentieth century, the Kurds were organised in clans or tribes, though some forms of such social organisation survived into this period. The majority of Kurds have resided in the vaguely defined geographic area known as Kurdistan. Divided into fiefdoms and kingdoms, Kurdistan had enjoyed various degrees of autonomy under the Ottoman and the Persian empires, but this autonomy was greatly compromised and eventually lost with the formation of the modern nation-states on the ruins of the great regional empires, that is, Turkey, Iraq, Iran, Syria and Armenia. Large Kurdish communities have also existed in the main urban centres of these empires and states, and during the twentieth century large Kurdish communities also emerged in the capitals of Western Europe. Admittedly, this description of the Kurdish nation is an overly simplistic and shallow one – throughout history, individuals and groups have worn, shed and re-worn their Kurdish identity, based on interests or even genuine self-identification with different groups. Yet, this research is not about the Kurdish people and their construction of national identity – space limitations do not allow a more thorough investigation of this dimension.

A debate which is easier to contain here is about the rise of Kurdish nationalist sentiments and the roots of the Kurdish nationalist movement. Some students of Kurdish history view the tribal uprisings in the nineteenth century, such as those led by the *agha* (tribal leader) Badr-Khan in 1847 and by the Sufi Sheikh 'Ubaydullah of Nehri in 1880, as the springs of the Kurdish nationalist movement in Kurdistan.[2] The

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[1] Kurdish ethnographers and historians have also tended to count Jews among the Kurdish community. Almost all of Kurdish Jews live outside of Kurdistan, and mainly in Israel.
[2] Jalal Talabani, *Kurdistan wa al-haraka al-qawmiyya al-Kurdiyya* [Kurdistan and the Kurdish Nationalist Movement] (Beirut: Dar al-Tali'a, 1971), 86-90; 'Abdul Rahman Ghassemlou, *Kurdistan and the Kurds* (Prague: Czechoslovak Academy of Sciences, 1965), 40; Hussein Tahiri, *The structure*

fact that Sheikh 'Ubyadullah aspired to unify Kurdish tribes in the region under his influence for the purpose of his raids into Persia in defiance of Ottoman policy has led researchers and Kurdish nationalists alike to view him as an early symbol of Kurdish nationalism. The Sheikh is also one of the first Kurdish leaders to be documented justifying his actions based on the interests of the Kurdish nation. In a letter to William Abbott, the Consul-General in Tabriz, he argued that "The Kurdish nation … We want our affairs to be in our own hands."[3] Other contemporary observers, on the other hand, disproved the idea of the Sheikh as seeking political independence, arguing that his actions mainly served him in his negotiations with the Ottoman Sultan about the level of Kurdish autonomy amid Ottoman centralisation efforts.[4]

Other observers have traced the roots of the rise of Kurdish nationalism to the emergence of Turkish nationalism. Such processes took place initially in the Kurdish periphery. Whereas many Kurdish urban notables actually joined the *Committee of Union and Progress* (CUP), the umbrella organisation for Turkish nationalist movements which came to power following the 1908 Revolution in Turkey,[5] those were Kurdish leaders in the periphery who began considering secession. It was Sayyid Nursi, another religious leader, who declared the necessity to establish an independent Kurdish-Armenian state.[6] Constant Russian meddling in Ottoman affairs and the Ottoman alliance with Germany during the First World War led to the radicalisation of Turkish nationalist sentiments among the CUP. Consequently the CUP leadership

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of Kurdish Society and the struggle for a Kurdish state (Costa Mesa: Mazda Publishers, 2007), 38; Nader Entessar, *Kurdish Ethnonationalism* (Boulder: Lynn Reinner Publishers, 1992), 81-82.

[3] British Parliament, *Parliamentary Papers (PP), Turkey number 5*, 1881. As cited in David McDowall, *A Modern History of the Kurds* (London: I. B. Tauris, 2004), 53.

[4] As argued by Henry Trotter, the British Consul General in Erzurum, *PP, Turkey no. 5*, as cited in McDowall, *Modern History*, 55.

[5] In fact, two of the founding members of the CUP, Ishak Sukuti and 'Abdallah Jawdat, were of Kurdish Origin. Among other members of the clandestine Young Turks were the descendants of both Sheikh 'Ubaydullah and Badr Khan.

[6] McDowall, *Modern History*, 98.

began enacting new agendas and policies of excluding ethnic and religious minorities. This drove the urban Kurdish intellectuals to turn to their Kurdish identity and strengthen their ties with the traditional Kurdish leadership in the periphery.[7] Consequently, the first years of the CUP reign witnessed a growing number of literary and cultural societies being established by Kurdish intellectuals.[8] The CUP, wary of any ideological activism in the Empire which undermined Turkish nationalism, was quick to suppress the activism of the Kurdish cultural clubs, co-opting Kurdish activism under the banner of Islam and Jihad during WWI. With time, Kurdish nationalist activism shifted to European capitals, as the newly established Kurdish exile community began advocating the Kurdish cause before the great powers under the auspices of the war.[9] According to Martin Van-Bruinessen, the ethnic cleansing of Kurdistan from its large Armenian population and the consequent homogeneity of the region's population contributed further to the strengthening of Kurdish nationalist identity in Kurdistan.[10]

Regardless of its historical sources, there is a wider agreement that toward the end of WWI a fledgling, more intellectually-inspired Kurdish nationalist movement emerged in Kurdistan and in major Ottoman, Persian and European cities, advocating the self-determination of the Kurdish people in Kurdistan and their liberation from what was perceived as the historical suppression in the hands of the regional powers. Amid new global trends, those early nationalists came to embrace a new path in their effort to achieve their aims, that of national self-determination.

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[7] Martin Van-Bruinessen, *Agha, Shaikh and State: the Social and Political Structure of Kurdistan* (London: Zed Books, 1992), 275-276.
[8] Wadie Jwaideh, *The Kurdish Nationalist Movement: Its Origins and Development* (Syracuse: Syracuse University Press, 2006), 115-124.
[9] *Ibid*, 128-129.
[10] Van-Bruinesses, *Agha, Shaikh and State*, 277.

3.2 THE KURDISH NATIONALIST MOVEMENT IN THE INTERWAR ERA AND THE IDEA OF NATIONAL SELF-DETERMINATION

The growing popularity of the idea of national self-determination, as embodied in Woodrow Wilson's Fourteen Points Speech, also attracted the Kurdish nationalists. In fact, the twelfth point in the speech was of direct relevance to the Kurdish people in the Ottoman Empire, stating that "The Turkish portions of the present Ottoman Empire should be assured a secure sovereignty, but other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development."[11] Inspired by this speech, a Kurdish delegation attended the Paris Peace Conference in 1919. The head of the Kurdish delegation, the former Ottoman General Sharif Pasha, submitted a memorandum to the leaders of the Allied victors which articulated a Kurdish demand for an independent state in Kurdistan.[12] Sharif Pasha's demands were accepted by the signatories, and Article 62 of the resultant Sevres Treaty stated that in six months of the signing of the Treaty, autonomy would be given to the Kurds on the area between the Euphrates, Armenia, Syria, and Mesopotamia. Article 64 stated that in one year of the granting of autonomy, the League of Nations would consider, based on the desire of the Kurdish majority, whether or not to grant full recognition to this autonomous region. Motivated by these developments, Kurdish nationalists began to organise in political movements, e.g. *Azadi* (Freedom or Liberty) and *Khoybun* (Independence), although still mainly among Kurdish exiles.[13] These groups denounced both Turkish and British presence in Kurdistan, thus identifying long-standing Ottoman control of

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[11] McDowall, *op. cit*., 115.

[12] The memorandum's definition of Kurdistan attracted some uproar among the Kurdish leaders, who criticised Sharif's concessions of territories in favour of a future Armenian republic, which they in fact considered to be part of Kurdistan. For a full text of Sharif Pasha's memorandum see Sharif Pasha, "Memorandum on the Claims of the Kurd People," *Kurd Delegation to the Peace Conference, Paris*, 1919.

[13] Van-Bruinessen, *op. cit.*, 278-280.

Kurdistan with European colonialism, and based their demands for independence not only on their historical right for the land, but also on the Ottoman-Turkish oppression of the Kurdish people.[14] In short then, the Kurds embraced a moral legitimacy discourse during this period, trying to justify their desire to secede from the Ottoman Empire based on prevalent contemporary notions of the right to self-determination.

The defeat of the invading Great Powers and Greece by the Turkish forces under the command of General Mustafa Kemal (later Atatürk) put an end to the Kurdish aspirations.[15] The Treaty of Lausanne in 1923, which marked the end of foreign occupation of Turkey, carried no mention of what was promised to the Kurds in the Treaty of Sevres.[16] Moreover, the Treaty of Lausanne resulted in the division of Kurdistan between newly established four new nation-states in the region, namely Turkey, Iraq, Iran and Syria, as well as a small portion of Armenia. This was a painful blow to Kurdish nationalism, which lost its raison d'être, namely the liberation of Kurdistan. The Kurds now became separated minority communities, rather than a nation whose identity is shaped by its state-institutions. Each Kurdish community now faced a formidable enemy – the nation state, with its central power, army and desire for unity. Subsequently, relations between Kurdish communities and the central governments in Iraq, Iran, Turkey and Syria were characterised as centre-periphery relations, or as majority-minority relations.

The enthusiasm of Kurdish intellectuals with the idea of national self-determination and the idea of independence could be traced even years after the Paris

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[14] Both, again, acted outside of Kurdistan, in Beirut. Van-Bruinessen, *op. cit.*, 278-280.

[15] Eric Zurcher, *Turkey: a Modern History* (London: I.B Tauris, 2005).

[16] Although at least theoretically, the British still accepted the Kurdish claims for distinct nationhood, stating that: "The whole of our information shows that the Kurds, with their own independent history, customs, manners and character, ought to be an autonomous race." This was stated by George Curzon, the British Foreign Secretary in a conversation with Ismet İnönü, Mustafa Kemal's representative. "Lausanne Conference on Near Eastern Affairs: Record of Proceedings and Draft Terms of Peace, Turkey no. 1," *CMD 1814* (London 1923), as cited in McDowall, *op. cit*. 142.

Peace Conference and the eventual Kurdish failure to gain statehood. In one of the earliest studies of the history of modern Kurdistan conducted by a Kurd, historian Muhammad Amin Zaki declared that

> No one can deprive nations and people who incline to independence and freedom [of them]. This is their natural and most basic right, and none should condemn a people [for desiring independence]. These peoples and nations, and particularly their enlightened leaders and classes, should make independence and freedom an aim and a target …This is so that these nations will not be distanced from the rule of science and wisdom, and protect their spirits and properties as much as possible.[17]

Therefore, Zaki maintains, the Paris Peace Conference "which spoke highly of justice, fairness and the saving and liberation of people under occupation, clearly revealed, before all humanity, that those are empty words with no content nor meaning in contemporary politics and reality. It has aimed at nothing but soliciting nations and peoples and deceiving human societies".[18]

The most formidable state-machine was that of Kemalist Turkey. In its campaign to build the Turkish nation, the Kemalist elite delegitimised "Kurdishness," i.e. individual self-identification as a Kurd. The use of the Kurdish language in the public arena was prohibited and so was the use of the term Kurd as self-reference. The suppression of Kurdish identity in Turkey, together with the increasingly intensive secularisation of the state, caused unrest among the Kurdish tribes in south-eastern Anatolia. One such rebellion was led by Sheikh Sa'id of Piran, a leader of a Sufi *tariqa* (order). In addition to his demands to revive the recently abolished Caliphate,

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[17] Muhammad Amin Zaki, *Khalasat tarih al-Kurd wa al-Kurdistan: min akdam al-'usur hata al-an* [a brief history of the Kurds and Kurdistan], (Cairo: Matba'at Salah al-Din, 1961, first edition 1932), 273. Since this is a translation into Arabic it might be that the original meaning was somewhat distorted. Yet, the translator as well was a Kurdish nationalist, acting in Egypt during the 1930s.
[18] *Ibid*, 267.

Sheikh Sa'id also demanded the establishment of an independent Kurdish state "where the Islamic principles… are to be respected."[19] This served well the Turkish government, which described the rebellion in its media as "religious reactionism,"[20] in a direct effort to defuse potential European sympathy with what might have been seen as a minority seeking for self-determination. That legitimation and the effort to legitimise their claims based on internationally-held values (namely secular nationalism and progress) was an important aspect of this struggle is demonstrated in a letter sent by Kurdish leaders in exile to Prime Minister Ismet İnönü several years after the rebellion, in which they denied the religious motives of the rebellion and condemned Turkey for not respecting the "principles of the civilised world in the 20th century: nation and freedom."[21]

The nation-building process in other parts of the region was less aggressive than the Kemalist one. The demographic constitution of the recently established Iraqi state and the circumstances which led to the coming to power of the Hashemite monarchy forced its elite to find different paths of nation-building. They have also had an impact on the development of Kurdish activism in Iraq. In 1926, British pressure led to the final annexation of the Mosul Vilayet to Iraq. This was partly due to the British desire to gain more influence on the exertion of oil in the region, as the British still had a mandate over Iraq during this period; but also partly because of the desire of King Faisal ibn-Hussein to balance the Shiite majority in Iraq by annexing the predominantly Sunni region. Encompassing the sanjaks of Kirkuk and Sulaymaniyah, the annexation of Mosul meant that the Kurds now became a compact minority concentrated in the northern provinces of Iraq, constituting the majority of

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[19] Van-Bruinessen, *op. cit*., 265.
[20] Martin Strohmeier, *Crucial images in the Presentation of a Kurdish National Identity* (Leiden: Brill, 2003), 107-109.
[21] *Ibid*, 93.

the population in the governorates of Erbil, Sulaymaniyah and parts of the Mosul governorate. In addition, the region was also home to Christian, Jewish, Yezidi and other smaller religious and ethnic groups. The population of the southern governorates has been predominantly Shiite, whereas central Iraq had large Sunni, Shiite, Christian and Jewish communities. Under such circumstances, the early stages of the process of nation-building in Iraq was highly centralised and directed from Baghdad. The Hashemite monarchy advocated an Iraqi-first citizenship (or *wataniyya*). This current actually allowed some space for Kurdish identity, at least in its tribal and conservative form. On the other hand, pan-Arab nationalism (*qawmiyya*), advocated by some members of the Iraqi elite, was far more exclusionary and did not leave room for other forms of nationalism in the Arab space, including Kurdish nationalism.[22] The latter current, nonetheless, was to become the dominant trend during the 1960s, advocated mainly by the Ba'th party in Iraq.

The instability which characterised Iraq during the 1920s and early 1930s, as well as the British/Iraqi-Turkish contestation over the annexation of Mosul prior to 1926, gave some leverage to the Kurdish tribes in the region vis-à-vis the Hashemite monarchy. The British mandate authorities, based on their experience in India and Baluchistan, preferred to let the tribes run their own affairs, with minimal intervention from their side.[23] This allowed the establishment of what Ofra Bengio has referred to as the first Kurdish autonomy in Iraq in 1919,[24] under the leadership of Sheikh Mahmoud Barzanji of Sulaymaniyah. However, the eventual annexation of Mosul

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[22] See Denise Natali, *The Kurds and the State* (Syracuse: Syracuse University Press, 2005), 30-43.

[23] Toby Dodge demonstrates how the British officers in Iraq, throughout the mandate period, in fact sympathised with the tribal chiefs across Iraq and allowed the judiciary autonomy, mainly because of their romantic perception of tribalism and its role in Iraq. See Toby Dodge, *Inventing Iraq* (New York: Columbia University Press 2003), 83-100.

[24] Ofra Bengio, "Autonomy in Kurdistan in Historical Perspective," in *The Future of Kurdistan in Iraq*, edited by Brendan O'Leary, John McGarry, and Khaled Salih (Philadelphia: University of Pennsylvania Press, 2005), 174.

allowed King Faisal to increase his power vis-à-vis the Kurdish tribes, and particularly Sheikh Mahmoud. Even the promise given to the Kurds to allow them to use the Kurdish language in education was abandoned when Iraq obtained its formal independence in 1932. And when the Kurds rose in uprising against Baghdad in the same year, they were pacified with the help of the Royal Air Force. At this stage it was again the urban leadership that came to lead the Kurdish nationalist movement. Urban intellectuals addressed more and more the international community, once again stressing the oppression of the Kurds by the Iraqi government. Sheikh Mahmoud as well, before crossing the Iraqi border once again to launch an attack against Iraqi targets, petitioned the League of Nations from his place of exile in Iran against the atrocities committed against the Kurdish people.[25] The latter point is important, because it stresses that in contrast to some observers of Kurdish history,[26] Kurds actually *did* present their cases before the international community until a far later stage.

3.3 POST-WAR ERA: FURTHER CLAIMS FOR SELF-DETERMINATION, THE RISE OF DECOLONISATION AND THE MAHABAD REPUBLIC

As noted earlier in this research, the end of the Second World War witnessed some drastic changes in international society, with the introduction of decolonisation as a precondition for recognition of aspiring states.[27] Members of the Kurdish national liberation movement, much like other national liberation movements in Asia and Africa, found in the anti-colonial movement an ideational framework for their own

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[25] Jwaideh, *op. cit.*, 176.
[26] E.g. Edgar O'Ballance, *The Kurdish Revolt: 1961-1970* (Hamden: Archon Books, 1973) 111; Sa'd Jawad, *dirasat fi al-masala al-qawmiyya al-Kurdiya* [Studies on the Kurdish Nationalist Question] (Beirut: Arab Scientific Publishers, 2005), 143.
[27] See page 35 of this thesis.

struggle. The *Hiwa* (Hope) Party, active during the 1940s and the 1950s in Kurdish provinces in Iraq and Iran, provides us with examples of an anti-colonialist rhetoric. The Party's stated goals were to unify the tribes, "liberate Kurdistan by political means," establishing relations "with other *freedom-seeking* parties," and "fight the *colonial policies of Iraq.*"[28] The platform of the *Rezgari Kurd* (Kurdish Deliverance) Party from 1945 demanded, as well, unity, language rights, the administrative independence of *Iraqi* Kurdistan, and the establishment of contacts with "democratic nations with the object of combating imperialism and reaction, and their agents."[29] It then went on claiming that "When the World War II drew to its end the hope of the oppressed nations revived this included the Kurdish nation who… stresses and alleges that its rights should be returned as a necessary and preliminary step to self-determination and sovereignty."[30] Thus, for Kurdish nationalists the surrounding states, themselves becoming more entrenched in the anti-colonialist movement, came to be seen as their imperialists and colonialists.

Amid this surge of Kurdish nationalist activism, regional governments tried to undermine the Kurdish nationalist efforts. In 1946, the Iraqi Prime Minister, Tawfiq al-Suwaidi, declared that there is no Kurdish problem in Iraq because the number of Kurds in Iraq is very low. Hence, the Iraqi PM did not try to deny the Kurdish right for self-determination, but the existence of a Kurdish nation (at least in Iraq). Rezgari reacted to that by publishing a manifesto that blamed Suwaidi with fabricating the

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[28] Isma'il Ardalan, *Asrar-e Barzan* (the Secrets of Barzan) (Teheran: Mazahiri Press, 1946), as cited by Jwaideh, *op. cit.* 239. My italics.

[29] An Arabic version of the platform can be found in Talabani, *Kurdistan wa al-Haraka al-Qawmiyya al-Kurdiyya*, 137-138.

[30] Rezgari Kurd Party Central Committee, "Memorandum by Rezgari Party," 1945. Telegram sent to the United States Stated Department from the American Embassy in Baghdad, January 23, 1946, 1051/800. As cited in As cited in F. David Andrews, *The Lost Peoples of the Middle East: Documents on the Struggle for Survival and Independence of the Kurds, Assyrians, and other Minority Races in the Middle East* (Salisbury, NC: Documentary Publications, 1980), 85-91.

facts "in accordance with a plan prepared by the Imperialists."[31] The Kurdish movement, Rezgari's manifesto stated, had not been clearly and sufficiently reported by the free press as a living national issue in order to enlighten public opinion on the scandalous imperialist intrigues."[32] Elaborating on the suffering of the Kurdish people under Iraqi tyranny, the manifesto described the Kurdish nationalist movement as a democratic, anti-imperialistic, and anti-reactionary movement.[33] Throughout the 1930s and the 1940s, Kurdish individuals and groups kept petitioning IOs and governments, detailing the persecution of the Kurdish people and their right for statehood.[34]

The establishment of the short-lived Republic of Mahabad in Iranian (Eastern) Kurdistan was perhaps one of the most important events in this chapter of Kurdish history. Its roots date to the Soviet invasion of Iran in 1941 and the division of the country into a British-controlled area in the south and a Soviet-controlled area in the north, with a buffer zone in the centre. As part of their policy of supporting national liberation movements (or desire to gain control over the area), the Soviet supported the establishment of an autonomous government in Iranian Azerbaijan, known as the Azerbaijan's People Government (APG) whose administrative centre was located in the city of Tabriz.[35] Although physically located outside of the Soviet zone of influence, the foundation of the APG and Soviet ideas had a tremendous impact on Kurdish youth and intellectuals in Mahabad, the largest town of the predominantly

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[31] Rezgari Kurd Party Executive Committee, "The Manifesto of the Rezgari Party," 1946. Translated in by James S. Moose, Telegram sent to the United States Department of State from the Embassy in Baghdad, "Transmitting a Translation of a Manifesto from the Razgari Kurdish Party," April 24, 1946, 840.1/1202. As cited in Andrews, *op. cit.*, 108.

[32] *Ibid*, 109.

[33] *Ibid*, 110.

[34] Jwaideh provides a detailed account of the petitions, memoranda and letters sent throughout this period in *the Kurdish Nationalist Movement*, 273.

[35] For more on the history of the Soviet occupation of the region see Jamil Hasanli, *At the Dawn of the Cold War* (Lanham, MD: Rowmand and Littlefield, 2006).

Kurdish Sauj Bulagh region. They soon established the nationalist *Komala-i Jiyanawi Kurdistan* (the Committee of Kurdish Youth) movement which adopted a nationalist platform. The movement attracted almost immediately the attention of Kurds outside of Mahabad, as well as Soviet and British attention.[36] The Komala initially preferred to build contacts with the Western powers, mainly because the Kurdish population still had bad memories from Russian raids in the region. When the Western powers refused to assist the Kurdish cause, the party addressed the more willing Soviets.

Under Soviet guidance, Komala became bolder in its demands for Kurdish self-determination and for recognising the right of the Mahabad Republic for autonomy. In 1943 it succeeded in driving away Iranian police forces stationed in the province, backed by Kurdish tribal warriors. Consequently, the Mahabad province became de facto autonomous, free of any form of Iranian authority and now under the leadership of Qazi Muhammad, a religious judge and a Kurdish nationalist. This further bolstered the activities of Komala, which now established branches in other parts of Kurdistan. It also petitioned the UN about its cause.[37] When the Soviets seemed to consent to the idea of Azeri and Kurdish independence, Qazi Muhammad was quick to act. Now heading the *Kurdish Democratic Party* (KDP), which came to replace the Komala, Qazi Muhammad declared the establishment of the Republic of Mahabad in January 1946. The new republic was now supported by warriors from the Barzani tribe, who crossed the Iraqi border under the leadership of Mullah Mustafa Barzani, a tribal sheikh who fled Iraq a after a failed uprising against the authorities in 1943. The Komala's initial modest demands for local autonomy and recognition of the Kurds as a distinct nation were now replaced by the wish "to take advantage of the

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[36] Archie Roosevelt, "The Kurdish Republic of Mahabad," *The Middle East Journal* 3, 1 (July, 1947), 250.
[37] William Eagleton, *The Kurdish Republic of 1946* (London: Oxford University Press) 36-38.

liberation of the world from fascism and to share in the promises of the Atlantic charter."[38] Poets and intellectuals in Mahabad, inspired by developments in the neighbouring APG, encouraged Qazi Muhammad to put an emphasis on language and literature as part of his quest for self-determination.

Throughout its existence, the Republic of Mahabad received only minimal material and moral support from the Soviet Union. Yet, both later Kurdish nationalists and contemporary observers exaggerated the Soviet role in the region. Both Jalal Talabani and Abdul Rahman Ghassemlou later stressed Soviet friendship and support for the Republic.[39] Robert Rossow Jr., the American Charges d'Affaires in Tabriz in 1945-1946, and historian William Linn Westermann viewed Mahabad as a Soviet puppet state.[40] Indeed, Mahabad set the pattern for one of the most common strategies employed by the adversaries of the Kurds in future struggles, namely accusing the Kurds with serving as puppets of external powers. Qazi Muhammad was aware of this depiction of the Kurds, as he argued that "Our country has never been occupied by Soviet troops, and… neither the Gendarmerie nor Iranian troops have penetrated into Kurdistan. *We have therefore practically been living in independence since that time*. Further we shall never tolerate foreign intervention wherever it comes from."[41]

In December 1946 the Soviets decided to withdraw their support of the APG and Mahabad due to Western pressure on the USSR to terminate its presence in Iran. Notwithstanding its limited support of the Mahabad Republic, Soviet presence in the region did deter the Iranian army from invading the region. With the Soviet Army

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[38] As quoted in Roosevelt, *op. cit.*, 254.
[39] Talabani, *Kurdistan.*; Ghassemlou, *Kurdistan and the Kurds*
[40] Rossow, "The Battle of Azerbaijan, 1946," *Middle East Journal* 10, 1 (Winter 1956), 21; Westermann, "Kurdish independence and Russian Expansion," *Foreign Affairs* 24, 1/4 (1945-1946), 675-679.
[41] Kurdish League, *Memorandum sur la situation des Kurdes*, 1948, 41. As quoted in Jwaideh, *op. cit.*, 254 [italics added].

gone, the Kurdish and Azeri forces were easily defeated by the Iranian army and both republics ceased to exist. In spite of its short existence, the Republic of Mahabad has had a tremendous impact on Kurdish thinkers and intellectuals. It has served Kurdish nationalists as a proof that the Kurds can run their own affairs and unify not only against an outside force, but also for the purpose of a positive goal – the maintaining of a state. As Archie Roosevelt, the American Military Attaché in Teheran at the time and one of the few Westerners to visit the Republic (upon its leaders' invitation) stated, "The Dream of Kurdish nationalists, an independent Kurdistan, was realized on a miniature scale in Iran from December 1945 to December 1946."[42]

The fall of Mahabad also marked an intermediate stage in the Kurdish nationalist struggle. Struck by the Iranian army, Mullah Mustafa Barzani left Iran and crossed the border to Soviet Armenia, only to return to Iraq in 1958. Inspired by the events in Mahabad, the KDP (whose acronym has now changed into the *Kurdistan* Democratic Party) now launched new branches in Iraq, Syria and Turkey. Yet, no major uprising had taken place up until 1961 and the Kurdish uprising in northern Iraq. It is also interesting to note that during this period the nature of the Kurdish community outside of Kurdistan and the Middle East began changing. The Kurdish exiles of the early twentieth century, who came mostly from the ranks of the Kurdish notable families in the Ottoman Empire, were now joined by students arriving at universities in Western and Eastern European capitals. Albeit relatively small in number initially, they had an important impact on Kurdish nationalist activism. Those young students were exposed to new intellectual trends and forms of activism. There they were further exposed to the anti-colonialist movement, now concentrated on the liberation of states in Asia and Africa. They established the first Kurdish student

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[42] Roosevelt *op. cit.*, 247.

organisations and began interacting with other anti-colonialist movements in Europe and outside of it.[43] Leaders such as India's PM, Jawaharlal Nehru, and Egypt's President Jamal 'Abd el-Nasser, were petitioned by Kurdish students to take action in their matter.[44] This diaspora was to play an increasingly important role not only in advocating the Kurdish cause in Europe, but also in shaping the nature and aims of the Kurdish nationalist movement, particularly after the eruption of the 1961 uprising in northern Iraq.

The Kurdish national liberation movement, as concluded in the previous sections, gradually integrated into the global arena which was itself characterised by a continuous struggle to define the rapidly changing nature of international society and its aspiring members. Kurdish nationalist activists, in spite of the division of Kurdistan between the new nation-states in the Middle East and their fierce effort to subjugate Kurdish nationalist sentiments, were still able to interact with different members of the international community, present their grievances, but also learn what they perceived as the new international standards of statehood and recognition. During the early 1960s the Kurdish national liberation movement in Iraq took the lead in formulating and struggling for the Kurdish nationalist demands – although to a greater extent this was confined to the Kurdish provinces in Iraq.

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[43] Khalid Khayati, "from Victim Diaspora to Transborder Citizenship" (PhD diss., Linköping University 2008), 83.
[44] Jwaideh, *The Kurdish Nationalist Movement*, 275.

3.4 THE KURDISH UPRISING OF 1961 AND THE ROOTS OF THE KURDISH DE FACTO STATE IN IRAQ

On July 14, 1958, a group of officers headed by General 'Abd el-Kareem Qassem, known as the "Free Officers," overthrew the Hashemite monarchy in Iraq and established a republic in its place. This historical change instilled the hope in the Kurdish nationalists in Baghdad and in Iraqi Kurdistan that their aspirations for cultural and maybe even political autonomy would be met. Such hopes were fuelled both by the Kurdish active participation in the coup, and also by Qassem's inclination toward Iraqi *wattaniyya*, or local-nationalism, rather than the pan-Arab *qawmiyya* that dominated other parts of the Arab world. Thus, Kurdish intellectuals and members of the Iraqi branch of the KDP were quick to put pressure on Qassem to introduce the Kurdish language into the national education-system, to celebrate *Nowruz* (Kurdish and Persian New Year) as a national holiday, and to grant citizenship to Faili (Shiite) Kurds, who had been defined as Iranians by the monarchy.[45] Qassem, from his side, opened with a few gestures to the Kurds, the most celebrated among them being allowing the return of Mullah Mustafa Barzani from his long exile in the Soviet Union.

The understanding between Qassem and the Kurds, however, was short-lived. As Charles Tripp asserts, Qassem's policies aimed merely to counteract his rivals within the Free Officers as well as the leftist forces within the Kurdish nationalist movement, and particularly the KDP, which was now led by Ibrahim Ahmad and the party's politburo. Therefore, Charles Tripp suggests, Qassem "had no intention of granting the Kurds the institutional autonomy that would have satisfied the KDP."[46]

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[45] Natali, *The Kurds and the State*, 51.
[46] Charles Tripp, *A History of Iraq* (London: Cambridge University Press, 2007), 148.

The return of Barzani served, according to McDowall, that purpose exactly. Barzani, in turn, enjoyed the free hand given to him in consolidating his position within Kurdistan and fighting the leftist strand of the KDP.[47] As Qassem's power grew stronger, he began to turn against his former allies and potential contenders. Pan-Arabists and Communists were Qassem's initial targets, but Barzani was soon to follow. In order to weaken Barzani, Qassem provided his tribal rivals with arms and funding.[48] Barzani reacted by increasing the Kurdish demands for political autonomy. In March 1961, after Qassem rejected his demands, Barzani and his fighters launched an attack against Qassem's Kurdish supporters and fled to the mountains.[49] This marked the beginning of a nine-year long conflict between the Kurds in northern Iraq and Baghdad.

The first round of fighting between Baghdad and the Kurds also marked the beginning of a campaign by both sides to justify their actions to the international community. Much like his predecessors in Iraq, and its neighbours Turkey and Iran, Qassem did not condemn the idea of national liberation for ethnic minorities, but rather denied the existence of a Kurdish nation. As Sa'd Jawad notes, Qassem referred to the Kurds as an "indistinguishable, indivisible segment of the Iraqi people," suggesting that "the word 'Kurdu' from which the name 'Kurd' was derived, was a Persian title bestowed on valiant warriors whose descendants later became part of the conquering Muslim army," hence "insinuating that the word had no national

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[47] McDowall, *Modern History of the Kurds*, 302-306.
[48] Tripp, *op. cit.,* 148-157.
[49] Qassem acknowledged the existence of a war in Kurdistan only on the 24th of September that year, six months after it actually began. O'Ballance, *the Kurdish Revolt*, 76. Interestingly, a later article in a Kurdish students' bulletin referred to the beginning of the fighting as the "11th of September Revolution." See Shwan, "The Social Character and Achievements of the Kurdish Revolution in Iraqi Kurdistan," *Kurdistan: Annual Journal of the KSSE [Kurdish Student Society in Europe]* XVII (1974), 52-54. This of course might indicate that the Kurdish students were not aware of developments in Iraq.

significance."[50] Relying on this perception, Qassem ordered the closure of the Kurdish teachers' and workers' unions, merging them with the national ones. In addition, Qassem turned to portraying the Kurds again as agents of external powers, either the USA or the Soviet Union. In his meeting with American diplomats in Baghdad, Qassem repeatedly demanded that the US would cease supporting the Kurdish fighters.[51] The Americans denied such accusations vehemently, but did embrace the idea that at least some segments of the Kurdish nationalist movement, including some tribal leaders, are actually linked to the Soviets. For that reason, the Kurds were denied the right to advocate their cause in Washington DC.[52]

The Kurds responded to Qassem's attacks by intensifying their own campaign at the international level, taking advantage of any public forum to present and debate their stand. The audiences which the Kurds were trying to reach were diverse, and included the Arab public opinion, decolonisation movements and Western governments. Ibrahim Ahmad, the head of the KDP's politburo, travelled to Baghdad where he publicly denied links between the KDP and the Soviets. He also insisted on portraying the KDP not as a separatist movement, but as a national liberation movement which had been suppressed and persecuted by the imperialists and their agents.[53] KDP representatives also met with Nasser in Cairo, and described to him the Kurdish revolt as an anti-colonial struggle, "part of an overall nationalist movement,"

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[50] Sa'd Jawad, *Iraq and the Kurdish Question* (London: Ithaca Press, 1981), 73.

[51] Waldemar J. Gallman, "Telegram from the Embassy in Iraq to the Department of State, Baghdad December 11, 1958, 3 P.M.," *Foreign Relations of the United States: Department of State* (FRUS)*, 1958-1960*, Vol. XII, Near East Region; Iran; Iraq; Arabian Peninsula Document 147. <http://history.state.gov/historicaldocuments/frus1958-60v12/d147>; David A. Fritzlan, "Telegram from the Embassy in Iraq to the Department of State, Baghdad December 22, 1958, 2 P.M.," *Ibid*, Doc. 152. <http://history.state.gov/historicaldocuments/frus1958-60v12/d152> (October 23, 2009).

[52] Dean Rusk, "Telegram From the Department of State to the Embassy in Iraq, Washington, June 5, 1964, 6:01 P.M.," *FRUS 1964-1968 XXI*, Doc. 165.

[53] The full address appears in Talabani, *Kurdistan*, 279-284.

and as a "just war" waged by oppressed people against a chauvinistic dictator.[54] At the same time, the KDP also petitioned the UN Secretary General, U Thant, accusing the Iraqi government of committing genocide against the Kurdish people and demanding an immediate investigation for war crimes.[55] The Kurdish desire to internationalise their struggle and the question of their rights is vividly demonstrated in a letter sent by Emir K. Bedir Khan, the representative of the Kurdish people in New York City,[56] to U Thant. Claiming that the Iraqi army was supported by the Syrian army in the conflict, he appealed to the Secretary General: "In consequence of the above, I am convinced, your Excellency, that you will not accept the view, propounded by the Iraqi government, that the present war in Iraq is to be considered as merely an internal Iraqi problem and of no consequence to the United Nations Members."[57] In another letter sent by Bedir-Khan to U-Thant, the former demanded some international recognition of the persecution of the Kurdish people, arguing that the

> Kurdish question is a national question, a question of national rights; on the other hand, the atrocities committed by the Iraqi army have reached such dimensions that it can no longer be considered a simple internal affair of Iraq… Your intervention… will, at the same time, cause the Iraqi government to become aware of its own paradoxical attitude in denouncing imperialism on the one hand, and practicing it in its worst form themselves.[58]

The first round of fighting ended in February 1963, with Qassem's overthrow by a coalition of officers and the pan-Arabist Socialist Ba'th party. Against the view of the KDP's politburo, Barzani, now the party's President and the symbol of the armed struggle, preferred to negotiate with the new president of Iraq, General 'Abd el-

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[54] Jawad, *Iraq and the Kurdish Question*, 88.

[55] O'Ballance, *op. cit.* 80.

[56] And the Director of the Centre d'etudes kurdes in Paris.

[57] Emir K. Bedir Khan, a Letter to the United Nations Secretary General, October 17, 1963. School of Oriental and African Studies, University of London archives, Movement for Colonial Freedom Countries, MCF/COU/071 (MCF), Box 46.

[58] Bedir-Khan, a Letter to the United Nations Secretary General, October 14, 1963. MCF, 46.

Salam 'Aref. Barzani's demands, however, now grew bolder and he spoke openly about Kurdish political autonomy in the predominantly Kurdish provinces Erbil, Sulaymaniyah and Kirkuk. The latter was particularly contentious as it was (and still is) a home to one of Iraq's largest oilfields. According to Edgar O'Ballance, Barzani also stipulated the "the evacuation of Kurdish territory by all Iraqi troops, and an equitable division of all state revenues, especially oil royalties, between Kurds and Arabs." And in case Iraq was to unify with another Arab country, Barzani demanded that the forces stationed in the Kurdish autonomous region would be defined as a "Kurdish army." Finally, Barzani conditioned peace in an amnesty to all Kurdish political prisoners and the nomination of Kurds to the positions of Vice President and Deputy of the General Chief of Staff. [59] 'Aref rejected these demands and the fighting was renewed. The second round of fighting lasted until November 1963. In that month 'Arif launched an internal coup, in which he purged his government from his former Ba'thist allies. During this cease-fire 'Aref tried to divide the Kurdish camp by providing support for the KDP Politburo faction under the leadership of Ibrahim Ahmed and his son in-law, Jalal Talabani. This effort proved unsuccessful and the fighting was renewed.

The third round of fighting lasted until 1966, when another ceasefire was agreed upon by both sides. During this ceasefire, the Iraqi government made one of its few sincere efforts to conclude the fighting with the Kurds. The newly appointed PM, the liberal jurist 'Abd el-Rahman al-Bazzaz, formulated a peace-agreement which aimed to "affirm the reality of Kurdish nationalism and will enable our citizens in the north fully to preserve their language and cultural heritage."[60] This statement was a de

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[59] O'Ballance, *op. cit.*, 90-101. Quote from page 90.
[60] As cited in Majid Khadduri, *Republican Iraq: A Study in Iraqi Politics since the Revolution of 1958* (London: Oxford University Press, 1969), 255.

facto recognition of Iraq as a bi-national state. The agreement, which came to be known as the June 29 Agreement, included clauses which allowed the introduction of Kurdish as the language of education, administration and press in regions with a Kurdish majority; an autonomous administration run by democratically elected local councils; and the establishment of a university in Sulaymaniyah. President 'Aref consented to the agreement, but was killed in a plane crash. The June 29 agreement was never formally proved by the government and 'Aref's predecessor, his brother General 'Abd el-Rahman 'Aref, gave in to pressure from the side of pan-Arab hawks and dismissed Bazzaz, and with him the June Agreement. Consequently, fighting in the north was renewed. In a communiqué explaining the reasons for the renewal of fighting, the Kurdish Student Society in Europe contended that

> the Iraqi government has only fulfilled a very small part of the 12 clauses of the plan. They have released a small number of Kurdish prisoners, re-employed some Kurdish individuals and paid some compensation to those who suffered because of the war… These rights [civil and cultural rights within Iraq], and even autonomy which is demanded by our people do not exceed the rights of any minority groups.[61]

The next round of fighting lasted until 1968. It was interrupted by another political change in Iraq – the 1968 coup, in which members of the Ba'th party, civilians and army officers, overthrew President 'Aref and took power. The civilian elements of the Ba'th, under the leadership of Saddam Hussein al-Tikriti, were desperate to consolidate their power within the party vis-à-vis the officers, as well as vis-à-vis opposition movements in Iraq. Fighting continued after 1968, but in 1970

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[61] KSSE, "Facts Concerning the Present Situation in Iraqi Kurdistan," February 19, 1967, Another Kurdish students' journal in the English language, *Kurdica*, related as well to the subject of the Ba'th's failure to meet its commitments. Relating to the issue of nominating Kurds for key positions in government, it argued that "The most bizarre action by the Iraqi government has been its display of a few characters – whose great-great-grandparents may have been Kurdish – as ministers representing the Kurdish people in the government." Kurdica Journal of Kurdish Affairs, "Two Years Later," (July, 1968), 6.

Mullah Mustafa Barzani signed what seemed as a significant peace agreement, known as the March 11 Manifesto. The Manifesto, which relied on the preceding understandings between Bazzaz and the Kurdish nationalist movement, was the first formal Iraqi document which publicly recognised the national rights of the Kurdish people. The new agreement recognised Kurdish as the official language of the predominantly Kurdish populated regions in the north and guaranteed the introduction of Kurdish studies at schools, together with Arabic. It also committed to the incorporation of Kurds in political life, including the securing of five Kurdish ministers and a Kurdish vice-President. The agreement also discussed introduction of economic and agrarian reforms; further investment in Kurdistan; an official recognition of Kurdish nationalism as a constituent of Iraqi nationalism, together with Arab nationalism and "formation of a Kurdish area with self-government."[62] The Kurdish leadership, from its side, agreed to return all heavy weaponry and radio transmitters to Baghdad.

Barzani accepted the agreement rather grudgingly, pressured to do so by the younger elements within the KDP who believed that an agreement could be achieved with the socialist Ba'th party. In retrospect, after the March 11 agreement failed as well to achieve the Kurdish goals and was followed by the renewal of fighting, Barzani claimed that that he had suspected from the start that the Ba'th had no intention of meeting its promises but had no other options. In 1970, nevertheless, the war between Baghdad and the Kurds, which started in 1961, reached its conclusion. The aspiration of the younger generation to find a common ground with other radical, seemingly progressive, elements in the region, such as the Ba'th, is conspicuous in the writings of leading members of the younger generation of the Kurdish nationalist

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[62] Edmund Ghareeb, *The Kurdish Question in Iraq* (Syracuse: Syracuse University Press, 1981), 89.

movement. Although the initial purpose of many of these works was to examine Kurdish history, they often served to advocate the Kurdish case and to further expand the public sphere in which the deliberation about the Kurdish case, and about self-determination, take place. In his book, *Kurdistan and the Kurds*, published in 1965, 'Abdul Rahman Ghassemlou, the leader of the KDP in Iran (only loosely, if at all, connected with the KDP in Iraq), stressed the anti-imperialist nature of the Kurdish national liberation movement and the need of the Kurdish national liberation movement to join the wider Middle Eastern anti-imperialist and democratic movement. For Ghassemlou, then exiled in Prague, imperialism was embodied in the Western powers. The reactionary regimes in the region, or the "feudal cliques," served to facilitate this imperialism, serving as its "stronghold."[63] Here Ghassemlou identifies the paradox of the Kurdish nationalist movement; it is an anti-imperialist movement which is forced, due to circumstances, to confront people who are themselves the victims of imperialism and colonialism. In Ghassemlou's view, the only solution for the Kurdish problem, "In case the Kurds… wish to attain freedom and independence," was "joining the anti-imperialist democratic movement of the whole Middle East."[64] A similar tone characterises a book published in 1971 in Arabic by Jalal Talabani, then representing the Marxist-inclining branch of the KDP. Much like Ghassemlou, Talabani highlights the reactionary-imperialist alliance to oppress the Kurdish nationalist movement. Talabani stresses the joint Arab-Kurdish standing against imperialism, in spite of the Kurds' long suffering from Arab chauvinism. And much like Ghassemlou, Talabani stressed the Kurdish willingness for unification with the Arabs, although stressing that "Kurdish nationalism

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[63] Ghassemlou, *Kurdistan and the Kurds*, 235. Interestingly, Ghassemlou focuses mainly on the struggle in Iraqi Kurdistan, arguing that due to the suppression of the Iraqi bourgeoisie there are higher chances for a democratic revolution in Iraq.
[64] *Ibid*, 256.

[qawmiyya – pan-Kurdism], like other nationalist movements, holds its legal right for the realisation of its own fate and though the scientific socialism views this right to the extent of separation and the constitution of an independent national state."[65]

During its first war against Baghdad, the Kurdish national liberation movement managed to obtain several, although rather limited achievements at the international level. In May 1963, the People's Republic of Mongolia, probably under guidance by Moscow, appealed to the UN General Assembly to put the Kurdish question before the Assembly. Although the request was later withdrawn by Mongolia, it was the first time in which the Kurdish question was officially presented before the General Assembly. On July 9, 1963, the Soviet Union officially requested to put the Kurdish subject on the agenda of the UN Economic and Social Council (ECOSOC) in Geneva. This request was objected by Jordan (representing the Arab states), the Western members of the Council and India (which was most disappointing from a Kurdish perspective). Senegal, Ethiopia and Yugoslavia had abstained.[66] Expressing Kurdish hopes and disappointment about these votes, Ismet Sharif Vanly, a Lausanne-based academic and Kurdish political activist, complained that "The Kurdish case, in fact, has all the merits of deserving the full support of all the Afro-Asian nations, who knew, like the Kurds do now, how bitter and degrading national oppression and exploitation are."[67] Sa'd Jawad noted that public support for the Kurdish cause was also documented in Israel, where public opinion inclined in favour of the Kurdish plight. This was partly due to the fact that the Kurdish insurgency hindered the ability of the Iraqi army to take part in the Arab-Israeli conflict, but also

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[65] Talabani, *Kurdistan wa al-Haraka al-Qawmiyya*, 19. The fact that Talabani's publication was in Arabic, and that Ghassemlou's publication was translated into English, Arabic and French indicates that these publications also served the Kurdish effort to further expand the international public debate about the Kurdish question.

[66] Ismet Cherif Vanly, "The Revolution of Iraqi Kurdistan, Part I" (a pamphlet by the Committee for the Defence of the Kurdish People's Rights, 1965), 37-41.

[67] *Ibid*, 43.

because of what was seen as the genocidal policies implemented against the Kurds by the Iraqi regime.[68] Another pattern set during this period of de facto control over parts of Kurdistan was that of internal struggles between Kurdish factions in times of ceasefire. Already in the late 1960s, Barzani and the KDP politburo, now led mainly by Jalal Talabani, started clashing over potential influence in the "liberated" areas, as they referred to them. The signs for the civil war which was to erupt eventually in 1994 already appeared during the early 1970s, when both parties consolidated their control over different parts of Kurdistan. The KDP politburo established its power-base in Sulaymaniyah, in the southern part of the Kurdistan region, while Barzani and his supporters gained control over the Dohuk and Erbil provinces in the north.

3.5 THE 1970S: THE RISE OF SADDAM HUSSEIN, THE ALGIERS AGREEMENT AND THE FALL AND RESURRECTION OF THE KURDISH NATIONAL LIBERATION MOVEMENT IN NORTHERN IRAQ

The March Manifesto provided a much needed relief for both sides. The Kurdish militia, the *Peshmerga* (lit. *those who face death*) used the opportunity to recover itself, recruit new fighters and purchase new arms. The signing of the March Manifesto also buttressed the Kurdish sense of national self-consciousness and boosted their demands. Kurdish optimism was reflected in a statement issued by the KDP representation in Europe, praising the Ba'th party

> The declaration of March 11 constituted a great achievement for the Kurdish people since it ratified its right for autonomy [lit. *self-rule*] within the Iraqi Republic. It also constitutes a victory for the Iraqi people – Arabs, Kurds and other fraternizing minorities, the fruit of their sacrifice and the unity of their

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[68] Jawad, *Iraq and the Kurdish Question*, 300-303.

joint struggle against colonialism and reactionism. It is also a victory for our Kurdistani Democratic Party and the Socialist Arab Ba'th party, as well as all other progressive parties and forces which have fought for a peaceful and democratic solution for the Kurdish question, for defeating the chauvinistic and reactionary policies, and stands against the repressive racism to which our Kurdish people have been subjected throughout the previous sad years of fighting.[69]

Official Ba'th publications in the aftermath of the signing of the Manifesto took a similar line, emphasising the Ba'th's recognition of Kurdish right to self-rule, and underlining the party's progressive nature compared with racist Zionism. The Kurdish struggle was portrayed as a layer in the global struggle against imperialism and colonialism.[70] Certainly, the first months following the signing of the March Manifesto were characterised by an apparent harmony between the central government, led by President Ahmed Hassan al-Bakr and his deputy Saddam Hussein, and the Kurdish leadership. The government did implement some of the clauses of the March Manifesto, and especially those related to nominating Kurds for government positions.

During this period, an important step toward the achievement of future autonomy was achieved, with its first stages taking place already prior to the signing of the March Manifesto. As pointed out by students of the war between Baghdad and the Kurds, the Kurdish guerrillas initially avoided taking over territory, since this meant the further burden of feeding and defending the civilian population, often at the expense of more successful attacks on isolated garrisons and military posts.[71]

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[69] Al-Hizb al-Demokarti al-Kurdistani, *Al-taqrir al-siyasi al-hass bil-muutamar al-watani lil-Hizb al-Demoqrati al-Kurdistani al-mun'aqad fi Nawbardan* [KDP, special political report from the National Conference of the Kurdistan Democratic Party taking place in Nawbardan], July 1, 1970, 3-4.
[70] *Ghareeb, op. cit.*, 92-98.
[71] Dennis Chapman, *Security Forces of the Kurdistan Regional Government* (Costa Mesa, Mazda, 2011), 79.

However, due to the intense fighting, the Iraqi bureaucracy joined the army in its withdrawal from the region, leaving an administrative vacuum which drove the Kurdish leadership to reconsider their stand. This vacuum was filled by Kurdish deserters, lawyers, doctors, teachers and government officials, who chose to join the KDP ranks. With their modest means, they managed to establish rudimentary health services and village and district councils, which maintained some degree of law and order.[72] Although initially small in number, the early 1970s, particularly near the emergence of the 1974 war between the KDP and the Ba'th regime, witnessed a growing influx of Kurdish professionals moving to the zones under the control of Barzani and the KDP. Reporting in 1974 from what he termed a "de facto autonomous region,"[73] Lord Kilbracken, a vocal supporter of the rights of Kurds in Iraq, documented that:

> The influx of this new elite has altered the whole face of the revolution. Without it, Barzani could hardly have claimed, as he did when speaking to me, *that a de facto independent state had now been established in the area under his control and influence.* For it has made it possible to set up an effective civil administration, besides strengthening the revolutionary pesh merga army [the KDP paramilitary force].[74]

This set the pattern which would recur in 1991, with the establishment of the KRG, and in 2003, after the overthrow of Saddam Hussein, when large numbers of exiles and members of the diaspora would return to contribute to the reconstruction of Kurdistan.

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[72] O'Ballance, *op. cit.*, 111

[73] Edmund Ghareeb as well referred to the region under Kurdish control as a "de facto state." See Ghareeb, *op. cit.*

[74] Lord Kilbracken, "Mass Return of Educated Exiles," *The Irish Press*, May 1, 1974, 9. The term "exiles" is probably inappropriate in this context, and could be replaced by returnees.

The cracks in this harmony began to appear during the second year of the peace-agreement. Already in 1972 a US Department of State report envisaged the renewal of fighting between Baghdad and the Kurds, suggesting that "The Iraqi Kurds are once again soliciting outside support for a possible renewal of their civil war with the Iraq government."[75] During this time the Kurdish leadership began complaining that the Ba'th was not standing up to its commitments. One Kurdish complaint regarded the nomination of Kurds to key posts in the Iraqi administration.[76] An even stronger case was made by the Kurds against what was described as the *Arabisation* of Kirkuk and some parts of the Ninveh (Ninawa in Arabic pronunciation) and Diyala provinces, namely their ethnic cleansing from their Kurdish population and a resettlement of Arab families from other parts of Iraq instead. In December 1973, the Information Department of the Kurdistan Democratic Party, in charge of propagating the Kurdish cause and based mainly in Europe, published a pamphlet in English entitled the "Arabization of Kurdistan." According to this report, although the March Manifesto seemed like a "harbinger of goodwill and optimism," the first sign of the Ba'th government's insincerity toward solving the Kurdish question appeared already in the aftermath of the signing of the Manifesto, the most dangerous of whom was the "persistent pursuit of a policy of Arabization of Iraqi Kurdistan which continues up to the present."[77]

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[75] US Department of State, "The Kurds of Iraq: Renewed Insurgency?" 31 May 1972, *FRUS 1969-1976 IV (1969-1972),* Doc. 310. <http://history.state.gov/historicaldocuments/frus1969-76ve04/d310> (June 20, 2010).

[76] A detailed report on the number of Kurds in each ministry and in the Revolutionary Command Council appears in a report presented in the summer of 1974 before delegates of a UN Seminar on the subject of national, ethnic and other minorities. See KDP, "A Paper on the Kurdish Problem in Iraq: Presented to the Delegates of the United Nations Seminar on the Rights of National, Ethnic and Other Minorities," Ohrid, Yugoslavia, June 25 – July 8, 1974.

[77] The Information Department of the Kurdistan Democratic Party, "Arabization of Kurdistan: Racialist Designs of the Ba'thist regime of Iraq," December 1973 [place of publication not stated], 1-2. Kurdish claims were later reaffirmed by other studies, such as the Human Rights Watch Report on the Ba'th genocidal campaign against the Kurds. See HRW/Middle East, *Iraq's Crime of Genocide: the Anfal Campaign against the Kurds* (New Haven: Yale University Press, 1995), 22.

The latter point was directly linked with a third bone of contention between Baghdad and the Kurds, namely the definition of the autonomy of the Kurdistan region. The KDP presented a detailed autonomy plan to Baghdad on March 9, 1973. Very broadly, the autonomy plan demanded the foundation of a relatively wide self-rule within a unified Iraq, in which both Kurdish and Arab nations would be equal. The autonomy plan stressed the necessity of Kurdish participation in the Iraqi central government on an equal basis, which meant proportional representation for Kurds in the legislative authority and at least one Kurdish vice president. It also demanded the formation of a legislative authority in Kurdistan, elected freely and directly by the region's people. The legislative authority was to be in charge of taxation and running the regional budget. It was also to have power over setting regional economic, cultural and social development plans. The autonomous region was also to have an autonomous executive authority, accountable to the regional legislative authority and headed by an executive council. The executive authority was to have a ministry of education; a ministry of internal affairs, in charge of local police and security forces; and also ministries of health, finance and planning. The plan left foreign affairs and national security subjects in the hands of the central government, but demanded the evacuation of all national security forces from the region. The KDP's autonomy plan insisted that the regional autonomy would have a "legal personality" in the Iraqi constitution.[78]

The autonomy plan did not detail the geographic border of the region, but the KDP periodical in Arabic, *al-Akrad*, stated that "It is clear that the manner in which the Kurdish people practice their right of self-rule within the Iraqi Republic, based on the March Agreement, is in a Kurdish region based on the results of a general census

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[78] KDP, *Al-nuss al-kamil li-mashru' al-hukm al-dhati* [The complete text of the plan for autonomy], Baghdad, Iraq, March 9, 1973.

agreed upon a year ago in the above mentioned agreement. [The Kurdish region] is defined as the region whose majority of residents is Kurdish." It added that the "Kurdistan region is not a singular unit, but divided into different provinces, some are purely Kurdish, like Sulaymaniyah, Erbil and Dohuk, while others have some minorities, such as Kirkuk… Ninawa and Diyala."[79] The volume also added another, not so subtle, statement about Kurdish aspirations, declaring that

> Autonomy is not an alternative to the right of the Kurdish people to determine their own faith. However, the objective reality of the progress of the Kurdish liberation movement and the conditions and the circumstances relating to it necessitate using the banner of self-rule for the strengthening of the joint struggle against the aggressions of the [Iraqi Arab] Pan-Arabists [qawmiyyin].[80]

Thus, the Kurdish leadership still viewed the preconditions for statehood that dominated the international society during this era, that is, the right of an ethnic majority in a region considered to be colonised by an external power, as constituting the Kurdish right for statehood. Interestingly, an article in the same publication also reviewed in detail the Autonomy agreement signed in Sudan between South Sudanese separatists and President Ja'far al-Nimeiri in Khartoum. This article stressed the details of the autonomy agreement, but also the debates revolving around the issue of federalism in Sudan and the question of language in the country. This reflected that the KDP and the Kurdish rebels were well aware of international developments with regard to self-determination and national liberation.[81]

Ghareeb offers another cause for the understanding of the eventual eruption of the conflict. According to Ghareeb, it was the arms and training provided to Barzani

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[79] Al-Akrad, "Ma hua al-hukm al-dhati" [the meaning of autonomy], 4, 14-15 (August-September, 1974), 16.
[80] *Ibid.*
[81] See "Al-khutut al-'ama lil-ittifaqiyyat al-Sudan al-akhira" [the general lines of the latest agreement in Sudan], *ibid*, 46-50.

by the US, Iran and Israel that led to the war. True, during this period the KDP came to be seen by the Iranian security apparatus as a reliable proxy against the Ba'th regime. In April 1972 Baghdad signed a 15-year-long treaty of friendship and Cooperation with Moscow, which alarmed the Iranian Shah Muhammad Reza Pahlavi, as well as the Richard Nixon administration. The image of Iraq as a Soviet proxy was further strengthened with Baghdad's nationalisation of the oil industry in Iraq, so far controlled by British and American corporations. Barzani further contributed to this emerging image of Iraq, arguing in a private conversation with Central Intelligence Agency officers (through its representatives in Washington DC) that "the Soviets are now controlling events in Iraq."[82] To counterbalance Iraqi power, both governments began providing the KDP and the Peshmerga with weapons, training and intelligence, jointly with another US ally in the region – Israel. According to Ghareeb, the new supply of arms and political support not only boosted Barzani's confidence in his ability to fight Baghdad, but also allowed him to overcome any potential opposition from within the Kurdish camp.[83]

One may assume that the arms and training provided to Barzani during this period played some role in his decision to eventually confront Baghdad. As appears in a correspondence between US Secretary of State Henry Kissinger and the Tehran Embassy, the former had to discourage Barzani from undertaking a military attack against the Iraqi army in October 1973.[84] On the other hand, one should also bear in mind that Barzani and the KDP had already gone to war with Baghdad without

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[82] Memorandum of Conversation between Richard Helms, Director of the CIA, Colonel Richard Kennedy, CIA Officers and Representatives of Barzani in Washington, National Archives, July 5, 1972, *FRUS* 1969-1976, E-4 (Documents on Iran and Iraq, 1969-1972). <http://history.state.gov/historicaldocuments/frus1969-76ve04/d319> (February 20, 2011).
[83] Ghareeb, *op. cit.*, 108.
[84] Telegram from Henry A. Kissinger to Ambassador Richard Helms at the US Embassy in Tehran, October 16, 1973, WH32502. <http://www.foia.cia.gov/helms/pdf/73_1501608.pdf> (December 10, 2010).

substantial external support, and without significant political backing, as in 1961, for instance. McDowall comes up with a more convincing explanation, suggesting that Ba'thist ideology, with centralisation as one of its main pillars, could not accept any form of decentralisation, and even more so one that challenges Arab hegemony over the whole of Iraq.[85]

The mutual suspicion between both parties grew rapidly and local clashes began to take place between Iraqi security forces and Peshmerga fighters in some of the centres of controversy. Amid these developments, Baghdad changed its tone toward the Kurdish leadership. Not only did it now portray the Kurds as Iranian agents, but Ba'th publications also began to underline alleged cases of KDP's brutality toward its internal opposition.[86] In different cases, the Ba'th organs blamed the KDP for establishing nineteen prisons in the territory under its control, brutal attacks against Kurdish oppositionists and the shelling of villages that gave them shelter, sabotage, and "Preventing other national minorities from exercising their national rights."[87] Hence, Baghdad's delegitimation of the KDP and Barzani did not refer solely to issues of nationalism and self-determination. Instead, the Ba'th directed at least some of its critique against Kurdish ability to run its own affairs in the areas under KDP/Barzani's control.

On 11 March, 1974, four years after the signing of the March agreement and the date set for the implementation of a mutually agreed upon autonomy law, Saddam Hussein presented the Kurds with an autonomy plan which emptied the idea of Kurdish autonomy of any significant content. Barzani rejected this proposal, sticking to his initial demand for a Kurdish autonomy free from the presence of the Iraqi army

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[85] McDowall, *Modern History of the Kurds*, 328.
[86] Ghareeb, *op. cit.*, 117-118.
[87] *Ibid*, 125.

and with wide political, cultural and economic freedom. Baghdad responded with a unilateral implementation of its proposed autonomy law. Barzani reacted by establishing an independent administration in the north, nominating eight ministers for education, health, financial affairs, internal affairs, justice and *awqaf* (religious endowments), housing, public works and agriculture. This in effect was a declaration of war and fighting broke out shortly after.

During the first stages of the war, the Peshmerga inflicted heavy casualties upon the Iraqi army, which in turn retaliated by launching attacks against civilian targets. In 1975, nonetheless, Peshmerga successes in the battlefield suffered a major setback. In March that year, the Iranian Shah, the Kurds' main source of support, signed a peace-agreement with Saddam Hussein in Algiers. According to this accord, Iraq withdrew its claims for the Shatt al-'Arab river as well as other territorial claims which stood at the heart of its conflict with Iran. The Shah, in turn, committed to halt its support for the Kurds and to stop channelling American and Israeli aid. Under these circumstances, Barzani and the KDP were given an ultimatum to surrender and were allowed to flee to Iran. The Kurdish leadership had no choice but to surrender their arms and set off for a long exile, of which Mustafa Barzani never returned – he passed away from cancer in Washington DC in 1979.

The departure of Mustafa Barzani and his people meant the defeat of the Kurdish revolt. The Ba'th government took no risk in suppressing the uprising and embarked upon a path of collective punishment. Reviewing captured documents on this period, a report by Human Rights Watch concluded that The Ba'th now reframed its aims from counterinsurgency to "physically redrawing the map of northern Iraq."[88] Hundreds of Kurdish villages were razed in the governorates of Ninveh, Diyala and

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[88] HRW/ME, *op. cit.*, 24

Dohuk, their residents forcefully transferred to Southern Iraq and left with no housing, or with very primitive housing in government-controlled *mujamma'at* (collective settlements). Estimations of the numbers of deportees in the years following the revolt ranged from 28,000 families according to Ba'th reports,[89] to 600,000 individuals and even more being deported to the mujamma'at according to others.[90] The borders of the Kirkuk governorate were redrawn so as to exclude towns with Kurdish majority. These towns, among them Kalar, Kifri, Chamchamal and Tuz Khurmatu now became part of the Sulaymaniyah, Diwaniya and newly established Salah al-Din provinces. The purpose was to change the demographic characteristics of the governorate in order to undermine Kurdish claims over the region in the future. International reaction to the events in northern Iraq was mild in the better cases and non-existent at most. Most western governments preferred not to turn a blind eye to the events, partly because of economic interests in Iraq. Some protest, nevertheless, did come from the side of international aid organisations and reporters, particularly after Iran banned the access of aid-relief organisations to Kurdish refugees in its territory.

Kurdish guerrilla insurgency within Iraq came to a halt. Activism now shifted to Turkey, particularly with the establishment of the Turkish Workers Party (known better as PKK, after its Kurdish acronym); and in Iran, where the revolution revived Kurdish aspirations for autonomy. The Kurdish liberation movement in Iraq post-Barzani sank into a period of internal fighting and succession struggles. On the 1st of June, 1975, Jalal Talabani, the leader of the KDP politburo and its more leftist wing, established the Patriotic Union of Kurdistan (PUK). The new movement was based mainly on Talabani's faction within the KDP as well as a coalition of other smaller movements with Marxist or socialist orientation. The KDP now organised itself in the

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[89] As cited in *Ibid*, 127.
[90] McDowall, *op. cit.*, 339.

diaspora under the leadership of Idris and Mas'ud Barzani, Mullah Mustafa's sons, and Sami 'Abdul Rahman, a veteran Peshmerga commander.[91] The fighting within Iraq was renewed in 1977, when the PUK Peshmerga launched several small scale attacks against Iraqi army targets. Both parties, nonetheless, gradually became consumed with internal, often bloody, skirmishes and competition, even inside the Kurdistan region.

Iraqi Kurdish political activism now shifted mainly to the diaspora, with students and exiles now reviving the campaign of obtaining moral legitimacy for the Kurdish cause. Again, these publications emphasised the nature of Baghdad as an imperialist and colonialist power, with the Arabisation of Kirkuk portrayed as a project of colonisation. Maybe inspired by the emergence of the PKK, or maybe triggered by the rise of the PUK, KDP publications began taking a more Marxist-Maoist tone, describing it as a revolutionary vanguard party that relies on urban guerrilla warfare. A publication issued in 1979 by the KDP's (London-based) International Relations Committee, for instance, stated that

> Revolutionary action against imperialism has become a feature of our era. How can we allow ourselves, while engaged in a continuous revolution, to confine our military operations to the mountain peaks, away from the eyes of the broad masses and far from main interests, inside Iraq, of the fascist regime, that tries to hide the existence of the revolution by its propaganda at home… Revolutionary action in the urban centres of Iraq is the best reply to the racist settlement and forcible deportation and displacement of Kurds in Kurdistan.[92]

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[91] Initially this group used the name KDP-Provisional Leadership, but the movement's name was changed back to the KDP later.
[92] International Relations Committee of the Kurdistan Democratic Party, *Kurdish Nationalism*, Know the Kurds Series number 6 (London: Calvert's North Star Press, Let., June 1979), 18-19. This pamphlet was part of the Know the Kurds series, published by the KDP throughout the 1970s. Reviewing the series reveals the change that the party's discourse has gone through during this period. Whereas earlier publications focused on the Kurdish question in the UN and on the Kurdish minority in the different states in the Middle East, the 1979 issue focused more on the party and its strategies.

The Kurdish movements in Iraq, however, did not have much time to implement their new tactics. The 1980s witnessed the eruption of the Iran-Iraq War. This new phase provided some new opportunities for the Kurdish movements to unify in their fight against Iraqi authorities, but also witnessed some of the most aggressive policies taken by Baghdad against the Kurds. Somewhat paradoxically, the atrocities committed by the Ba'th regime against the Kurds were essential for the emergence of a de facto state in northern Iraq.

3.6 THE PATH TO DE FACTO STATEHOOD: THE IRAN-IRAQ WAR, THE ANFAL CAMPAIGN AND THE CREATION OF THE KURDISTAN FRONT

In 1979 Saddam Hussein became Iraq's formal ruler after disposing of President Bakr in an internal bloodless coup. One of his most influential and, in retrospect, most disastrous decisions as president was the declaration of war on the Islamic Republic of Iran in September, 1980. Hussein had several incentives to declare this war. First, the new Iranian leadership headed by Ayatollah Ruhollah Khomeini constantly used the secular Ba'th regime in Iraq as a target in its revolutionary discourse. Second, the predominantly Sunni Ba'th leadership feared that the rhetoric employed by the Iranian revolutionary regime and the general revolutionary zeal characterising its large neighbour would inspire revolutionary aspirations among the mostly oppressed Shiite majority in Iraq. In addition, Hussein was seeking to consolidate his own position within Iraq; this was particularly acute for him as the one who initiated the Iraqi concessions to the Shah in Algiers. Finally, weakened by continuous purges within the security forces and the administration, and subjected to power struggles between the different revolutionary streams, Iran seemed to Saddam Hussein as an easy

target.[93] This proved to be a miscalculation on the side of the Ba'th regime and Iraq sank into a devastating war with Iran which lasted until 1988, costing the lives of millions of soldiers and civilians on both sides.

Both the KDP and the PUK took part in the fighting from its early stages. The KDP Peshmergas served as scouts for Iranian forces and facilitated their occupation of the important frontier town of Hajj 'Umran. Saddam Hussein retaliated by amassing the members of the Barzani tribe, killing 8,000 men and sending tens of thousands of the tribe members to mujamma'at in the south. The PUK, on the other hand, found it harder to collaborate with Iran. Talabani's close relations with Ghassemlou, the leader of the KDP-Iran, and his own secularist agenda caused him to hesitate on siding with Iran. Based in Damascus, the PUK leadership still tried to maintain its image as a progressive movement and an element in the wider anti-colonialist movement in the region.[94] Therefore, Talabani tried to approach Baghdad, setting Hussein again with the Kurdish plan for autonomy, as well as demands to release Kurdish political prisoners and disband the Iraqi-supported Kurdish militias known as *Jahsh* (small donkey in Arabic). When these were rejected by Baghdad, the PUK joined efforts with the KDP.[95] In 1987, both parties, together with five other smaller ones, established the Kurdistan Front (KF), an umbrella organisation aimed to facilitate the concentration of efforts against Saddam Hussein.

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[93] Tripp, *a History of Iraq*, 222-226.

[94] The PUK maintained relations with other national liberation movements based in Damascus, such as the Palestinian *Fatah*. See report on a meeting between PUK and Fatah leadership in the PUK's monthly organ al-Ittihad, "Fatah wa al-Ittihad al-Watani al-Kurdistani yabhathani 'alakatahuma al-nidhaliyya al-mushtaraka" [Fatah and the PUK discuss their ties of a joint struggle], No. 11, October 1983, 1-2.

[95] This did not prevent the US from viewing Talabani as the socialist leader of a Marxist movement which was to take over the Kurdish nationalist movement, even in the aftermath of the Iran-Iraq War in 1988, as a CIA report released during this era reveals. See: CIA, "Iraq-Turkey-Iran: the Kurdish Insurgencies, an Intelligence Assessment," March, 1988, copy 362, p. 1836. Available on the CIA Electronic reading room, <www.foia.cia.gov/docs/DOC_0000469140/DOC_0000469140.pdf> (November 13, 2011).

Constantly criticised for its cooperation with Iran, an international outcast at the time of war,[96] the KF moved to justify its actions by presenting to the international community the continuous oppression of Kurds in Iraq and the violation of their most basic human rights. Once again, the Kurdish students' organisations in Europe played an important part in the Kurdish interaction with the international community. The Kurdish Students' Society in Europe (KSSE), for example, took a leading role in spreading information about the actions of Iraqi (and Turkish) forces against the Kurdish population in northern Iraq and in encouraging European solidarity with the Kurdish people.[97]

The *Anfal* campaign, a punitive operation launched against the Kurdish population in Iraq between 1986 and 1989, has had a tremendous impact on Kurdish identity and interaction with the international community. Its main aims were to permanently uproot the Kurdish resurgence, destroy its infrastructure and deter the Kurdish population from supporting it. Kurdish writers have also described it as an effort to destroy Kurdish national identity. The campaign was orchestrated by 'Ali Hassan al-Majid, Saddam Hussein's cousin and the Secretary General of the Northern Bureau of the Ba'th party, although documents captured in 1991 reveal that it was at least partly planned from Baghdad. According to some estimates, between 50,000 and 100,000 non-combatant civilians were killed during the campaign,[98] with the highest

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[96] At least theoretically; the Iran-Contra Affair, exposed in the mid-1980s, revealed that Iran was provided with American arms.
[97] Examples of KSSE activism during the 1980s can be found in the Liberation Movement archival material, which are stored in the School of Oriental and African Studies archives in London in file Liberation/06/32/66. For example, KSSE UK Branch, "For Greater Solidarity with the Heroic Kurdish Students on Strike in Iraqi Kurdistan," May, 1984; "Appeal for Solidarity," May 16, 1984; "Stop Turkish Military Aggression in Kurdistan: Halt Massacres against Kurdish People," October 18, 1984.
[98] HRW/ME, *Iraq's Crime of Genocide*; George Black, *The Anfal Campaign Against the Kurds* (New York: Human Rights Watch, 1993).

estimates reaching 200,000.[99] Large scale campaigns against the Kurdish population had taken place before the Anfal campaign,[100] but never on such a scale and in such an organised fashion. Kurds were indiscriminately executed and thousands of villages were razed by Iraqi forces and the Jahsh. Tens of thousands of these civilians were forced into the mujamma'at. One of the most lethal operations in the campaign was the attack on the town of Halabja, in the South Eastern part of the Kurdistan region, which was considered to be a Peshmerga stronghold. The attack resulted in the death of about 5,000 Kurdish civilians attacked with poisonous gas and became a symbol of Iraqi aggression against the Kurdish people.[101]

The most important outcome of the Anfal campaign was that it enhanced the Kurdish motivation for disengaging from Baghdad. For many Kurds, the campaign signalled that freedom from Baghdad was necessary not only for maintaining their national identity, but for their physical survival. This was reflected vividly in the mass desertion of the Jahsh and Kurdish soldiers from the Iraqi army. According to one observer, the Anfal marked "the violent birth of an unwanted nation."[102] Furthermore, the Anfal campaign finally attracted the much desired international attention to the Kurdish question in Iraq. Before 1990, only a handful of reports about the events taking place in northern Iraq had reached the outside world. It was the end of the Iran-Iraq war and the following that the Gulf-War which resulted in a flow of news about the massacre of the Kurds by the Iraqi government. It is not a coincidence that this

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[99] Talabani, in a statement to UN envoy Prince Sadruddin Aga Khan, argued that "approximately 200,000 women, children, men and elderly people were lost." "Talabani Statement to UN Envoy Calls for Iraqi Withdrawals and End to the Blockade," *Voice of the People of Kurdistan in Arabic* November 25, 1991, cited by BBC Summary of World Broadcast (SWB), November 27, 1991, ME/1240/A/ 1

[100] Talabani complained already in 1965 that the Iraqi army used chemical weapons against Kurdish population following the surrender of the KDP. The Times, "Iraq Accused of Using Gas," Friday, May 21, 1965, 11.

[101] For a more detailed historical account of the Anfal documents captured in 1991 see Joost Hiltermann, *A Poisonous Affair* (New York: Cambridge University Press, 2007).

[102] John Sweeney, "Violent Birth of an Unwanted Nation," *The Observer*, January 13 1993, p. 13

overlapped with the establishment of the KRG – revelations about the Anfal facilitated the establishment of the KRG and served the Kurds in justifying their own violation of one of the most important principles of international society: the sanctity of territorial integrity.

The Kurdish discourse of self-determination and the justification for self-determination moved to rely heavily on Iraq's violation of the Kurdish people's fundamental right – the right to life. Particularly during the early 1990s, KF's leadership began emphasising the atrocities committed by the Baghdad regime to justify their seemingly separatist actions. For instance, in a session held by the Carnegie Endowment for Peace in July 1992, Talabani declared that: "This war in Kurdistan [the Iran-Iraq war] has introduced strong suspicion in consciousness of many Kurds about the viability of Iraq as a united entity, and thus determines the basis of Iraq's integrity."[103] And Mas'ud Barzani, in a visit to Halabja, declared that "For whenever the Kurdish people's issue is discussed anywhere, people will remember Halabjah and its tragedy. Indeed, Halabjah has promoted the Kurdish cause."[104] Najmaldin Karim, Talabani's spokesman in Washington during the 1980s and the 1990s and one of the prominent figures in Kurdish informal diplomacy, when participating in a session held by the US Senate Committee of Foreign Relations on mass killings in Iraq, stated that

> There is… an Armenian state next to Turkey, which Turkey has recognized officially. There is an Azerbaidzhan [*sic*] on the northern border with Iran, with 25 percent of its population who are Azeris. Why can't we have a Kurdish state, an Iraqi Kurdistan, and have the Kurdish people exercise the right of self

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[103] Carnegie Endowment for Peace, "Press Breakfast with Iraqi Opposition Leaders," Washington DC, July 30, 1992, as cited by Federal News Service July 30, 1992.
[104] "Mas'ud Barzani briefs Kurds on Negotiations with the Government," *Voice of Iraqi Kurdistan in Arabic*, September 29, 1991, as cited by BBC WBS, October 2, 1991.

determination like the rest of the people of the world? … It's time for the international community to accept and go back to the days when President Wilson asked for self-determination for the Kurdish people, and the Seaver (sp) [sic] agreement also pointed the fact that the Kurds should have a homeland of their own. We ask your committee to come out in support of a Kurdish entity, to give the Kurdish people the right of self determination"[105]

And in a final example, Kendal Nezan, a Turkish Kurd, the founder and chairman of the Kurdish Institute in Paris and a prominent advocator of the Kurdish cause in the diaspora argued that

> practically all the four million Kurds currently living under Baghdad's yoke will opt for independence of their country - a country which has suffered widespread devastation but which, given its considerable oil and water resources, would soon be able to rebuild itself and become prosperous… The Western powers and the Soviet Union which, by their connivance, their silence and their manifold support, particularly in military form, to the oppressors of the Kurds, would thus find a way to pay off their moral debt towards a martyred people.[106]

In short, the Anfal drove further the Kurdish leadership to view statehood as a remedy for the severe and ever more aggressive oppression of the Kurdish people by the Iraqi authorities. In the last years prior to the complete collapse of Iraqi power in the region, Kurdish discourse about entitlement to statehood came to revolve mainly around the violent suppression of Kurdish nationalism in Iraq.

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[105] Hearing of the Senate Foreign Relations Committee, "Mass Killings in Iraq," March 19, 1992, as cited by the Federal News Service, March 19, 1992.
[106] Kendal Nezan, "Time for Britain to Repay its Debt to the Kurdish People," *The Independent* (London), August 30, 1990, p. 9.

3.7 CONCLUSION

In the twentieth century, then, the Kurds turned into a divided minority in the newly established nation-states now controlling Kurdistan. Consequently, the Kurdish struggle for national liberation, partly the result of the formation of these states, now became that of a peripheral minority struggling against an oppressive political centre. In Iraq, due to the nature of the state and the historical circumstances of its formation, as well as geopolitical conditions, the struggle for liberation was probably the fiercest. Inspired by wider political and historical developments, the Kurdish nationalist leadership came to view, and portray, their struggle as anti-colonialist and anti-imperialist in nature, with the new nation-states and their administrative predecessors as the representatives of colonialism and imperialism. This was not merely an ad-hoc strategy, or a "recipe" for recognition. It was the product of constant interaction between Kurdish nationalists and the international community, through international forums in the aftermath of WWI, through exiles in European capitals, Kurdish students in Western and Eastern Europe and the exposure to other national liberation movements across Asia and Africa. Armed insurgency was the main tactic to achieve self-determination, but it was justified by the Kurdish remedial right for statehood.

This remedial discourse, which marked most of the period of insurgency during the 1960s and 1970s, was gradually supplemented by the emphasis on the violence taken by the Iraqi government in its campaign to subjugate the Kurds to its control, especially in light of the Anfal campaign. In the decade to come, the Kurdish national liberation movement was to transform dramatically, together with the manner in which it would interact with the international community, its identity and its strategies.

CHAPTER 4. THE FIRST DECADE OF KURDISH DE FACTO STATEHOOD IN NORTHERN IRAQ: THE DEMOCRATIC EXPERIENCE, ITS COLLAPSE AND STEPS TOWARD REVIVAL, 1991-2001

The Kurdish de facto state in northern Iraq emerged out of the devastation of the 1980s, the First Gulf War and the period of chaos that followed it. This chapter reviews the formation of this de facto state and the transformation of the leadership of the Kurdish national liberation movement into the Kurdistan Regional Government in Iraq. It does so against the discussion provided in chapter 2 about the nature of de facto statehood and the impact of this status on the relations between de facto states and the international community. Therefore, it focuses on the two key aspects for understanding the de facto state; the process of transition from insurgency into governance, and the impact of this transition on the identity of the entity and its leadership and their interaction with the international community. By paying attention to these two key dimensions, the chapter seeks to explain the dramatic changes that characterised the first half of the 1990s, namely the beginning of the process of state-building that took place with the inception of the KRG, the historical election campaign of 1992 and the ensuing Kurdish campaign of legitimation which focused on Kurdistan as a democratic experiment. The chapter argues that the transition into de facto statehood and to fledgling democratisation took place because the Kurdish leadership, through its interaction with the international community, perceived such steps as essential for solidifying its sovereignty over its territory and for legitimising its controversial step of taking over the administration of the region.

The chapter continues into the civil war that erupted in 1994 and lasted until 1997. It argues that the civil war, which resulted in a practical division of the KRG, hindered, but did not terminate the state-building process in the region. While the de facto state in the region in fact ceased to exist during the war, it was recovered after the end of the civil war in 1997. The introduction of the Oil for Food Programme (OFFP) in 1996, as well as other forms of international aid before and after the civil war, all played an important part in sustaining the interaction between the Kurdish national liberation movement and the international community.

All in all, this chapter serves to support one of the key arguments in this dissertation: the idea that with the transition of the national liberation movement into a de facto state, sovereignty, legislation and state-building become central to the foreign policy of the actor and its interaction with the international community.

4.1 THE EMERGENCE OF A DE FACTO STATE: THE GULF WAR, UPRISING AND OPERATION PROVIDE COMFORT

Saddam Hussein had various incentives for invading Kuwait. The almost decade-long war with Iran devastated the Iraqi economy. This compromised Hussein's ability to sustain his network of patronage and support the Iraqi bureaucracy, which served as the main employee in Iraq. Kuwait's vast oil reserves seemed like a remedy for Iraq's economic problems. In addition, by invading Kuwait, Hussein hoped to put pressure on Saudi Arabia to erase Iraq's debt following the large Saudi loans given to Iraq to support its war against Iran. Additionally, Iraq has long claimed Kuwait to be its province, usurped by the imperialists and their reactionary allies in an effort to gain

control over Arab oil.[1] Finally, Hussein assumed that the international community would not intervene to protect Kuwait, either because of its silent support of Iraq during the Iran-Iraq war, or because of global circumstances and the end of the Cold War. Thus, on August 2, 1990, Hussein ordered his army to invade Kuwait. Soon after he ordered the annexation of Kuwait, whose royal family, Al Sabah, fled to Saudi Arabia. Hussein, however, miscalculated the Western reaction; alarmed by the violation of Kuwait's sovereignty, and the threat to regional stability and international oil supply, a coalition of Western and regional powers, led by the US army, launched Operation Desert Storm against Iraqi presence in Kuwait on January 17, 1991. The alliance's victory was swift and in February 1991 the shattered Iraqi forces fled Kuwait, not before burning Kuwait's oil fields.[2]

The collapse of the Iraqi military in Kuwait and the apparent weakness of the Ba'th regime led to a growing unrest in the Iraqi periphery. Encouraged implicitly by a statement made by the American President George H. W. Bush about the need of Iraqi people to get rid of Saddam Hussein, riots erupted among the Shiite community in the southern provinces in March 1991. Inspired by events in the south, spontaneous riots also erupted in the northern governorates. The uprising in the north, often referred to as the Kurdish (and Shiite) intifada, was initially a grassroots movement, led by former Jahsh fighters, who resented Saddam Hussein due the events of the Anfal. Soon, the KF got into the picture and took control over what now became a national uprising. Yet, the American implicit support of the uprising was soon abandoned. Pressured by Turkey and Saudi Arabia to prevent what was seen as the potential partition of Iraq, the allied forces allowed the Iraqi army to use helicopters to

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[1] This claim had been constantly raised by Iraqi governments since the rise of Qassem. The latter also amassed forces on the Kuwaiti border in June 1961, but was eventually deterred by British forces.
[2] Charles Tripp, *a History of Iraq*, 239-246.

suppress the riots. Still scarred by the events of the Anfal, the Kurdish population abandoned their towns and villages, fleeing en-masse to the safety of the Turkish and the Iranian borders. According to one estimate, about 450,000 Kurds concentrated on the Turkish border, while approximately 1.5 million fled toward the Iranian border.[3]

Bearing in mind the refugee crisis during the Anfal campaign, Ankara became worried about the interaction between the newly arrived refugees and the Kurdish population in south-eastern Anatolia. The Turkish authorities now faced the need to distance the Kurdish refugees from the border, while still saving its international reputation. The Turkish President, Turgut Özal, suggested the establishment of a safe-haven for Kurdish refugees on a small enclave in northern-Iraq. This idea was embraced by the coalition forces, themselves pressured by international public opinion, which was exposed to the images of the dire conditions of the Kurdish refugees. On April 5, 1991, the UN Security Council (UNSC) issued resolution 688 which condemned Iraq for the repression of its people, "including most recently in Kurdish populated areas," thus being the first UNSC official document to mention the Kurds explicitly.[4] Although UNSC 688 did not define their mission in these terms, American, British and French forces established a no-fly zone in southern and northern Iraq, basing their decision on Resolution 688. The no-fly zones stretched northward of the 36th parallel and southward of the 32nd parallel. In the north, then, it eventually came to encompass the governorates of Sulaymaniyah, Erbil and Dohuk, in what came to be known as Operation Provide Comfort. The first stage of this operation lasted until the 24th of July, 1991. The second stage of the operation, which involved permanent protection of the Kurdistan Region, began on the same day. Under the auspices of the operation, the Iraqi army was also forced to withdraw from

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[3] Michael Gunter, *The Kurds of Iraq* (London and New York: Palgrave Macmillan, 1992), 85
[4] UNSCR 688, April 5, 1991. <http://www.fas.org/news/un/iraq/sres/sres0688.htm> (June 2, 2010).

the region, with the direct aim of protecting Kurdish population and the resettlement of the Kurdish refugees. Turkey as well played an important role in this operation by allowing the allied forces to use the Incirlik Air Base for the operation.

The coalition forces made a clear effort to demonstrate their commitment to Iraq's territorial integrity, stating overtly that the establishment of the safe-haven did not mean support for the foundation of an independent, or even autonomous, Kurdish entity. Turkey's pivotal role in this operation was probably a good indication for the coalition's intentions. The KF, worried about being abandoned by the coalition forces, desperately tried to negotiate with Saddam Hussein about the future status of the safe-haven and the possibilities for Kurdish autonomy in the region. Yet, Hussein rejected any compromise with the Kurds, declaring that the safe-havens in Iraq were a violation of Iraqi sovereignty. He consequently ordered the withdrawal of the state apparatus, cutting all essential services to the Kurdish population as well as the salaries to the civil servants in the region. By so doing, Hussein was hoping that the Kurdish leadership would succumb to the difficulties and ask for the Iraqi return to the region. Much like his decision to invade Kuwait, Hussein's calculation proved erroneous. Faced with no other choice, the KF started filling the administrative vacuum left by the withdrawal of the Iraqi state. It swiftly embraced the role of a de facto government in the Kurdistan, thus utilising the tragedy inflicted upon their people to take a major step in the way of achieving Kurdish self-determination.

4.2 DE FACTO AUTONOMY AND NEW IDENTITY: THE ESTABLISHMENT OF THE KRG AND THE DEMOCRATIC EXPERIMENT

The KF now faced a brutal reality. It was subjected to a double embargo, one imposed by the majority of the international community on the whole of Iraq, including the Kurdistan Region; and one by Baghdad. This crisis was intensified by the mass return of Kurdish refugees from the Turkish and Iranian borders.[5] The infrastructure of the region was devastated following years of fighting, and particularly the Ba'th punitive campaign against the Kurdish uprising. The KF's leadership had very limited experience in running civilian affairs and, even more so, a political system. Jalal Talabani put it in the most vivid manner, stating in an interview with Gareth Stansfield that 'we came from the mountains, we were trained as fighters, and now we had to run cities'.[6] Mas'ud Barzani as well brought up similar claims in an interview with Stansfield, reporting that in meetings with Kurdish technocrats he stated that "his experience, and the experience of the *peshmerga*, were in destroying bridges, cutting electricity and destroying roads."[7] These tensions intensified political rifts within the Kurdish camp. A CIA report from the period identified rising tensions with regard to the question of autonomy in Kurdistan, noting that "Frustrated by the deep rift between Mas'ud Barzani and Jalal Talabani, Iraqi repression, and the dwindling prospects for an autonomy agreement with Baghdad, local Kurdish tribal leaders and small rebel groups are taking more independent or extreme measures to oppose Iraqi government and gain a say in Kurdish politics."[8]

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[5] According to one estimate, out of almost two million refugees, all but 124,000 returned to the region during the first few months following the Ba'th withdrawal. See Gunter, *The Kurds of Iraq*, 85.

[6] Stansfield, *Iraqi Kurdistan* (London: Routledge Courzon, 2003), 123.

[7] *Ibid*, 122-123 [italics in origin].

[8] "Special Analysis: Iraq, Kurdish Radicalism on Rise," *CIA National Intelligence Daily*, September 27, 1991. <http://www.foia.cia.gov/docs/DOC_0000498212/DOC_0000498212.pdf> (15/01/2011).

Facing this crisis, the KF was looking for ways to control its territory and somehow provide the basic necessities of the population in the region, without provoking regional powers to believe that the Kurds were actually seeking independence. Initially the KF used local committees to control the different districts of Kurdistan, each run by a different member organisation of the KF – a system common in cases of popular uprisings and guerrilla warfare. But the Kurdish leadership quickly realised the need to establish some sort of a central administration in the region. This policy was warmly embraced by members of the Kurdish diaspora, although the leadership on the ground, aware of its limitations, was somewhat more worried about the consequences. Yet, amid the growing tensions within Kurdistan and out of necessity to establish their power, the members of the KF agreed upon establishing executive and legislative authorities. By so doing, they realised the Kurdish aspiration for autonomous governance as articulated in the early Kurdish autonomy plans.

The decision to hold regional elections was based on two considerations. The first was the increasing tensions between the PUK and the KDP about the division of power within the region. Elections were viewed as the only way to settle these controversies.[9] The second reason was the need to guarantee international legitimacy for the existence of a Kurdish autonomy in northern Iraq. Amid Baghdad's constant accusation of the Kurds of undermining Iraq's territorial integrity, and facing their usual portrayal as a backward element in the region, conducting democratic elections was seen as a means to legitimise the unpopular Kurdish autonomy. The first basic laws constituted by Kurdish legalists in preparation for establishment of the new administration in the region regarded the establishment and election of the Iraqi

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[9] McDowall, *Modern History of the Kurds* (London: I.B. Tauris, 2004), 381.

Kurdistan Assembly and the Leader of the Kurdistan Region.[10] The importance of this legislation and of elections were emphasised by one of the Kurdish legislators, who was involved in the process of establishing the National Assembly. As he argued:

> The democratic principle has been shown to have universal validity… the IKF, as a de facto ruling power… is taking the first step to catch the train of the civilized world. It intends to reconstruct Kurdish society on the basis of democracy and respect for human rights in accordance with international norms and agreements. It will demonstrate to the world that the people of Iraqi Kurdistan are capable of such self-government.[11]

The dimension of securing domestic legitimacy, on the other hand, which has been presented by Nina Caspersen as an important incentive for governments of de facto states in going through some process of democratisation,[12] was probably less relevant for the KF at this stage. Perceived as the liberators of Kurdistan, the KF enjoyed the Kurdish public's support for the time being. Furthermore, many of the region's residents were returning refugees, living in temporary shelters and experiencing the harsh living conditions of the Kurdish winter and were thus rather immobilised. Consequently, being able to provide stability and services to the Kurdish population was no less important for the legitimacy of the KF than the conduct of elections.

The preparations for the election campaign reveal not only the Kurdish sense of urgency with regard the democratic transition, but also the further opportunities that democratisation, together with increased public exposure to the Kurdish tragedy

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[10] Stansfield, *Iraqi Kurdistan*, 124-128. Stansfield also notes that the Kurdish leadership intentionally refrained from formulating a constitution, under the fear that such action would further provoke the fears of neighbouring states. On the other hand, as later shown, the act of elections itself was perceived as a step toward independence, probably shaped by the post-Cold War reality.

[11] Falaq al-Din Kakai, "The Kurdish Parliament," in *Iraq since the Gulf War: Prospects for Democracy*, edited by Fran Hazleton for the Committee against Repression and for Democratic Rights in Iraq (London: Zed Books, 1994), 120-121.

[12] See pages 69-70.

in Iraq, has provided for the Kurdish leadership to interact with different members of the international community. Election monitoring is one such example; the KF searched desperately for internationally-accepted observers to monitor, and thus legitimise, it regional elections. Correspondence between representatives of the KF and Michael Meadowcroft, a former British Liberal MP and the head of the Electoral Reform Society (ERS), a London-based NGO which took part in various election campaigns around the globe,[13] offers some important insights about the role transnational actors could play in the early stages of the formulation of the KRG. The ERS, Meadowcroft reveals, was approached shortly prior to the designated date for the elections:

> The Electoral Reform Society has been invited to monitor the above elections. As you will see from the attached (confidential) memo, the first contact was only on the 28th April. Whereas normally ERS would not attempt to mount any election monitoring operation at such short notice, the special circumstances of the Kurds in Northern Iraq encouraged me to see what can be done to assist. Our initial enquiries suggest that preparations for elections have been carefully done, although there are inevitably a number of questions unanswered at this distance.[14]

The preparations for this election campaign served as an opportunity for exiles and members of the diaspora to take part in what was happening in Kurdistan. Meadowcroft was approached by two members of the Kurdish exiles community in London, Burhan Jaf (later to become the KRGs representative to the EU) and Sherwan Dizayee, the KDP's representative in the city.[15] Correspondence with other

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[13] Among these were Bosnia-Herzegovina and Palestine, two other contested territories at the time.

[14] "Parliamentary & Presidency Elections Iraqi Kurdish Autonomous Region, 17 May, 1992," a Fax Sent by Meadowcroft to Mark Dickinson, the Chief Executive of the Westminster Foundation for Democracy, May 8, 1992. British Library of Political and Economic Science, MEADOWCROFT case 4, box 12, folder 1 (henceforth MEADOWCROFT/4/12/1), A:\ERCS-K-6.

[15] A fax from Meadowcroft to Burhan Jaf, "Elections 17 May 1992 Iraqi Kurdish Autonomous Region", April 29, 1992, MEADOWCROFT/4/12/1, A:\ERCS-K-2

potential monitors took place simultaneously in the US as well, as demonstrated by one of the replies to Meadowcroft's request for support from American NGOs: "NDI [Washington-based National Democratic Institute], too, has been approached by various Kurdish organizations to observe the May 17 elections.... Let me specifically draw your attention to the International Human Rights Law Group, which also is planning on sending a small team for the elections."[16]

The electoral process, the first of its kind in Iraq's history, proved to be relatively free and fair. A publication issued by the ERC in the aftermath of the campaign described it as a "full and free expression of the wishes of the Iraqi Kurdish electorate."[17] The Election Law set a threshold of seven percent of the votes for entering the parliament, with five out of 105 seats in the parliament preserved for Christians. Only the KDP and the PUK managed to cross the high threshold. The Islamic Movement of Kurdistan (IMK), another member of the KF, came third with five percent of the votes. The KDP gained a slight advantage over the PUK, in a rate of 51:49. Mas'ud Barzani, however, agreed to a 50:50 division of seats with the PUK, in order to avoid conflict. Fearing the implication of the elections, both Turkey and Iraq strived hard to hinder the process of the elections, mainly by preventing volunteers from entering the region and even providing the basic essential elements for an election campaign, such as ink and ballot boxes (which were provided eventually by the UN).[18]

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[16] fax from Larry Garber Senior Associate for Electoral Processes at the NDI to Meadowcroft, May 4, 1992, MEADOWCROFT/4/12/1

[17] Michael Meadowcroft, *Kurdistan Elections for Iraqi Kurdish National Assembly and Leader of the Kurdistan Liberation Movement, 19th May 1992, Monitoring Report* (Electoral Reform Consultancy Services, London 1992), 4.

[18] Helena Cook, *The Safe Haven in Northern Iraq* (Kurdish Human Rights Project and the Human Rights Centre, University of Essex, 1995), 78.

The apparent success in the election campaign was perceived as a milestone for the KF in establishing and proving its right to govern the region. Even before the KRG and the Kurdistan National Assembly (KNA) were formed, the Kurdish leadership began emphasising its now proven ability to control the Kurdistan Region. Again, influenced by the global geopolitical shift and the gradual rise of democracy as an entitlement for independence, as reflected in the case of the former Soviet and Yugoslav republics, Kurdish leaders were quick to stress their ability to run their own affairs. In one example, Falaq al-Din Kakai, a KDP representative in KNA, stated that

> In addition to its contemporary political significance the act [elections] has great historical and cultural meaning for the Kurdish people. It is the first law in the history of modern Iraq to be enacted by a de facto Kurdish authority exercising power and assuming decision-making rights within the Kurdish region of Iraq, irrespective of the central government in Baghdad. The resolution to hold a general election in Iraqi Kurdistan in May 1992 was a crucial element in this assertion of authority.[19]

This perception also becomes evident in Talabani's post-elections statements. First, Talabani rejected the idea that the elections should be seen as a step toward secession. This of course underlines the widespread idea that elections were perceived in the early 1990s as an essential step toward statehood. Yet, he also stated that he 'personally believe[d] that the elections proved that the Kurdish people are worthy of freedom and capable of engaging in democracy and the electoral process, despite the lack of experience' and that the 'Kurdish people can exercise government in their region and that they deserve to enjoy the right to self-determination within a unified

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[19] Kakai, *The Kurdish Parliament*, 118.

democratic Iraq'.[20] Mas'ud Barzani, when launching the regional election campaign, declared to his audience that

> These elections should demonstrate to the entire world that when our people are given the chance, we can run our own affairs. The world should see that we know how to practise and entrench democracy, and how to live with the freedom and dignity which we have lacked so far because we have not been given a chance to exercise these rights.[21]

And Finally, Hoshyar Zebari, a returnee from London and a key individual in the KDP's foreign relations efforts, declared in an interview for the National Public Radio's Morning Edition that

> We don't see a better alternative to this election, because we are in a race against time. We have to get our act together. We have to organize ourself [*sic*]. People accuse the Kurds – that they are unstable element in this area, they are unable to govern themselves, they are unable to run their affairs. We have to prove to the outside world that we are capable of that, and we will build democracy in our country for our people.[22]

The association of democratisation with aspirations for independence are evident as well in the reaction of neighbouring states, as well as Baghdad, to the elections. Baghdad was the most vocal among them in its reaction to the campaign. In correlation with the events in the northern governorates, it chose to change its delegitimation tactics. Whereas in the past Ba'th representatives chose to describe the Kurds as either agents of external powers or as a primitive element in Iraqi society, it now targeted the Kurdish leadership's ability to run regional affairs. Official governmental and Ba'th organs were quick to report real and invented calamities in

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[20] 'Talabani interviewed on Kurdistan elections', London: *Sawt Al-Kuwayt Al-Duwali*, 13 June 1992, p 5; as cited in FBIS-NES, 19 June 1992, p 23.

[21] *Voice of Iraqi Kurdistan*, September 29, 1991, as cited by BBC Summary of World Broadcasts, "Iraq Mas'ud Barzani Briefs Kurds on Negotiations with Government," ME/1192/A/1

[22] In an interview with Deborah Wang for the Morning Edition. National Public Radio, "Kurdish Elections will Focus on Autonomy," May 12, 1992.

the Kurdistan Region due to KRG's incompetence. In one instance, *al-Qadisiyya*, the

Iraqi army's organ, reported that 23 Kurds were shot dead by Talabani's people in the

city of Sumail, after demonstrating against Talabani and the PUK.[23] This report was

followed by a brief description about the chaos taking place in the Kurdistan region

on the eve of the elections. On the same date, *al-Thawra*, the Ba'th organ, claimed

that 39 Kurds died as a result of food poisoning, caused by grain imported from Iran

by Talabani's people.[24] A report in the same spirit, alleging popular upheavals in the

Kurdistan Region and clashes between the 'gangs' of Barzani and Talabani, also

appeared in *Babil*, a newspaper directed by Uday Hussein, Saddam's elder son:

> The angry protest demonstrations against what is known as the Kurdistan Front
> continued in the regions of Sulaymaniyah, Bdhinan and Chamchamal. The
> demonstrators protested against the actions of this front against the citizens of
> the autonomous Kurdistan region... [observers] added that the feelings of the
> protestors reveal the depth of the tragedy which this front has caused.

The article also elaborates on inner fighting between Talabani's and Barzani's men,

which also caused distress to the people of Chamchamal.[25]

The Ba'th government's anxiety about the elections even drove Saddam

Hussein to contemplate the idea of sending troops to the region in order to halt the

campaign, described as 'illegal' by the party's spokesman.[26] The national Iraqi News

Agency declared the elections to be "without a judicial foundation and obeyed no

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[23] Xinhua General News Service, "23 Kurds Killed in Demos in Northern Iraq," Baghdad, April 12, 1992, Item No. 0412110. Xinhua, the official news service of the People's Republic of China, was the only media network to publish the information. The Chinese government, it should be noted, was one of the few governments not to vote in favour of the establishment of the Kurdish safe-haven, preferring instead to abstain.

[24] *Ibid*

[25] Babil, "Fi Kurdistan.. tazahurat ihtijaj wa-musadamat baina jam'atai Mas'ud wa-Jalal" [in Kurdistan: protest demonstrations and clashes between the gangs of Mas'ud and Jalal], June 15, 1992, 1.

[26] Patrick Cockburn, "Baghdad Military Poised to Thwart Kurdish Elections," *The Independent* [London], May 12, 1992.

legal rule."[27] And when the KDP and PUK announced the establishment of the national unity government, based on the 50:50 agreement, the Iraqi official news agency accused the Kurdish leadership of "stealing fuel supplies sent by the government to northern Iraq, thus depriving the population there of required fuel" and thus causing "a strong wave of protests which is currently engulfing the governorates of Arbil, Dohuk and Sulaymaniyah."[28]

The Iranian and Turkish governments demonstrated nervousness as well – and they had their own reasons – a CIA report from September 1992 revealed that "The recent achievements of Kurds in northern Iraq have reinforced the commitment of politically active Kurds in Turkey to change their own status. Hoping to emulate the May elections in Iraq, some Turkish Kurdish activists… speak of holding unofficial "elections" in the southeast to form a local Kurdish parliament. Iranian Kurds have also become more active this summer, although not on a scale of their Iraqi and Turkish counterparts."[29] An Iranian semi-official daily asserted that Iran, Syria and Turkey "are principally concerned about the destabilising effects of the recent developments in northern Iraq, and their unpredictable outcome which could only benefit countries not directly involved in the region."[30] Turkey chose to cope with the elections in two ways: official silence on the one hand, and military action on the other. Thus, the Turkish governmental official news agency, *Ayın Tarihi* [history of the month], almost completely ignored the elections. The only mentioning was a short report, commenting that "It was announced by Massoud Barzani, the leader of the

[27] Agence France Presse (AFP), "Iraqi Government Denounces Kurdish Elections as Illegal," May 12, 1992.
[28] BBC SWB, "Iraqi News Agency Says Barzani's and Talabani's Followers Are Stealing Fuel Shipments," December 14, 1992.
[29] "The Kurds: Rising Expectations, Old Frustrations," *CIA National Intelligence Estimate*, NIE 92-27, September 1997, 3. <www.foia.cia.gov/docs/DOC_0000469140/DOC_0000469140.pdf> (April 9, 2011).
[30] AFP, "Pro-government Iranian Daily Slams Kurdish Elections," May 18, 1992.

Iraqi Kurdistan Democratic Party, that the elections in Northern Iraq, which were due yesterday, had been cancelled because of Jalal Talabani's request regarding 'the inefficiency of the ink in preventing multiple voting'."[31] Senior army officers, on the other hand, stated that the elections may lead to the continuation of instability and internal and regional violence. These statements were followed by a Turkish shelling of the region.[32]

To some extent, one may argue that the worry expressed by the Turkish, Iranian and Iraqi governments was not entirely baseless. Even if the KRG usually distanced itself from the idea of secession, others did view the elections as a sign of the Kurdish path toward independence. Washington watched closely the developments in northern Iraq as, much like Turkey and Iran, it believed that elections signalled secessionist aspirations. When Saddam Hussein threatened to send soldiers to hinder the elections, the US remained committed to the protection of the safe haven, warning Baghdad that such action may invoke an allied-reaction. Nonetheless, it stressed that "We and our coalition partners have made it clear to Saddam Hussein and the Iraqi regime that Iraqi forces should not engage in repressive actions against *the people of Iraq*."[33] Not only the US, but also UN agencies preferred to keep silent on the matter of the elections in Kurdistan. Fearing of enraging Saddam Hussein during this period of instability, and remaining loyal to the principle of territorial integrity, no UN agency took part in the elections, even not as observers. The only aid provided by the UN to the process was the provision of indelible ink and ballot boxes.

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[31] *Ayın Tarihi*, May 17, 1992, item 14.
[32] The Guardian [London], "Turkey Shells Kurds," May 5, 1992.
[33] Sid Balman, "US Warns Saddam not to Interfere with Kurdish Elections," *United Press International*, May 15, 1992 [italics added].

Albeit casting doubt at the ability of the elections to solve the real problems of the Kurdistan Region, "that nobody else has any control over," the UK-based weekly *The Economist* maintained that "The Kurdish "safe haven" in northern Iraq was never meant to be a state. That has not stopped the Kurds from organising an election."[34] John Gittings, a journalist and a researcher, linked, as well, elections and sovereignty. Shortly prior to the elections he stated that

> Next month the region's first free elections will be held in Iraqi Kurdistan - with 2.5 million ballot slips supplied by the UN - to earn the essential democratic credentials of the new age. *If that is not independence in action, what is*? The contrast with Ankara's repression in south-east Turkey will only become more marked...[35]

Michael Meadowcroft, as well, acknowledged the association between democratic elections and a change in the status of the Kurds. In one of his correspondences with regard to the elections he noted that "Also, given the continuing tension in the region, "successful" elections in the Iraqi Kurdish Autonomous Region will no doubt be valuable in enhancing the Kurds' status."[36] In fact, Meadowcroft seemed committed to the idea that complying with international norms of governance would lead to a change in the status of the Kurds. Already prior to the elections he encouraged the KF to try and sign the Geneva Conventions, writing to British Labour MP Ann Clwyd that "The conventions help identifiable groups within country – i.e. like the Kurds – themselves to accede to the Conventions, and we have been discussing the benefits of

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[34] "Independence by Stealth," *Economist* [London] 9 May, 1992, 65. The election campaign is described "a democratic statement, and a brave one."
[35] John Gittings, "World View: Good Kurds and Bad Kurds in the Geopolitical Conjunction," *The Guardian* [London], April 25, 1992, Features, 23 [italics added]. Noting that some do identify the elections as a positive step, Gittings also criticised the "bizarre" division of Kurds into 'bad' Kurds and 'good' Kurds, with the Kurds in Iraq belonging to the latter camp, while the PKK to the former.
[36] "A letter to Richard Northern from Iraq Desk at the FCO," May 2, 1991. MEADOWCROFT/4/12/1, A:\Kurds-92b

such action with Kurdish representatives here. They are keen to look into the possibility of their leaders signing the conventions."[37]

In sum, the 1992 elections marked a significant step on the path toward consolidating Kurdish sovereignty over the now "liberated" Kurdish provinces. This perception was shared by the Kurdish leadership, its neighbours and different members of the international community. The Kurdish decision to go for elections resulted, to a great extent, from its understanding that such a step is necessary to maintain its autonomy for international as well as domestic reasons. In retrospect, the emphasis on the elections process as a symbol of democratisation was indeed somewhat superficial and simplistic and, as shown later, also disastrous for the process of state-building in Kurdistan. But in 1992 it was viewed as a milestone in the process of change in Kurdistan, bringing about more developments in the process of state-building.

4.3 INITIAL STEPS OF STATE- AND INSTITUTION-BUILDING

As part of the unity government agreement between the KDP and the PUK, the two parties agreed to equally share the ministerial portfolios. For each ministry given to one party, a deputy minister was nominated from the other party. Each deputy minister had the right to veto decisions made by his minister. The premiership was given to Fouad Masoum of the PUK. At this time, Talabani and Mas'ud Barzani agreed not to take any official role in the KRG, other than the leadership of the PUK and the KDP respectively. The KNA was inaugurated on June 4, 1992 in Erbil and its principles and procedures were defined as: legislating laws; debating and deciding

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[37] "A Fax Sent by Meadowcroft to Ann Clwyd," May 15, 1991. MEADOWCROFT/4/12/1, B:Kurds-2.MM.

critical issues facing the Kurdish people, as well as determining the legal relationship with Baghdad; naming the PM; supervising the government; and more. Although subjected to constant interferences by the parties, the parliament did function as a sphere for public debate, even if a limited one. According to Stansfield, until 1996 the KNA held more than 200 ordinary and special sessions and promulgated 140 laws and resolutions.[38]

Soon, the newly established administration began to receive substantial aid from international organisations, governmental and non-governmental alike. The most urgent task for the Kurdish leadership, even prior to the establishment of the KRG, was the resettlement of the mass influx of Kurdish returnees and internally displaced refugees. This was done with the help of the UN High Commission for Refugees (UNHCR), as well as various INGOs. In fact, due to the Ba'th government's attitude toward foreigners, particularly from the US and the UK, most international aid to Iraq in the early 1990s concentrated in the Kurdistan Region. About 78 percent of the British Overseas Development Administration (later to become the Department for International Development) aid budget and about two thirds of the US Agency for International Development (USAID) budget in Iraq were directed to the Kurdistan Region. USAID and other international organisations in fact had their headquarters in the town of Zakho, in the north of the region on the Turkish border. They were soon joined by other organisations such as the German Caritas, the Australian CARE, Oxfam, Save the Children, Christian Aid and more. These organisations became even more important for the development of the Kurdistan Region. Whereas the UNHCR was forced to comply with Baghdad's demands and avoid any action which might

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[38] Indeed, the symbolic significance of the parliament is reflected by the fact that even during the fiercest chapters of the civil war, and even after the practical division of the KRG, the parliament remained unified and functioning, the only symbol for some unity. See Stansfield, *Iraqi Kurdistan*, 135-136.

have been perceived as a violation of Iraq's sovereignty,[39] many NGOs chose to ignore Iraqi demands and subsequently became "illegal." These organisations took upon themselves to resettle the Kurdish refugees and rehabilitate their destroyed villages. They also established hospitals in rural areas, while the UN set water sanitation projects in various villages in the region.[40] In addition, a new education system was established in the region, with schools built by INGOs and teachers' salaries as well as school feeding programmes, were funded by those organisations.[41] Kurdish was now introduced in the region as an official language of governance and education. Kurdification, as Natali refers to it, took place in media, public spaces (street names), and of course the education system, with schools and universities being established or reopened.[42]

Isolated from the rest of Iraq due to the embargo, the KRG was forced to develop an independent economic system. For instance, the embargo meant that the KRG did not adopt the newly introduced Iraqi Dinar, instead continuing to circulate the old Iraqi currency. This in fact saved it from the hyperinflation that hit the rest of Iraq during the 1990s,[43] but this was a very limited success. The task of building an economic system in the region proved to be impossible in the early years of the 1990s. International aid tried to revive local agriculture, which was devastated by the Anfal campaign. The international embargo, however, meant the closure of traditional markets for Kurdish products in Iraq. More importantly, international aid failed to mechanise agriculture in the region or to recover private industry which had existed

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[39] Disregarding, nevertheless, violations of SCR 688 by the Iraqi government and other forces.
[40] Sheri Laizer, *Martyrs, Traitors and Patriots* (London: Zed Books, 1996), 48. See also Stansfield, *Iraqi Kurdistan*, 52-58.
[41] Denise Natali, *The Kurdish Quasi State* (Syracuse: Syracuse University Press, 2010), 30-31.
[42] *Ibid*, 34.
[43] Stansfield, *Iraqi Kurdistan*, 49-50.

during the early 1980s.[44] The KRG made an effort to demonstrate that it could extract oil from the oilfields in its territory and established a national oil corporation, KurdOil, which was registered in, and run from, London. Nevertheless, the KRG had neither the capacity to extract oil in commercial quantities, nor the means to export it.[45] The attempts to extract and export oil, therefore, could be seen mainly as an effort by the Kurdish leadership to demonstrate to the international community its economic vitality, its ability to survive if only given the opportunity to administer its region. In other words, the initial efforts to extract oil in the region joined the democratic transition as another element in the construction of the KRG's de facto statehood.[46] Oil has always played an important role in the mind of the Kurdish leadership, which had hoped already in the 1970s to attract international support based on its potential to become an oil producing state. The small amounts of oil that were extracted oil were smuggled into Turkey in trucks through the Ibrahim Khalil border passage, near Zakho. Thus, the KRG remained reliant on the black economy of smuggling, which emerged as the main semi-private industry in the region.[47]

Their sincere desire to help the struggling Kurdish population notwithstanding, UN agencies and other NGOs were always cautious not to allow international aid to appear as undermining Iraqi territorial integrity. The aid from the beginning intended to rehabilitate the population, but not to build a Kurdish capacity for self-governance. Even works on infrastructure were impeded in order not to encourage Kurdish autonomy or make a controversial move with regard to the natural resources in the

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[44] Natali, *The Kurdish Quasi State*, 36-42

[45] PV Vivekanand, 'Kurds said exporting oil to Turkey', *Amman Jordan Times*, 21 April 1992, p 7; as cited in Michael Gunter, "A *de facto* Kurdish State in Northern Iraq," *Third World Quarterly* 14, 2 (1993), 301.

[46] The question of oil would become even more significant with the further consolidation of Kurdish de facto autonomy and the collapse of the Iraqi state in the aftermath of the 2003 invasion. I elaborate about this more in the following chapter.

[47] Natali, *The Kurdish Quasi State*, 48.

region. Aid also did not lead to major social transformations within Kurdistan. The family remained the main social network in the Kurdish individual's life, which particularly hindered the development of the status of women. In fact, during the first years of KRG's existence, the situation for women probably worsened.[48] Ba'thist centralisation legacies remained dominant in regional political thinking and the Kurdish leaders often preferred to consult their parties' politburos rather than the KNA. The efforts to aid the reconstruction of the Kurdistan Region without implementing substantial structural changes in both the economy and society, and with the constant attempt to limit the KRG's capacity for self-governance had the undesirable effect of turning the UN agencies and NGOs into an alternative for the former Ba'thist welfare state.[49]

Reviewing the inherent problems in the early 1990s aid campaign, two NGO activists in the Kurdistan Region, Ronald Ofteringer and Ralf Backer, have contended that "UN and nongovernmental organization activities… directed by the large donor nations, have actually obstructed the rehabilitation of Kurdish society and compromised the option of self determination."[50] This is a harsh judgement. In spite of its obvious problems, international aid was essential for the evolution of the KF into a de facto state. Probably unintentionally, the aid relief operations by INGOs also facilitated the nascent process of state-building in Kurdistan. It was this aid that initially provided the KF with some basic lessons on how to run the affairs of cities and civilian politics. It thus allowed the KRG to consolidate its domestic sovereignty within what now came to be known as "Free Kurdistan." Moreover, international aid did ease the conveyance of new norms into the Kurdistan Region. The elections in the

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[48] I elaborate on this in chapter 6.
[49] Natali, *The Kurdish Quasi State*, 30.
[50] Ronald Ofteringer and Ralf Backer, "A Republic of Statelessness: Three Years of Humanitarian Intervention in Iraqi Kurdistan," *Middle East Report* 187/188 (Mar-Jun 1994), 41

region constituted one factor in this transformation, but it was also supplemented by the creation of what Denise Natali has described as a "legal framework in which to integrate civil society into local authority structures, including laws that expanded the rights of ethnic and religious minorities and procedures for public demonstrations. Trade Unions, youth groups, media agencies, and local NGOs emerged and started to mobilize for educational reform, women's rights and individual freedom."[51] The INGO's role in constructing the KRG also provided these external actors with channels to actually express their views about good governance and tried to guide the KRG. The strategy that such organisations took was to bind together democracy with development and recognition, though such mechanism of action would become far more relevant in later decades.

Amid the difficulties, then, the KRG managed to establish its domestic sovereignty in the 'liberated territories' or 'free Kurdistan', as referred to by the Kurdish leadership and the Kurdish diaspora. This apparent success, as limited as it may have been, became a central principle in the KRG's construction of its "alternative legitimacy," to borrow Madsen's term,[52] in its interaction with the rest of international society. Trying to prove to the West that the KRG is a worthy object for protection and support, the KRG began to employ the discourse of "earned sovereignty," stressing its apparent success in democratisation and state-building. The most important theme in the KRG's campaign for international legitimacy was that of the KRG as an *experiment in democracy*, alternated sometimes with the term *democratic experiment*.

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[51] Natali, *The Kurdish Quasi State*, 33-34.
[52] See page 72.

4.4 CONSTRUCTING ALTERNATIVE LEGITIMACY: THE DEMOCRATIC EXPERIMENT AND THE INTERNATIONAL COMMUNITY

Perhaps the best example for the increasing dominance of the democratic experiment discourse in the KRG's campaign for international legitimacy was in a July 1992 meeting held in the Washington DC-based Carnegie Endowment for International Peace. In this meeting, representatives of the Kurdish parties presented their case as part of a meeting of the Iraqi National Congress (INC) – the umbrella organisation of opposition movement to the Ba'th government. Whereas the Anfal campaign, the Ba'th genocidal campaign which resulted in the death of at least tens of thousands of Kurdish civilians, was mentioned only once, at least 11 references were made to the democratic nature of the recently established KRG and of the Kurdish people in Iraq.[53] The term "democratic experiment" was brought up frequently to counter any challenges posed to the KRG's domestic and Westphalian sovereignty by one of its surrounding actors. When Turkey, Iran and Syria met in Ankara in November 1992 to discuss the development in northern Iraq, Talabani protested that "They [Turkey, Iran and Syria] start to think that they must forget their many differences and problems, and unite and scheme to destroy the Kurdish revolution, frustrate its democratic experiment, and take it back to the starting point."[54]

The same rhetoric was used to criticise internal opponents of the KRG. When PUK Peshmergas clashed with the militia of the Islamic Movement of Kurdistan toward the end of 1993, Talabani blamed Iran for interfering in the KRG's affairs, holding that it 'wants to cause tension and trouble in Iraqi Kurdistan and foil the

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[53] For the conference's proceedings see "Special Conference or Speech about the Middle East," *Federal News Service*, July 30, 1992.
[54] *Voice of the People of Kurdistan*, November 15, 1992, as cited by BBC SWB, "PUK Radio Criticises Ankara Talks on Northern Iraq," November 17, 1992, ME/1540/A/ 1

democratic experiment there'.[55] In another example, when Francis Yusuf Shabu, an Assyrian member of the KDP was assassinated in Erbil in June 1993, the KDP released a statement in which it declared that "The new and unique democratic experiment in Iraq's Kurdistan received the admiration of all democrats and freedom-loving people in the civilised world and drew the interest of many militant nations and movements."[56] And when the PKK renewed its attacks on Turkish targets from the KRG's territory without the latter's consent, Talabani came out against the PKK for 'working to abort our democratic experiment and remove our parliament'.[57]

The Kurdish discourse about the democratic experiment facilitated the Kurds in furthering their deliberation with the international community about the nature of statehood in general, and the Kurdish question in particular. A brief review of international media from the early 1990s reveals a vibrant discussion about both subjects. American and European commentators used the opportunity to criticise the international community's double standard in refusing to discuss the new reality in the region. David Keen, a British academic, urged the international community to increase its support for the Kurds in Iraq, highlighting as well the "Kurdish experiment in Democracy."[58] Julie Flint, a British journalist and a commentator covering the situation in post-war Iraq, criticised the West for not providing the essential financial help to sustain the Kurdish experiment in democracy: "Operation Provide Comfort still extends military protection against Saddam's worst excesses, but there is little concern for the economic protection without which the Kurds'

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[55] "Talabani Trades Charges with Islamists over Inter-Kurdish Clashes," *Mideast Mirror* 8, 4, January 7, 1994, Section: Iraq, Iran, Turkey.
[56] *Voice of Iraqi Kurdistan in Arabic*, June 2, 1993, as cited by BBC SWB, "Kurdish Assembly's Statement on the Assassination of One of Its Members," June 2, 1993 ME/1706/A
[57] Voice of the People of Kurdistan, October 2, 1992. As cited in BBC SWB, "PUK Radio on Talabani's Speech to Kurdish Parliament; Warning Given to the PKK," October 5, 1992, ME/1503/A/1
[58] David Keen, "Letter: Growing Danger for the Kurds," *the Guardian* [London], Features Page 19, June 30, 1993.

democratic experiment cannot succeed."[59] Although much rarer, one could also find voices within the Arab world that called for some reconsideration of the status of the Kurds. One Arab commentator, for instance, stated in 1993 that

> With regard to Iraq, my opinion is that the Kurdish issue must not be solved partially in Iraq alone, but its solution must be comprehensive, as it might weaken the Iraqi state especially since Iraqi Kurdistan includes the lion's share of Iraq's oil richness. This, nevertheless, should not undermine the importance and the need to establish a democratic regime in Iraq, which would give the Kurds autonomy or a federal entity within the framework of the unified Iraqi state, in the form of a federal union.[60]

An even more remarkable sign for the increasing legitimacy of the Kurdish de facto autonomy was a meeting held between King Hussein of Jordan and Barzani and Talabani. For the King it was an opportunity to distance himself from his earlier support of Saddam Hussein.[61] Though Talabani and Barzani were formally welcomed as Iraqi oppositionists, rather than Kurdish liberators, this was the first time in which a prominent Arab leader publicly met with the two symbols of the Kurdish national liberation in Iraq since Nasser's days.

Whereas the West preferred to shun away from the Kurdish question in northern Iraq, trying to observe the developments in the region without directly interfering, Turkey's approach to the KRG went through some important, even if limited, transformations. Truly, the elections in the Kurdistan Region alarmed Ankara, which was one of the main veto-powers with regard to any change in the status of the Kurdistan Region. Soon, nevertheless, the True Path Party-led government in Ankara,

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[59] Julie Flint, "Cry Freedom or Cry Food," *the Guardian* [London], Features Page 16, July 27, 1993.
[60] Mahmoud Azmy, "Kad tufaidhu al-Ummum al-Mutahadda kul shai illa al-demokratiya," *Al-Hayat* 10998, March 23, 1993.
[61] "King Hussein Meets Saddam's Foes, Distances Himself from Iraqi Leader," The Associated Press, September 19, 1992.

under the premiership of Süleyman Demirel, recognised some potential for cooperation with the KRG. The instability in the Kurdistan Region in the aftermath of the Gulf War provided the PKK with an opportunity to establish bases on the Turkish border from which to attack Turkish targets. Because of its dependence on Turkey, and because of its need for international legitimacy, the KRG seemed to Turkish policy-makers as a potential partner in its plans to remove PKK elements from the border region. The main challenge for Ankara was to come up with a policy which would allow it to cooperate with the KRG without enabling Kurdish secessionist aspirations and plans. Almost paradoxically, both Barzani and Talabani became welcomed guests in Ankara, meeting the most senior Turkish officials, including Demirel and President Özal.[62] Already in November 1992 Barzani and Talabani were provided with Turkish passports, which allowed them to travel freely outside of Iraq and Turkey, a decision that stirred some controversy within the Türkiye Büyük Millet Meclisi (TBMM), the Turkish Parliament.[63] Additionally, both the KDP and PUK were allowed to open official representations in the Turkish capital, which were important for the liaison between the Kurdish parties and the Turkish leadership. Soon these offices came to function as quasi-embassies hosting parties and meeting with representatives of other states. The discussions in these offices revolved around "security matters, political developments in the region, relations with neighbouring countries and with Europe, etc."[64] Naturally, this enraged Ankara, which realised that

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[62] In his July 25 meeting with Özal, Barzani promised the Turkish President that attacks on Turkey from the region [namely PKK attacks] have been tackled by the Kurdish authorities. *Ayın Tarihi*, July 25, 1992, item 1.

[63] One Turkish MP, Mustafa Dağcı, representing the Kayseri region, presented a motion in which he requested an oral reply from President Özal about the "giving of Turkish passports to *Iraqi citizens* [italics added] Mas'ud Barzani and Jalal Talabani." See Türkiye Büyük Millet Meclisi Gündemi [agenda of the TBMM], 25th meeting, November 11, 1992, motion 260 (6/422), p. 25. The Iraqi ambassador to Ankara also protested against this move, claiming that such action hastens the disintegration of Iraq. *Ayın Tarihi*, July 28, 1992, item 8.

[64] Åsa Lundgren, *The Unwelcome Neighbour: Turkey's Kurdish Policy* (London: I.B Tauris, 2007), 86.

its policy was in fact enhancing the autonomy of the KRG.[65] These representations also "contributed to the economic survival of the Kurdish de facto state."[66] And later they came to serve as a model for other representations later to be opened in other capitals, such as London, Washington DC and Paris, to begin with.[67]

On the other hand, Ankara did gain some cooperation with the KRG with regard to the PKK. Throughout the first half of the 1990s, Turkey launched several incursions into the Kurdistan Region. The largest of them took place on March 20, 1995, when about 35,000 Turkish soldiers invaded Iraq in an operation which lasted 43 days. Although Ankara did not publicly acknowledge such cooperation, one observer noted in 1993 that "Cooperating with Turkey to the north, where 10 million Kurds live, Pesh Merga fighters behind Massoud Barzani successfully took on the Marxist terrorist Kurds. This helps remove Turkish fears of a territorial threat from an autonomous region that might turn into an *independent country called Kurdistan*."[68] After 1997, Turkey ceased to launch large-scale operations, but still kept standing forces within the KRG's territory, whose numbers, according to some estimates, may have reached 8,000.[69] As Mahmut Bali Aykan suggested, such intervention could be taken only under the auspices of operations Provide Comfort and Poised Hammer, as they legitimised the violation of Iraq's (in reality the KRG's) territory.[70]

One may say, therefore, that when it came to Turkey, the KRG had taken a different line in its attempt to prove its earned sovereignty. Under Turkish pressure, it

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[65] It is interesting to note that since its establishment, the Turkish government has never referred in its official publication to the regional governing body of the Kurdistan Region as government [*hükümet*], but rather as an administration [*yönetim*].

[66] Lundgren, *The Unwelcome Neighbour*, 77.

[67] A method employed by other de facto states, such as Taiwan. See page 84.

[68] William Safire, "The Kurdish Example," *The New York Times*, May 13, 1993, 23.

[69] Although the KDP insisted that their numbers did not exceed 1,300. *Ibid*, 82.

[70] Mahmut Babli Aykan, "Turkey's Policy in Northern Iraq, 1991-1995," *Middle Eastern Studies* 32, 4 (Oct. 1996), 355

preferred to highlight its ability to contribute to regional stability, through countering the undermining element which was the PKK. It should be noted that the KRG had its own interests in countering the PKK. The latter movement, still facing a coherent and efficient war machine, i.e. the Turkish military, was far more radicalised than the PUK and the KDP. Its leadership considered the withdrawal of the Iraqi state from the region as an opportunity to establish an independent Kurdish state and was highly critical of the KRG for not making this step.[71] Its policy of launching attacks against Turkish targets was part of the challenge it set to the KRG. On the other hand, one should not underestimate the dilemma facing the KRG in cooperating with Turkey. Not only did it sympathise to some extent with the PKK, as another Kurdish national liberation movement, but, by consenting to Turkish incursions, even grudgingly, and with not much choice, the KRG became exposed to domestic criticism.

In 1994, the Kurdish endeavour to consolidate domestic sovereignty over the three "liberated" provinces in northern Iraq suffered from a major setback, as the KRG plunged into a devastating internecine war between its two leading elements, the KDP and the PUK. This war resulted in the administrative division of the KRG and set a major challenge to any attempt to legitimise the KRG in the future.

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[71] A 1991 report by the CIA identified the challenge that the PKK set to the KRG, stating that "The left wing anti-Turkish Kurdish Workers' Party is offering disaffected Iraqi Kurds an even more radical option. It has formed the Kurdistan Freedom Party in northern Iraq may attract some younger Kurds frustrated by the apparent inability of the old-guard leaders to obtain concessions from the regime in the autonomy talks." See "Special Analysis: Iraq, Kurdish Radicalism on Rise," *CIA National Intelligence Daily*, September 27, 1991.

4.5 THE DESCENT INTO A CIVIL WAR AND THE DEMISE OF THE EXPERIMENT IN DEMOCRACY

Factionalism has been endemic in the Kurdish nationalist movement from its early days and partisan affiliation had served as a source of armed clashes on various occasions, all over Kurdistan. Already during the late 1970's, the PUK and the KDP were fighting each other over territory and control. Some have tended to blame internal fighting on the tribal nature of the Kurdish society.[72] Tribalism may have played a part in the civil war, as tribal forces were mobilised by both parties against the other. But such a claim, nonetheless, is essentialist in nature. Civil wars and internal conflicts erupt under various circumstances and ideology, often, is of no less importance than so called "primordial" sentiments. Defining the PUK as a tribal actor ignores the fact that the movement was founded by urban intellectuals with Marxist inclinations. Even in the KDP, led over long periods by the tribal leader Mullah Mustafa Barzani, the power of tribal elements had waned down during the 1970s. Rather, power political factors can better explain the descent into a civil war.

The prelude to fighting between the PUK and the KDP were the armed clashes between the PUK Peshmergas and the IMK fighters. Led by 'Uthman 'Abdul 'Aziz, the IMK forces managed to take over several towns, including the town of Halabja, and establish there a short-lived enclave toward the end of 1993. Those, nevertheless, were soon retaken by the PUK forces. However, developments during the month or so of fighting exposed the rift between the PUK and KDP and intensified mutual distrust and suspicion in the region. The PUK Peshmergas, under the leadership of the Minister for Peshmerga Affairs, Jabar Farman, refused to adhere to the orders of

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[72] e.g. Stephen Pelletiere, *Kurds: an Unstable Element in the Gulf* (Boulder: Westview Press, 1984); Hussein Tahiri, *The Structure of Kurdish Society and the Struggle for a Kurdish State* (Costa Mesa: Mazda 2007).

Barzani, who functioned as a member of the presidential council, to restrain the fighting. Rather, the PUK forces inflicted heavy losses upon the IMK supporters. This exposed the fragile decision-making process within the KRG and essentially marked the beginning of the deterioration into civil war.[73]

The fighting was triggered by a minor land dispute between junior members of the KDP and the PUK in May 1994. Several reasons have been thought to explain the breakout of civil war. Gunter, in one observation, blames disputes over the income from taxes levied on smugglers at the Ibrahim Khalil border passage, as a cause for eventual deterioration into war. The KDP's dominance in the area of the border passage led to tensions about the use of income from the border.[74] Elsewhere, he mentions the PUK's assumption that changes in the balance of power in the KRG, following the joining of Sami 'Abdul Rahman's Kurdistan Unity Party to the KDP, made its leadership believe that it could not win the 1995 elections, which eventually drove it to launch a military coup, instead.[75] Gareth Stansfield traces the sources of the war, at least partially, to inherent flaws in the democratic experience. Rather than relating it purely to greed, he also hinges the fighting in the Kurdish lack of experience with running civilian affairs and the Kurdish zeal toward democratisation. As each member of the KF had a veto power over the government's decision, decision-making processes in the region became sluggish and inefficient. The inability to reach political decisions and negotiate eventually led to military clashes.[76] Burhan Jaf, in contrast, blamed the eruption of war on personal rivalries between Talabani and

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[73] Michael Gunter, *The Kurdish Predicament in Iraq: a Political Analysis* (New York: St. Martin's Press, 1999), 75-76.

[74] *Ibid*, 78.

[75] Kurdistan Democratic Party Research Department, "What Happened in Iraqi Kurdistan? May 1994," June 1994, 7. As cited in Michael M. Gunter, "The KDP-PUK Conflict in Northern Iraq," *The Middle East Journal* 50, 2 (Spring, 1996), 232.

[76] Stansfield, *Iraqi Kurdistan*, 123-124.

Barzani, amplified by the intervention of external actors, such as Iran (through the IMK).[77]

The local clashes between the Peshmerga forces soon deteriorated into a full scale civil war, whose brutality exceeded any past conflict between the two parties. Both parties committed atrocities against each other, such as executing prisoners from each others' camps, or using torture methods which seemed to be taken straight from the Ba'th prison chambers. First mediation efforts were initiated by Ankara, which witnessed how regional instability contributed to a surge in PKK activism. It was also joined by members of the Kurdish diaspora. Talks took place in the Kurdish Institute in Paris and were observed by Turkish, British and American representatives in addition to prominent members of the Kurdish diaspora, such as Najmaldin Karim and Kendal Nezan. The talks resulted in a short cease-fire, which was interrupted, paradoxically, due to Turkish refusal to allow the PUK delegation to travel to Paris through its territory.[78]

The second round of fighting witnessed the continuation of brutality and bloodshed, with cases of unlawful and deliberate detention of combatants, executions without trials, and even the killing of civilian protesters and political activists as condemned by Amnesty International (AI).[79] During the fighting both parties relied heavily on external support, with Syria, Iran and the PKK occasionally supporting the PUK and Turkey providing assistance to the KDP. The low point of the conflict, however, took place in January 1995, when the KDP turned to Saddam Hussein for help against the PUK forces that captured Erbil. Upon their entrance to Erbil, the Iraqi

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[77] Burhan Jaf, "The Iraqi Kurdish Conflict: the Problem and Its Solution," *al-Quds al-'Arabi* [London], translation provided by Mideast Mirror 9, 147 (August, 1995).
[78] Gunter, *The Kurdish Predicament*, 78.
[79] *Ibid*, 80.

forces rounded up and executed members of the INC that were taking refuge in the region, in what was probably the price demanded by Saddam Hussein for his intervention.[80] The PUK forces fled to the mountains, only to retaliate later in 1996, occupying Sulaymaniyah with the help of Iranian forces. The final round of fighting took place in 1997 but did not change the territorial realities set in 1996. On September 17, 1998 Talabani and Barzani signed a peace agreement, brokered by American president Bill Clinton. In this agreement, the Kurdish leaders declared their intentions to unite, willingness to counter PKK fighters in the region, and denying the entrance of Iraqi troops into the region.

The war had a devastating impact on the KRG and its process of state-building. Although there is no validated statistical data, it is estimated that it resulted in the death of thousands of Kurds and the deportation of tens of thousands from their homes. It caused the destruction of infrastructure and in fact wiped out almost any development achieved by the KRG. It greatly hampered the activity of NGOs in the region, mainly due to the predatory policies of local warlords, levying taxes on, and sometimes even commandeering, aid products. The Iraqi incursion into the region led all government-supported American NGOs to "leave in fear of Iraqi reprisals against them."[81] Perhaps most devastating to the Kurdish cause was the division of Kurdistan into two separate administrations, one led by the PUK and controlling the Sulaymaniyah governorate; and the other covering the Erbil and Dohuk governorates, and ruled by the KDP. The KNA remained standing, but now lost any significance as a platform for debate and argumentation about the future of the Kurdish cause. Each

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[80] According to a CIA agent interviewed by Quil Lawrence. See Quil Lawrence, *An Invisible Nation* (New York: Walker & Company, 2005), 84.
[81] As stated in Kenneth Katzman, "Iraq: Oil-For-Food Program, International Sanctions, and Illicit Trade," *Congressional Research Service Report RL30472*, April 16, 2003, 11. One may assume that this was a punitive step against the KDP.

region was now run by an independent administration with its own ministries and security forces. Movement between the new regions was severely limited and so was collaboration with regard to the fighting against Baghdad, at least in the first post-war years.

The division and self-inflicted devastation of Kurdistan heavily damaged the KRG's image and the legitimacy it had managed to obtain during the first years of its existence. In particular, the KDP's turning to Baghdad projected negatively on the image of Kurdish domestic sovereignty. One report portrayed the fighting as the "undeclared demise" of the Kurdish rule over their territory, as it "could prompt its Western protectors and regional powers to tolerate an intervention by President Saddam Hussein's forces."[82] Similar views were held by Kurdish politicians and intellectuals. Jaf, for instance, argued that "the Kurdish democratic experiment has failed," adding that "Unfortunately, the collapse of the free-Kurdistan experiment is more possible now than ever before, and the principal reason is the intra-Kurdish strife."[83] Fawzi al-Atroushi, a pro-autonomy Kurdish journalist, sadly noted that "the outcome of what gathered today has tainted all the songs of praise which we composed for the right of this experiment, referred to as democracy, in Iraqi Kurdistan."[84] The Kurdish movement in Iraq, he contended, "is the gravity centre for the entire Kurdish nationalist movement and the sinking of the Kurdish project in Iraq, its entry into a dark tunnel and the fading of the glowing shine of the Kurdish

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[82] Mideast Mirror, "Undeclared Demise of the Local Kurdish Administration," The Arab/Islamic World 8, 101 (May 27, 1994).
[83] Jaf, "The Iraqi Kurdish Conflict"
[84] Fawzi al-Atroushi, "Arb'a sanawat min al-idara al-Kurdiya… hissad murr" [four years to the Kurdish administration… a bitter harvest], *al-Quds al-'Arabi*, July 27, 1996. Appears in Atroushi, *Maqalat hawl al-qadhiya al-Kurdiya* [articles on the Kurdish question] (Erbil: the General Director of Arts and Culture, 2000), 149.

parties in the region was a striking blow to the extension of this movement all over Kurdistan…"[85]

In spite of the demise of its political structure, the autonomous region remained geographically intact. The gloomy predictions about Western abandonment of the region proved false. Neither Iraq nor any other regional actor moved to wipe out the KRG, though all tried to increase their political influence in the region. Turkey still had soldiers stationed a few kilometres into the Kurdistan Region, but that was mainly in order to counter PKK activism and, as noted above, had a silent consent from the side of both parties. There are several explanations for the survival of the Kurdistan Region as a single unit. First, the Kurdish affiliation with the INC and the potential help that the Kurds could serve in counteracting Saddam Hussein drove the Clinton administration to carry on protecting the region. Although Clinton considered the KDP's invitation of the Iraqi security forces to the region as no less than a betrayal, he was personally involved in brokering peace between both parties.[86] Second, the survival of Saddam Hussein as a president played in the Kurds' favour. Facing such a pariah as the Ba'th regime and the memories of his past genocidal policies probably contributed to the continuation of moral support for the Kurdish autonomy. During the period of fighting, one of the most comprehensive and reliable studies of the Anfal campaign was compiled and published by Human Rights Watch, which provided a rather detailed description of the atrocities of the Ba'th regime.[87] The publication of the atrocities further boosted the activity of diaspora organisations, which became vocal again with regard to Kurdish human rights in the countries of

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[85] *Ibid*, 152.

[86] As stated in a New York Times report on the peace agreement, "Despite his betrayal of the United States the Administration has decided that it cannot give up on Mr. Barzani, because his deal with the Iraqis had turned him into the dominant Kurdish leader." See Philip Shenon, "Two Kurd Groups Unite Against Baghdad in Pact Brokered by U.S.," *The New York Times*, September 18, 1998, 8.

[87] HRW/ME, *Iraq's Crime of Genocide: the Anfal Campaign against the Kurds* (New Haven: Yale University Press, 1995)

origin.[88] And it may have been the fact that the KRG in reality served the interests of its neighbours. After all, the Kurds proved willing to allow both Turkey and Iran to maintain their "hot pursuit" policy in the region in order to counter the PKK and the KDP-Iran respectively.

Finally, Gareth Stansfield brings up an interesting point with regard to the division. As he argues, the division, in spite of its potential demoralising effect for the Kurdish nationalist cause, in fact gave the Kurdish leadership an almost unprecedented opportunity for reorganising and streamlining their governance and stabilising the regional political system. Now relieved of the fixation on personal and party-based rivalries, the ruling parties could focus on "being governments rather than parties."[89] Furthermore, and of great relevance to the aspect of interaction in the development of de facto states, due to the new reality "twice as many bureaucrats have been exposed to the experience of governance, UN interaction, and NGO assistance. The Kurds… now have a substantial body of trained administrators. The capability of Kurds to govern their own country has obviously been enhanced by these actions."[90] The implementation of the Oil for Food Programme (OFFP) based on UNSCR 986 served as an important factor in the survival of the Kurdish autonomy. It provided an incentive for the Kurdish leaders to cease fighting; it further enhanced the KRG's autonomy; and it immensely improved the economic situation of the Kurdish administrations, which served to distinguish the KRG from the rest of Iraq. The importance of the OFFP necessitates some special attention to its implementation and execution in the Kurdistan Region by UN agencies.

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[88] Ann-Cartin Emanuelsson, *Diaspora Global Politics: Kurdish Transnational Networks and Accommodation of Nationalism*, (PhD Dissertation Göteborg University, Sweden: Department of Peace and Development Research, 2005).

[89] Gareth Stansfield, "Governing Kurdistan: the Strengths of Division," in *The Future of Kurdistan in Iraq*, edited by Brendan O'Leary, John McGarry, and Khaled Salih (Philadelphia: University of Pennsylvania Press, 2005), 203.

[90] *Ibid*, 4.

4.6 THE OFFP AND THE KRG: INTERNATIONAL AID AND THE CONSOLIDATION OF AUTONOMY IN KURDISTAN

The OFFP programme enabled the KRG, for the first time, to enjoy income generated by the oil extracted in Iraq. In short, the OFFP was an effort by the UNSC to fund the aid-relief operations to Iraq, without completely removing the sanctions regime. The programme allowed Iraq to trade oil in return for the basic necessities of its population, namely food and medicine, without allowing the Iraqi government to sponsor the purchase of arms and other means of warfare. In 1996 Iraq was allowed to sell approximately $2 billion worth of oil with the sum growing every year until 2000. The three Kurdish provinces, now ruled by two administrations, were entitled to 13% of the income, divided proportionally between the governorates.

Whereas in Iraq itself the income from the OFFP was run by the Ba'th government, as part of the agreement between the UN and Baghdad, income to the Kurdistan Region was administered by a UN agency. This had a paradoxical implication for the autonomy of the now divided Kurdish administration. On the one hand, the fact that money was now run by an external agency somewhat compromised the legitimacy of the Kurdish leaders as the main authority in the region. Even though the UN agencies running the OFFP cooperated with regional authorities, these agencies remained the top authority when it came to the allocation of funding. On the other hand, the UN administration meant that the allocation of funding was done more efficiently than in the rest of Iraq. In fact, money flowing from the OFFP resulted in a financial boom and a period of relative economic stability in the region. Certainly, it improved the situation in the KRG in comparison to Iraq. Amid descriptions of starvation in the rest of the country, one report noted that in 2003, food in the three

Kurdish provinces became "relatively abundant."[91] It led to the reduction of child mortality in the region between the years 1994 and 1999,[92] as well as to an essential reconstruction campaign of houses and infrastructure in the region. Describing the region during the late 1990s and early 2000s, American journalist David Hirst claimed that

> It can't be said that prosperity has come to Iraqi Kurdistan - it would take three months of a teacher's salary to buy the pair of Italian women's shoes on display - but it's obvious that these northern provinces, which until 1990 were the most backward, deprived and oppressed of President Saddam Hussein's domains, are now much better off than those where his writ still runs. There are Mercedes, even an occasional BMW, on newly paved highways. Hotels are opening, and open-air restaurants flourish beside mountain streams. There's a tourist industry too, mainly summer visitors from the Kurdish diaspora, or Iranians who cross the border for a weekend's dancing, drinking and veil-free relaxation.[93]

Reviewing the situation in Kurdistan, Michiel Leezenberg held that "At first blush, Iraqi Kurdistan seems the Neoliberal success story of post-Saddam Iraq. For decades a poor, underdeveloped and conflict-ridden part of the country, it has emerged as by far the most stable, secure and prosperous region… especially since the start of the UN oil-for-food programme in 1997."[94] This new reality led Shafiq Qazzaz, then the Minister for Humanitarian Affairs, to maintain that "it was 986 that saved us."[95]

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[91] Katzman, "Iraq: Oil-For-Food Program," 8.

[92] A USAID report from 2003 noted "an overall decline from 80 to 72/1,000 for under five-year-olds and from 64 to 50/1,000 among infants" in the "Kurdish autonomous region" amid an increase from 47/1,000 to 108/1,000 in "Center/South regions." See Richard Garfield and Ron Waldman, "Review of Potential Interventions to Reduce Child Mortality in Iraq," *Basics II USAID Report*, November 5, 2003, 7.

[93] David Hirst, "Kurds Reap Sanctions Reward: Oil for Food Feeds Them, but Iraq Reins Development," *Washington Times*, August 15, 2001, 10a.

[94] Michiel Leezenberg, "Iraqi Kurdistan: Contours of a Post-Civil War Society," *Third World Quarterly* 26, 4 (2005): 631.

[95] As quoted by Hirst, *Ibid*.

The new economic boom in the region also drove both PUK and KDP to prefer stability over internecine fighting. The new resources meant fewer reasons for competition and perdition. As Denise Natali states, the OFFP aid created, unintentionally, a new class of nouveaux riche, mainly among the tribal leaders and political officials, and did not just enrich the leaders of the political parties. Enjoying the new avenues for wealth generation, the now divided administration stopped fighting for power and began to develop their respective regions. Although not aiming to develop a private sector, the aid and its distribution allowed the emergence of an entrepreneur class of NGOs and contractors that acted as the operating hand of the aid organisations, and contracts and subcontracts earned millions of dollars to the local population. Even small businesses began to flourish and small factories were established all around the region. From 1995 to 2000 the total number of small industrial projects reached 608, with all but two owned by the private sector. [96] The Washington Agreement was, to a great extent, the product of this realisation.

Although an outcome of external intervention, this renewed stability helped the KRG regain some of the legitimacy it had lost during the civil war. Once again the region came to be described as an island of stability, in contrast to the rest of Iraq. Furthermore, it provided the two administrations, separately, with more opportunities to develop informal diplomatic ties with other actors in the region and particularly Turkey, as various Turkish contractors and firms found economic opportunities in the region, particularly in the post-2003 period. Thus, Barzani, in a visit to Ankara, in addition to stressing the KDP's commitment to fighting the PKK, also declared on the financial opportunities waiting for Turkish contractors in the region, stressing that 'We prefer Turkish contractors because of Turkey's proximity and maintenance

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[96] Natali, *The Kurdish Quasi States*, 56-58.

facilities'.[97] Turkey, in turn, acknowledged the increase in stability and safety of northern Iraq and south eastern Anatolia. Officially, though, it related it to the capture of Abdullah 'Apo' Öcalan, the PKK's wanted leader, on February 15, 1999 and the "dissolution of the PKK terror organisation."[98]

Natali views the OFFP as signalling a transition in the nature of international aid from revolving mainly around relief operations to now focusing more on rehabilitation. This new stage meant increased interaction between Kurdish population and international and transnational actors, which contributed to the gradual consolidation of a nascent civil society in the region. Using OFFP income, UN agencies that now returned to the region, and especially the United Nations Educational, Scientific and Cultural Organization (UNESCO), began devoting some of their resources to training members of the KRG. As Natali describes

> Even after the civil war ended, UN officials negotiated ongoing disputes between the parties and quelled potential conflicts. They taught principles of good governance, negotiation, and administration by conducting regular meetings with KRG representatives and incorporating local personnel into legitimate bodies. KRG representatives and local populations were liaised with the UN gained professional experience and language skills, while learning about the policies and protocols of international organizations.[99]

The rehabilitation programme also introduced more openly new standards of good governance to the administrations, mainly through the education system. Subsidised by independent INGOs and UNESCO, "education departments now established new

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[97] As cited in Ilnur Cevik, "KDP Wants Turkish Probe into the Conditions of Turkomans; Barzani: Our Own People Want Us to Fight the PKK," *Turkish Daily News* [Ankara], May 11, 2001.
[98] As stated by Mehmet Tahir Köse, an MP from the coalition Democratic Left Party in the TBMM. Although elements within the Turkish administration profiteered out of illicit trade during the embargo and after the launching of the OFFP, Köse added that "the [UN] embargo had a bad impact upon us, with the Oil for Food Programme providing us with a limited, somewhat mitigated, benefit." See TBMM Tutanak Dergisi [official minutes of TBMM] 22, 43, December 12, 1999, 19.
[99] Natali, *The Kurdish Quasi States*, 53.

courses for civic society and human rights that were integrated into primary and secondary school programs."[100] The rise of prices and taxation in the region also resulted in the creation of regional labour and professional unions which now lobbied for their sectors in issues such as taxation, disputes over contracts and protection of workers and businesses. One example was the Kurdistan Contractors Union (KCU); established in 2001, which soon spread across all three provinces.[101]

Much like the preceding stage of international aid, nonetheless, UN agencies and other aid organisations were somewhat confined by the necessity to prevent aid from compromising Iraq's territorial integrity. The best way to do so was to limit the KRG's ability to develop independent governance capacities. As Natali documents, "Aid allocations increased over time; however, the KRG still could not purchase the necessary equipment to make investments, build technology, stir local production, engage in legal import-export activities, or develop taxation programs."[102] Kurdish officials had no role in the process of decision-making with regard to the OFFP policies and did not participate in meetings between programme officials and representatives of the Baghdad government. With the division of administrations, UN agencies were now functioning as all-regional ministries with UNOHCI as a council of ministers, HABITAT as a ministry of housing and reconstruction and UNICEF as a ministry of water and sanitation"[103] Even in terms of economic development, international aid mainly enhanced Kurdish dependency on aid. As the embargo was still implemented, local products could not be purchased by aid organisations, which instead imported food into the region. This naturally hindered any development of local agriculture. Very little effort was undertaken with regard to social problems in

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[100] *Ibid*, 58.
[101] *Ibid*, 58-59.
[102] *Ibid*, 60.
[103] *Ibid*, 70-71.

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the Kurdistan Region, and particularly the exclusion of women from socio-economic life. On the other hand, the Kurdish leadership's refusal to declare Kurdish independence and turn their region in a first step toward a Kurdish state, drove nationally conscious youth in the region into the arms of the PKK and other more radicalised groups.

In spite of its inherent problems in the nature of the OFFP, one may argue that this aid operation was necessary for the survival of the enhancement of Kurdish autonomy from Iraq. Even if, toward the end of its first decade of de facto autonomy from Baghdad, Kurdish leadership's self-governance capacity remained somewhat limited (mainly due to the civil war and the division of Kurdish administration), its sense of independence from the rest of Iraq, at least at the identity level, was actually bolstered.

This was further reinforced by the importance that the Kurdish parties gained as part of the anti-Ba'th coalition. On the 31st of October, 1998, President Clinton signed the Iraq Liberation Act of 1998, which declared that the American intention was to remove President Saddam Hussein from power and to promote democratic governance in Iraq.[104] Regime change in Iraq was to take place through domestic opposition groups. The designated groups included the PUK, KDP, and the IMK, in addition to the Iraqi National Accord, the Movement for Constitutional Monarchy and the Shiite Supreme Council for Islamic Revolution in Iraq.[105] The inclusion of both parties in the act meant that the two regained some of the administration's confidence in their ability to assist in the battle against Saddam Hussein and in the

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[104] As the Act noted: "It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime". See US 105th Congress, "Iraq liberation Act of 1998," Public Law 105-338, 112 Stat. 3178, October 31, 1998.
[105] For a brief review of the constitution of the Liberation Act see Tripp, *A History of Iraq*, 277-282.

democratisation of Iraq. It also meant that both parties now had access to direct American funding, which they were denied following the Iraqi army incursion into Erbil. This was preceded by the enactment of Operation Northern Watch on the 1st of January, 1997. Much like previous operations, this one as well required Turkish consent and implicit support through the use of the Incirlik airbase. Turkey consented to a six-month use of the airbase with the option of extending the use for two consecutive six-month periods, although it stressed that such use would not become permanent.

The stabilisation of the region and the reincorporation of the Kurdish parties in the anti-Ba'th coalition revived the Kurdish public diplomacy efforts. Once again, the Kurdish leadership sought to exhibit the Kurds' ability to run their own affairs. Amid limited developments in the region during the latter half of the 1990s, the leadership resorted to underline the democratic experiment and the KRG's potential to serve as a model for Iraq's future. Barham Salih, then the prime minister of the PUK-controlled Sulaymaniyah administration (later to become the second PM of the reunified KRG), used the term "a model for Iraq" to define the KRG, holding that 'Peace and stability in the strategically vital gulf area will come only from fundamental political change in Iraq and by building on the democratic experiment that has taken root in Iraqi Kurdistan'.[106] Mas'ud Barzani described the KRG in a similar way in an interview in 2002, contending that 'I cannot claim that the democratic experiment in Iraqi Kurdistan is ideal and without defects. However, when we compare it with what exists around us and in Iraq itself, I think that it was a unique experience and can be applied

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[106] Barham Salih, "A Kurdish Model for Iraq," *The Washington Post*, December 9, 2002, 23a.

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in all Iraq'.[107] And Fawzi al-Atroushi as well linked between Kurdish identity and democracy. Criticising young Kurds who posed as Arabs in order to get political asylum in Europe, he stated that

> [W]e do not see any reason as to why the need to wipe out ones identity, at a time when Kurdish generations joined the national struggle and shed rivers of blood and tears in the defence of the Kurdish identity, which its manifestations can be seen in the current Kurdish democratic experiment, which is reaping the harvest of certificates of appreciation, Allah Be Blessed, from prominent international circles, after peace and progress prevailed in the Kurdistan region.[108]

Atroushi's statement was not coincidental; toward the end of the 1990s and early 2000s the UK, one of the main destinations for Kurdish asylum seekers, decided to remove the KRG from the list of those regions whose people are entitled for political asylum. This decision followed a prolonged debate within the UK which revolved around security and stability in the region, functioning of the local administration and its ability to provide its population with basic needs. The British government justified its decision by arguing that "it does not matter who the authorities are, as long as they are in control and are able to provide state or quasi-state protection."[109]

These statements reflect that once again, after the setback which the civil war posed, an international public sphere was opened for the Kurdish leadership to justify its actions, buttress its still controversial status, and thus also define its own identity.

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[107] "KDP Leaders Views Situation in Iraqi Kurdistan, Kurdish Infighting, Ansar al-Islam: Interview with Kurdistan Democratic Party leader Mas'ud Barzani by Dr. Jamal Husayn in Erbil," *World News Connection*, November 11, 2002.

[108] Fawzi Atroushi, "Voluntary Arabization," *Khabat*, May 11, 2002, quoted from "Iraq: Kurdish Writer Criticizes Asylum Seekers who Pose as Arabs," BBC SWB, May 11, 2002.

[109] Natasha Carver, "Is Iraq/Kurdistan a State Such that It Can Be Said to Operate State Systems and thereby Offer Protection to Its 'Citizens?' *International Journal of Refugee Law* 14, 1 (April 2002), 82 [italics in the original]. Carver, a legal consultant to the UK charity Immigration Advisory Service, advised against such a step, stressing the instability in the northern Iraq and the human rights violations that characterised the civil war period.

Much like in the early 1990s, the Kurdish discourse and seeming stability came to be seen positively by some external observers. Carole O'Leary, a Professor at the American University in Washington and another close observer of developments in the Kurdistan Region, embraced the idea of the KRG as a model for the future of Iraq. In 2001 she contended that "Should the Iraqi army ever violate this safe haven, no part of which is any farther from Republican Guard positions than Washington is from Richmond, it would not only crush this experiment in democracy, but destabilize the entire region, sending as many as 3 million refugees into Iran and Turkey."[110] In another essay, O'Leary referred to the KRG as "10-year old experiment in democracy" and as a "golden age" of pluralism and freedom, not only for Kurds, but also for "people in the minority Turkoman, Assyrian and Chaldean communities."[111] In 2002 the so-called democratic experiment in the Kurdistan Region was also endorsed for the first time by the European Parliament, when peers demanded "support for the democratic experiment of the Kurdish administration in Northern Iraq and for projects for the development of civil society" in a report condemning the human rights situation under the Ba'th rule.[112]

The international public sphere, in which the Kurdish question was debated, was not confined to the Western members of the international community. The Kurds also tried to include the Arabs in this ongoing deliberation. One such effort was made in 1998 when representatives of both the KDP and the PUK met in Cairo with Arab politicians and intellectuals for a conference entitled *The Arab-Kurdish Dialogue*. The conference was organised by Ahmed Hamroush, a leftist Egyptian thinker, the head of

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[110] Carole O'Leary, "A No-Fly, Yes-Democracy Zone; Iraqi Kurdistan Offers a Model for a Post-Saddam Future," *The Washington Post*, July 15, 2001, Outlook Section, B02

[111] Carole O'Leary, "Extremists in a Moderate Land," *Washington Post*, August 11, 2002, Outlook Section, B05

[112] European Report, "EU/Iraq: Parliamentary Report to Human Rights Violations," April 27, 2002, No. 2679

the Cairo-based think-tank of the Egyptian Commission for Solidarity and "a major figure in the liberation movements of the 1950s and 1960s,"[113] and was endorsed by Egyptian President Housni Mubarak. Jalal Talabani, representing the PUK, chose again to use a more cautious and moderate tone, stressing Kurdish and Arab solidarity and emphasising that the Kurds do not seek to leave Iraq. However, he did argue that the unity of Iraq should be a voluntary one, suggesting that "even the demand for the right of self-determination is conditioned upon a union by choice with the Iraqi people within an Iraqi union and an independent Iraqi entity."[114] A similar approach was taken by Sami 'Abdul Rahman, representing the KDP in the conference, who argued that

> In this era, following the liberation of peoples and the reconfiguration of nations, the era of democratisation and human rights, the Kurdish people in Iraq are fighting for benefiting from their national and democratic right to run their own affairs… At this moment, our people are in need of Iraqi unity and its consolidation and the solution is to be found in federalism within Iraq.[115]

There is not much novelty in the declarations made by Talabani and 'Abdul Rahman. Both statements include the same element of rapprochement to the Arab nationalist movement by guaranteeing the territorial integrity of Iraq, while underlying the Kurdish right for self-determination and the voluntary nature of unification. What distinguishes these statements was that for the first time since the foundation of the KRG, Kurdish leaders were invited to an Arab capital to present their case. As *al-Ahram*, the Egyptian semi-official weekly described it, this

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[113] As described in his obituary in the Egyptian *Al Ahram* weekly See Mahmoud Murad, "Ahmed Hamroush: an Officer and a Gentlemen," *al-Ahram Weekly Online* 1071, 3-9 November, 2011. <http://weekly.ahram.org.eg/2011/1071/eg17.htm> (December 3, 2011).

[114] Jalal Talabani, "Kalimat al-said Jalal al-Talabani, al-amin al-'am lil-Ittihad al-Watani al-Kurdistani" [Speech by Jalal Talabani], in *Al-Hiwar al-'Arabi al-Kurdi*, ed. 'Adnan Mufti (Cairo: Maktabat al-Baduli,1998), 25.

[115] Sami 'Abdul Rahman, "Kalimat al-Said Sami 'Abdul Rahman, Raisu Wafd al-Hizb al-Demoqrati al-Kurdistani" [speech by Sami 'Abdul Rahman], in *Al-Hiwar*, 32.

conference was "the first discussion of its kind between Arab and Kurdish intellectuals and politicians centering on the relations and misunderstandings that have existed between the two communities for decades." As the report goes on to tell, it was fiercely objected by Baghdad that described it as "an interference in Iraq's internal affairs… [Which] gave the United States exactly what it needed to put pressure on Iraq by highlighting the Kurdish claims of mistreatment by Baghdad."[116] Thus, even if not a significant historical event in itself, it further legitimised the Kurdish cause and paved the way for further interaction between the KRG and the international community.

4.7 CONCLUSION

In 1992 the Kurdish national liberation movement turned into a de facto state, by gaining political and economic autonomy from Baghdad and by going through a two year period of state-building, marked by historical democratic elections in the region and the formation of executive and legislative bodies. Though Kurdish leadership did not declare independence, and even explicitly stated that it did not seek secession from Iraq at this stage, elements in the Kurdistan Region, surrounding states and international community viewed Kurdish actions as de facto secession from the rest of Iraq. Therefore, from its inception, the KRG faced constant attack from its neighbours for the steps it had taken, and was therefore compelled to justify these actions. It did so mainly by referring to its success in democratisation and state-building. The civil war which erupted in 1994 froze state-building efforts in the region, and to some

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[116] Rasha Saad, "Promoting Arab-Kurdish Understanding," *al-Ahram Weekly Online* 380, 4 - 10 June 1998. <http://weekly.ahram.org.eg/1998/380/re7.htm> (December 5, 2011). Facing such accusations, Talabani once again found himself denying the usual accusation of the Kurds as American agents, arguing that "We were keen not to be seen as a pressure card against Iraq at the time when the US is manipulating the Kurdish issue."

extent wiped out many of Kurdish achievements at the international level. The end of the civil war and the division of the administration, taking place simultaneously with the implementation of the OFFP, re-established the process of state-building, and with it the Kurdish endeavour to legitimise Kurdish actions and aspirations in the region.

Throughout most of this period, interaction with the international community played a significant role in the development of the KRG and its identity. It took the form of members of the diaspora community now contributing to the construction of the Kurdish entity, international aid organisations and UN agencies working with Kurdish civil servants and technocrats in rebuilding the devastated region, as well as various other forms. The impact of this interaction on the KRG's understanding of its own position and of the actions it should take to secure its autonomy has been demonstrated through the actions and discourse of the Kurdish political elite. This impact was to be amplified in the second decade of de facto independence.

CHAPTER 5. THE SECOND DECADE OF AUTONOMY AND THE REUNIFICATION OF THE KRG: REVIVING THE DE FACTO STATE IN THE KURDISTAN REGION 2001-2010

The study of the de facto Kurdish state in northern Iraq is often examined against the background of the 2003 allied invasion of Iraq and the overthrow of the Ba'th regime. Certainly, the invasion had a tremendous impact on the Kurdish question in the country, which is reviewed in this chapter. Yet, in spite of its significance, the 2003 war did not instigate the emergence of the Kurdish de facto state in the region. The Kurdish autonomy entered its second decade of existence already in 2001, and its evolution has been shaped not only by dramatic events in Baghdad, but also by wider international processes, as well as by macro-level, inter-Kurdish events.

To an even greater extent than the first decade of de facto statehood in the Kurdistan Region, the second decade supports the argument that the pursuit of international legitimacy is a crucial aspect of the foreign policies of de facto statehood, and that such pursuit of legitimacy relies on genuine or exaggerated notions of earned sovereignty. Moreover, the period from 2001 until 2010 reveals that the KRG's understanding of earned sovereignty has now progressed beyond the focus on democratisation, to encompass such aspects as economic viability, law and order, and the ability to contribute to regional stability and security. Indeed, throughout this period, the reunified KRG used these principles to legitimise its wide autonomy from Baghdad, autonomy far wider even than the principles agreed upon in the aftermath of the overthrow of the Ba'th regime and Kurdish negotiations with Baghdad. Even

though the end of the Ba'th regime meant a formal reintegration of the Kurdistan Region into Iraqi politics, relations between Baghdad and the Kurds could no longer be characterised as relations between centre and periphery, or between a central government and a minority. Rather, as this chapter demonstrates, they have become almost state-to-state, or government-to-government relations, to borrow a term used by Robert Olson to describe relations between the KRG and Ankara.[1]

To a great extent, this chapter focuses more on the foreign policies of the de facto states, while the other aspect of this research, the reciprocal relations between foreign policy and domestic development, will be discussed in more depth in the following chapter.

5.1 SETTING THE CONTEXT: FROM THE WAR ON TERROR TO THE ESTABLISHMENT OF A NEW GOVERNMENT IN BAGHDAD

The September 11 attacks had an immense impact on international politics, as they changed dramatically common perceptions about security threats and international stability.[2] Their impact on Iraq's future was remarkably significant. The Ba'th regime was the second to be overthrown by a coalition of forces as part of the American-led campaign against global terrorism under the presidency of George Walker Bush. Intelligence reports indicating that Saddam Hussein had been sponsoring and training transnational terror organisations (including al-Qa'eda), that the Ba'th regime had been secretly recovering its arsenal of weapons of mass destruction (WMD), but also the regime's notorious human rights record, were also invoked to justify the invasion

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[1] Robert Olson, *The Goat and the Butcher* (Costa Mesa, CA.: Mazda Press, 2005).
[2] This was already noted in 2001 by Fred Halliday, in *Two Hours that Shook The World: September 11, 2001, Causes And Consequences* (London: Saqi, 2001).

of Iraq.[3] Other accounts of the war have argued that the September 11 attacks served merely as an excuse for the US to implement plans which had actually been formulated even prior to the attacks. Such accounts have hinged the war on George Bush's personal motivation to complete his father's mission,[4] pressures by the Israel lobby in Washington,[5] neo-conservative imperial aspirations, or simple oil-greed.[6]

The invasion of Iraq began on the 19th of March 2003, when American, British, Australian and Polish forces invaded the country, with the assistance of Kurdish Peshmergas. Fighting against the Iraqi army lasted until May, with Baghdad falling in April. Saddam Hussein fled Baghdad but was captured in December 2003. A new era began in the country, an era of potential political and civil freedom, but mainly of political instability and sectarian violence. The first years of the post-invasion era could be divided very roughly into three periods: the establishment and reign of the Coalition Provisional Authority (CPA); the transfer of power into the hands of a transitional government in June 2004, with the formulation of a draft constitution which for the first time recognised the KRG as a legal entity; and finally, the foundation of a democratic federal republic in the country in 2006.

The CPA was a mandate-style caretaker government. It was the sole determinant of budget allocation and civilian operations and war headed by the American diplomat L. Paul Bremer, with British diplomat Jeremy Greenstock as his deputy administrator. The CPA embodied the inherent deficit in the American

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[3] Observers have since argued that the lack of democracy and human rights were only invoked after the previous justifications for invasion had proven false. Nadje al-Ali and Nicola Pratt, *What Kind of Liberation* (Berkeley Cal.: University of California Press, 2009), 55-86.
[4] Jacob Weisberg, *The Bush Tragedy* (Random House, 2008).
[5] E.g. John Mearsheimer and Stephen Walt, *The Israel Lobby and US Foreign Policy* (London: Allen Lane, 2007).
[6] Stephen Pelletier, *America's Oil Wars* (Westport, CT.: Praeger Publishers, 2004). Pelletier held the same views with regard to the first Gulf War: Pelletier, *Iraq and the International Oil System: Why America Went to War in the Gulf* (London: Praeger, 2001).

approach to Iraq in particular and to democracy promotion in general. The ambitious endeavour to constitute a liberal, free-market oriented democracy was set too hastily by the administration, resulting eventually in a "troubled and increasingly insecure country in which insurgency, lawlessness and sectarian conflict claimed growing numbers of Iraqi lives, in addition to taking a mounting toll of the occupation forces."[7] The surge of violence in Iraq drove the CPA to divert its attention almost entirely to countering the insurgency and trying to settle the resurfacing of sectarian tensions. To deal with the emerging problems in the country, the CPA established the Iraqi Governing Council (IGC), an unelected body of representatives of all sects. As part of this arrangement, the Kurds were allocated with five seats in the IGC, vis-à-vis 13 seats to the Shiites, five seats to the Sunnis and one for each the Turkomans and the Assyrians. According to Nadje al-Ali and Nicola Pratt, the CPA's policy turned out to be disastrous to the development of a unified Iraq. In the effort to secure representation for all sects in Iraq, the CPA ended up paving the way for a Lebanese-style confessional system.[8]

Following its failure to achieve its goals, namely the rebuilding of Iraq under a democratically-elected government, and due to the increasing unpopularity of the mandate style, the CPA was disbanded. It was replaced in June 2004 by the Interim Government, nominated by the IGC. Iyad 'Allawi, a former exiled oppositionist, was appointed as the interim Prime Minister. In May 2005 Iraq held its first legislative elections for the Transitional Government, headed by Ibrahim al-Ja'fari of the Shiite Islamic *Da'wa* Party. Throughout this period, Iraq had descended into a bloody anarchy. The Sunni population became disgruntled for losing its privileged status and its members chose, or were coerced, to boycott the elections almost en-masse. During

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[7] Tripp, *a History of Iraq*, 277.
[8] Al-Ali and Pratt, *What Kind of Liberation*, 106-108.

this period extremist Sunni armed groups, most notably al-Qa'eda in Iraq led by the Jordanian-born Abu-Mus'ab al-Zarqawi, began an insurgency campaign against American and government targets, as well as against Shiite civilian targets. The Shiites reacted to such attacks by establishing their own militias. The most notable among them was the Mahdi Army (*Jaysh al-Mahdi*), led by the young cleric Muqtada al-Sadr. The Iraqi government collapsed amid the anarchy, exhibiting incompetence in stopping violence and providing even the most basic needs of the Iraqi population. This administrative vacuum was filled by the militias, which were the only bodies capable of providing some sense of security and basic services to the population. The helpless Iraqi government remained confined to the Green Zone (International Zone) in Baghdad, the government district heavily protected by American forces and by private contractors.

In December 2005 Iraq held legislative elections for a permanent government, following the formulation of a new constitution in the country. The elections resulted in a shaky coalition government headed by the Da'wa Party, with its leader Nouri al-Maliki as a PM. The foundation of a new government in Baghdad led to a temporary decrease in the level of violence in Iraq, but 2005-2006 witnessed a resurgence of sectarian violence.

5.2 KURDISH NATIONAL LIBERATION AND THE NEW IRAQ

The Kurdish public and leadership were generally enthusiastic about the idea of external intervention and the overthrow of the Ba'th regime. As long as the Ba'th and Saddam Hussein were still in power, the Kurdish autonomous region was under the constant fear of invasion and forced reintegration into Iraq. PUK and KDP Peshmerga

forces played a key role in the invasion by supporting the incursion of coalition forces from the north into Iraq. The importance of the Kurdish parties to operations in the north became even more acute after the Justice and Development Party (better known for its Turkish acronym AKP)-led government failed to pass a parliamentary motion allowing coalition troops to be stationed on Turkish soil and use Turkish air space for an attack.[9] Amid this reality, the Kurdish Peshmergas, the only organised fighting force within Iraq, proved to be essential in securing the entry of American 10th Special Forces Group into Iraq from the north.

Almost paradoxically, the Kurdish leadership and its sympathisers came to fear that the removal of the Ba'th regime would pull the rug from under the feet of the Kurdish parties' claim to be the only pro-democratic forces in Iraq and subsequently deem the Kurdish autonomy, or even the aspiration for federalism, redundant. Almost to realise these fears, the CPA tried to compel the Kurdish parties to compromise some of their autonomy and demonstrate their commitment to a unified Iraq. Maybe to neutralise potential critique, the Kurdish administrations took the initiative to demonstrate to the CPA their readiness to reintegrate into Iraq, of course under their conditions. This involved such measures as integrating into the Iraqi monetary system by introducing a new currency into the Kurdistan Region,[10] and by participating in the

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[9] The AKP government was reluctant from the start to facilitate the invasion and the forced ousting of Saddam Hussein. As Balci and Yesiltas highlight, Ankara had several reasons for objecting to the war: the first was the fear of a foundation of a Kurdish state; second was the fear of the economic implications on Turkey, which suffered major financial losses after the war in 1991; third was popular objection in Turkey to the war; and finally, the AKP was hoping to find Turkey a central position in the regional order, and serving American invasion was viewed as a hindrance to such efforts. See Ali Balci and Murat Yesiltas, "Turkey's New Middle East Policy," *Journal of South Asian and Middle Eastern Studies* 29, 4 (Summer, 2006), 18-21.

[10] L Paul Bremer, *My Year in Iraq* (New York: Simon and Schuster, 2006), 74-75. Bremer's memoirs present a detailed account of the events during the first year of occupation, and even though (naturally) biased, it provides some interesting insights into the constitution of a new Iraq, followed by first-hand anecdotes of events.

joint institutions established by the CPA.[11]In retrospect, nonetheless, it seems that such moves all aimed eventually to bolster the Kurdish stand within Baghdad and serve as leverage on any Iraqi government. This trend had its roots in the Kurdish conduct prior to the invasion, as Kurds began taking central positions already in the INC. Eventually, the total collapse of the Iraqi government meant that the idea of Kurdish autonomy remained a legitimate one, as long as the Kurds could prove their ability to maintain the processes of state-building, democratisation and their potential contribution to the security of the region. In other words, the overthrow of the Ba'th government further bolstered the need to strengthen Kurdish *practical* legitimacy, a process which had begun already during the 1990s.

The fact that the Kurds viewed the invasion as an opportunity to consolidate their position within Iraq and expand their gains from the 1990s became clear already during the invasion of Iraq by coalition forces. Witnessing the rapid collapse of the Iraqi security forces, the PUK Peshmerga fighters immediately entered the Taamim (Kirkuk) governorate and were deployed around and inside Kirkuk city. The PUK justified this action by the need to protect public order in the region and prevent chaos, but it was also probably in order to test the reactions of the coalition forces and Ankara, as well as to gain advantage over the KDP Peshmerga forces.[12] Concerned about Turkish potential invasion, the coalition forces in the region demanded the Kurdish forces to evacuate the city. The Peshmerga did so shortly after, but both Kurdish parties did not renounce their plan to "liberate" the region. Rather, they decided to do so by changing the demographic constitution and by launching a process of 'Kurdification'. This process meant populating the region with Kurdish

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[11] As Bremer describes, the CPA seats allocation served as yet another source for a feud between Barzani and Talabani, both demanding to serve as the Council's presidents. *Ibid*, 96.
[12] Liam Anderson and Gareth Stansfield, *Crisis in Kirkuk* (Philadelphia: University of Pennsylvania Press, 2009), 192.

families which had been forced to leave under Saddam Hussein's Arabisation campaign and encourage Arab families settled in the region by Saddam Hussein, to abandon it.

The Kurdish conduct during the period immediately following the war divided not only the CPA, but also American forces with regard to the Kurdish issue in Iraq. On one side stood Bremer and Major General David Petraeus, commander of 101st Airborne Division, who expressed some antipathy toward Kurdish conduct. Petraeus even demanded the Kurdish parties to remove the Kurdish flag and wave the Iraqi one instead.[13] Such a stand was motivated by the central command's desire not to alienate Turkey, which, in the meanwhile, came to allow coalition forces to start using its airspace again, but also because they represented the American and British desire to maintain Iraq's territorial integrity. On the other hand, the local forces stationed in northern Iraq kept supporting the Kurdish parties and Peshmergas, providing them with assistance against Islamist insurgents in the region, but also protecting them from Turkish incursion attempts.[14] The Peshmerga, in turn, kept taking part in the coalition war efforts during the first years of fighting. In some cases it did so under the banner of the "new Iraqi security forces" (in reality composed largely of Peshmergas), as in the battle over Fallujah in December 2004. In other cases, they participated in the fighting wearing Peshmerga uniforms, as in Tal 'Afar in September 2004. In fact, some support for Kurdish autonomy did not remain confined solely to coalition forces on the ground.

Even within the US one could hear voices arguing for a new reading of reality and support for Kurdish wider autonomy or even independence. Leslie H. Gelb, a

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[13] Lawrence, *Invisible Nation*, 203-218.
[14] Robert Olson, *The Goat and the Butcher*, 25-26. I elaborate further on this when discussing relations between the KRG and Turkey later in this chapter.

former Assistant Secretary of State in the Carter Administration and a President Emeritus of the influential Council on Foreign Relations, argued for the idea of a "three state solution." Gelb partly justified his idea by indicating that "The Kurds have largely been autonomous for years, and Ankara has lived with that." [15] This comment reflected both the necessity to take Turkey into account, but also the realisation that the Kurds have been functioning independently from Baghdad over a long period of time.[16] Peter W. Galbraith, a former Diplomat, a professional staffer at the US Senate Committee on Foreign Relations and later an advisor to the KRG argued in favour of dividing Iraq, contending that "The Kurds… enjoy the independence they long dreamed about."[17]

5.3 LEGALISING KURDISH AUTONOMY: THE KRG IN THE NEW IRAQI CONSTITUTION

Although the IGC was often described as a mere rubber stamp for CPA's authority, it served as a milestone in legitimising the KRG, as it was under the IGC that the Transitional Administrative Law (TAL), the earliest version of the 2005 Iraqi Constitution, was formulated. The TAL became almost a sacred text for the Kurdish parties, as it included the articles which became the cornerstone in establishing federalism in Iraq. The first of these articles was Article 54, regarding Kurdish regional competencies

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[15] See Leslie Gelb, "The Three State Solution," *New York Times*, November 25, 2003.

[16] This opinion was echoed in an article by John Yoo, a University of California at Berkeley Law Professor and then an official in the United States Department of Justice during the George W. Bush administration in the article, entitled "United Iraq – What's the Point?," *LA Times*, August 30, 2005.

[17] In Galbraith, "The Case for Dividing Iraq," *Time Magazine*, November 5, 2006, 16. Online version <http://www.time.com/time/magazine/article/0,9171,1555130-1,00.html> (July 9, 2010).

(A) The Kurdistan Regional Government shall continue to perform its current functions throughout the transitional period, except with regard to those issues which fall within the exclusive competence of the federal government as specified in this Law. Financing for these functions shall come from the federal government, consistent with current practice and in accordance with Article 25 (E) of this Law. The Kurdistan Regional Government shall retain regional control over police forces and internal security, and it will have the right to impose taxes and fees within the Kurdistan region.

(B) With regard to the application of federal laws in the Kurdistan region, the Kurdistan National Assembly shall be permitted to amend the application of any such law within the Kurdistan region, but only to the extent that this relates to matters that are not within the provisions of Articles 25 and 43 (D) of this Law and that fall within the exclusive competence of the federal government.[18]

Article 55 in the TAL further reinforced regional autonomy, stating that "Each governorate shall have the right to form a Governorate Council, name a Governor, and form municipal and local councils," adding that no regional official "may be dismissed by the federal government or any official thereof, except upon conviction of a crime by a court of competent jurisdiction as provided by law."[19]

A more controversial article, at least in the future to come, was Article 58, which discussed the Arabisation of Kirkuk and the region's status in a new federal Iraq. The article stated 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."[20] This, at least as claimed by the Kurds, meant the return of expropriated

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[18] Iraq's Transnational Administrative Law, Translated into English by University of Bern collection of International Constitutional Law <http://www.servat.unibe.ch/icl/iz00000_.html#A058_> (November 20, 2010).

[19] *Ibid*

[20] *Ibid*

property to its original owners, the resettlement and compensation of those families who were forced out of the region as part of the Arabisation campaign and the provision of employment opportunities to those who were deprived of employment under the Ba'th regime. All of this was to be supervised by the Iraqi Property Claims Commission. In addition, the article stressed the need to redraw the region's boundaries, which were themselves changed under the Ba'th authority as part of their effort to guarantee an Arab majority in the region.

The Permanent Iraqi Constitution, which was adopted in October 2005, formally recognised the existence of a federal entity in the three governorates of Erbil, Sulaymaniyah and Dohuk, as well as some parts of the Kirkuk (al-Taamim), Ninawa and Diyala governorates, under the control of the KRG. Article 115 of the new constitution further consolidated the authority of regional governments (KRG being the only one at the time of the signing), stating that

> All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of dispute.[21]

In legal terms, this article also allowed the regional governments to come up with their legislation in certain manners. This article was forcefully advocated by the Kurdish parties during the negotiations over the nature of the constitution, since, as

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[21] An English version of the Constitution of Iraq can be found on:
<http://www.uniraq.org/documents/iraqi_constitution.pdf> (January 21, 2009)

Michael Kelly indicates, in practice it severely constrained federal authority in the autonomous regions.[22]

Another achievement of the Kurdish negotiators regarded the entitlement to oil revenues and the question of control over oil reserves in the autonomous regions. First, the Kurds secured that 17 percent of the Iraqi budget would be allocated to the KRG, based on the proportion of the region's population of the total Iraqi population. More importantly, the Kurdish representatives were successful in introducing Article 112 to the new constitution, according to which

> First: The federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from *present* fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country, specifying an allotment for a specified period for the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards in a way that ensures balanced development in different areas of the country, and this shall be regulated by a law.[23]

The term '*present fields*' is essential here, since this ambiguous terminology left room for different interpretations, which was later to be used by Kurdish legislators. As Sean Kane has noted, with the introduction of this article the Kurds were successful in "creating a constitutional framework for Iraq where the main question was not what control regions should have over oil, but rather what role was left for the national

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[22] Michael J. Kelly, "the Kurdish Regional Constitution within the Framework of the Iraqi Federal Constitution: a Struggle for Sovereignty, Oil, Ethnic Identity, and the Prospects for a Reverse Supremacy Clause," *Penn State Law Review* 114, 3 (2010), 727. The Kurds right for independent legislation was applied Family Law, Agrarian Law, laws regarding the past crimes of the Ba'th regime and the compensation for the Anfal victims, law against smoking in public spaces, Oil and Gas Legislation and Anti-terrorism legislation. List presented in a speech by 'Adnan Mufti, "Kalimat raees al-Majlas al-Watani liIqlim Kurdistan khilal iftitah Muutamar al-Kifaat wa al-Khibrat al-'Iraqiyya fi al-Muhjar [speech by KP chairman at the opening of a Conference for Iraq Expatriates and Talents], December 22, 2008. <http://www.parliament.iq/iete/11a.htm> (November 11, 2010).

[23] Constitution of Iraq [italics added].

government."[24] It also reflected that "The participation of the Kurdistan Region in national oil contracting and revenue systems is seen as a voluntary choice and is dependent upon conditions that national authorities must first meet. This treatment of oil is a microcosm of how Kurds believe Iraq should work."[25]

Thus, for the first time the KRG was recognised by Baghdad as a legal entity. This meant that states, International Organisations, NGOs and multinational corporations could now communicate directly with Kurdish leadership in all matters other than those defined in the constitution as under the authority of the federal government. This enabled more interaction between the international community and the KRG and further contributed to the association between these geographical areas and Kurdish governance. Additionally, the new constitution also included a new article, Article 140, which for the first time offered a mechanism for solving the Kirkuk problem – a referendum to be held among all residents of the region no later than the 31st of December, 2007.[26] The latter article boosted efforts which had already begun in the region since 2003. In order to guarantee their victory in the referendum, the Kurdish parties now increased their effort to Kurdify the region's population. A new joint committee was now established between the KDP and the PUK in order to facilitate the return of Kurdish refugees and to determine financial assistance for Arab families that volunteered to leave the region. Such activities enraged the Turkoman and Arab communities, fearing forced ethnic cleansing. The Iraqi Turkoman Front (ITF), one of the parties representing the Turkoman community in Iraq, as well as other representatives of the Arab community, began referring to the process as an act

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[24] Sean Kane, "Iraq's Oil Politics," *Peaceworks*, United States Institute of Peace Publication 64 (2010), 6

[25] *Ibid*, 7.

[26] Second clause, article 140. A copy of the constitution is available in English on: United Nations Assistance Mission in Iraq, <www.uniraq.org/documents/iraqi_constitution.pdf > (November 10, 2010).

of aggression and coercion. The ITF also raised claims about physical violence used by the Peshmergas against Arabs and Turkomans in Kirkuk city. Nevertheless, foreign observers in the region refuted the claims of the use of violence in the region by Kurdish forces. Human Rights Watch (HRW), an INGO, for instance, argued that in addition to strict control of affairs by American forces in the district, "the leadership of the two main Kurdish parties had committed themselves to an orderly, legal process for the return of Kurds to an Arabized land and the resolution of property disputes, and therefore, they acted, for the most part, with restraint."[27] Such claims were also refuted by a group of fifteen Turkish observers, sent by Ankara to the region to supervise the process of Kurdification.[28]

The new reality in Baghdad enabled Kurdish parties to gain more influence in the Iraqi capital. Because the Kurdish parties did not seek to dominate Iraq, they were potential partners in each coalition to be established in the capital. This was particularly exacerbated in the 2005 elections, as the Sunni boycott of the elections meant that the Kurdish parties had a disproportional representation in the parliament. In this manner, the Kurds became "kingmakers" in Baghdad. Assessing the importance of their impact in Baghdad to advocating their cause, the Kurdish parties ran in the elections as a unified bloc, the Patriotic Democratic Alliance of Kurdistan, better known as the Kurdistani Alliance (KA), which won about 26 percent of the seats in the Council of Representatives of Iraq, which translated into 75 seats. This power was somewhat diluted in the 2009 national elections, due to a high Sunni turnout. The KA joined Maliki's coalition as a pivotal member. As part of the coalition agreement, Talabani was nominated into the President of Iraq, which, albeit a mainly symbolic position, bestowed Talabani with more international legitimacy

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[27] Anderson and Stansfield, *Crisis in Kirkuk*, 105.
[28] *Ibid*, 93.

and influence serving him when advocating the Kurdish cause. Hoshyar Zebari of the KDP was appointed as Iraq's Foreign Minister, an appointment he also held under the transitional government. Barham Salih, formerly the PUK-run KRG's Prime Minister, was nominated Iraq's deputy PM.

The integration of these notable Kurdish figures into the Baghdad government marked for many the Kurdish commitment to Iraq's territorial integrity. Others, such as Denise Natali, have argued that the Kurdish representatives in Baghdad have actually turned into a Kurdish lobby, constantly pressuring the Iraqi government for concessions on Kurdish issues.[29] The actions and statements of the Kurdish leaders actually support this assertion. In an interview to CNN, Jalal Talabani related to his past feuds with Mas'ud Barzani contending that 'Well, Mr. Barzani was the man who nominated me for this post, and he insisted that I *must represent the Kurds in Baghdad*'.[30] And in another example for the Kurdish perception of their politicians in Baghdad as lobbyists for the Kurdish cause, an article in the regional Kurdish-language Awene which discussed Talabani's alleged illness stated that Talabani's situation caused alarm "not only for the PUK but for all Kurds", especially given the question of "who will represent the Kurds in Baghdad after Talabani?"[31] Referring to Barham Salih as Talabani's potential heir, the article argued that Salih "managed to represent the PUK and the Kurds during the most critical times in Baghdad."[32]

The seeming harmony between the Iraqi government and KRG was only temporary. Clear tensions surfaced already in the immediate period following the 2005 elections for the federal government and were exacerbated by sectarian violence

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[29] Denise Natali, *The Kurdish Quasi State* (Syracuse, NY: Syracuse University Press, 2010), 105.
[30] "Interview with Jalal Talabani," *CNN Late Edition with Wolf Blitzer*, April 10, 2005. Italics added.
[31] Shawn Muhammad, "The Triangle of the Patriotic Union of Kurdistan," Awene, March 20, 2007; translated from Kurdish and cited by BBC ME-P, "Iraqi Kurdish Paper Profiles Three Leaders as Possible Talabani Successors," March 23, 2007.
[32] *Ibid*.

and the surge in Islamist terrorism targeting civilian, government and coalition targets within Iraq. Soon these tensions led to the eruption of the first direct conflict between Baghdad and the KRG at least since 2003. As in the negotiations between Baghdad and the Kurdish leadership, the eruption of the conflict in 2008 serves as another indication of the wide autonomy that the KRG has actually gained in the post-2003 period.

5.4 CONFRONTATION AND THE NEW NATURE OF ERBIL-BAGHDAD RELATIONS: FROM CIVIL WAR TO BORDER SKIRMISHES

The round of direct conflict which opened in 2008 marked the first direct clashes between Baghdad and the Kurdish governorates since 1991. This time, nonetheless, it was not a rebelling minority clashing with the security forces of an oppressive central government, but of two actors equal in force, in what could be described more as border clashes or skirmishes than anything else. In this fashion, much like the cooperation between Baghdad and the Kurds, the 2008-2009 conflict indicated the important transition that the Kurdish national liberation movement in Iraq has gone through.

In August 2008, Iraqi military forces, in a pursuit of Islamist insurgents, suddenly diverged from their course and surrounded the town of Khanaquin, a predominantly Faily town in the Diyala Governorate under the KRG's authority, according to the TAL. The commander of the Iraqi forces, General Mun'im Hashim Fahd, demanded the removal of the Kurdish parties' offices from the town and the withdrawal of the Peshmerga forces to the neighbouring Sulaymaniyah province. General Fahd argued that this was a part of the counter-insurgency operation, but Quil

Lawrence, who observed the events, argued that it was probably the result of the tensions between the KRG and Baghdad regarding the undisputed territories in Kirkuk, Ninawa and Diyala. Khanaquin, surrounded by oilfields, was part of this conflict as well.[33] Fears of the local Arab tribes of Kurdification and their fate in the region probably drove the government to take further action in the region.

Baghdad's step invoked, among the Kurdish leadership, the image of Saddam Hussein and his Arabisation campaign, and Kurdish statements to the media were quick to remind the international community of past atrocities. President Barzani declared, on the KRG's official website in Arabic that "I find it strange that some are talking about green lines and blue lines. If we had accepted these lines, Saddam would have been grateful for an agreement with us. Only Kirkuk was a subject for controversy and he [Saddam] accepted the inclusion of Sinjar and Khanaquin to the [Kurdistan] region."[34] Bukhari Abdallah, an MP for the KA in the Council of Representatives of Iraq described the operation in Khanaquin a part of Iraqi PM Nouri al-Maliki's 'undeclared war' on Kurdistan.[35] And another commentator argued that '[Maliki] intends to stealthily throw us (the Kurds) out of Khanaqin… and Kirkuk'.[36] In spite of American mediation efforts, the Iraqi forces raided the city, only to be deterred by massive civilian demonstrations in town. Barzani travelled to Baghdad, where he negotiated a cease fire, and both sides agreed to remain at a distance of 25

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[33] Quil Lawrence, "a Precarious Peace in Northern Iraq," *Middle East Report*, October 1, 2009. <http://www.merip.org/mero/mero100109> (June 10, 2011)
[34] "Raees Iqlim Kurdistan: law kunna kabalna bil-khutut al-khudhara wa al-zuraqa, likana Saddam mumtanan bil-ittifaq ma'na," [the President of Iraqi Kurdistan: if we had accepted the green and blue lines Saddam would have been grateful for an agreement with us], *KRG website in Arabic*, September 7, 2008. <http://www.krg.org/articles/detail.asp?lngnr=14&smap=01010100&rnr=81&anr=25462> (December 5, 2010).
[35] "Premier Launched Undeclared War on Kurdistan – Kurdish Politician," *BBC MME-P*, August 29, 2008.
[36] Adalat Abdallah, "When Would our Politicians Understand?", *Aso*, August 21, 2008. Translated from Sorani Kurdish and cited in "Writer Says Iraqi Premier Uses 'Logic of Force against Kurds," *BBC MME-P*, August 23, 2008.

km from both sides of the city.[37] And "So began a full year of mutual provocations – troop rotations, ethnically targeted bombings and even a Kurdish order to shoot the Arab governor of Mosul on sight."[38] Again, this conflict greatly differed from the patterns that characterised previous clashes between Baghdad and Erbil, though observers did note that Maliki did try to use some of the tactics employed by previous regimes, namely manipulating local tribal militias, the *Isnads*, mainly by utilising their fears of the Kurdification of the region.[39]

The clashes ended eventually without any major alteration of the KRG's borders of influence. However, they did signify, for the Kurds, trajectory of Baghdad's intentions and the shaky future of federacy. Likewise, it further reflected to the international community the cleavages between the Kurds and Baghdad and the KRG's own perception of its status as a de facto state within the internationally recognised borders of Iraq.

Concluding the preceding sections, the Kurds had managed to get the most out of what may have been a potentially unfavourable starting point in 2003. The nearly total collapse of the Iraqi state gave the Kurdish leadership an opportunity to prove itself again as worthy of its autonomy. When this autonomy was physically contested by Baghdad, the KRG confronted the central government with a historically unprecedented might, now further demonstrating and establishing its autonomy. The contestation and confrontation with Baghdad served as a background for the most significant event during the second decade of Kurdish autonomy, namely the reunification of the Erbil and Sulaymaniyah administrations. The reunification, which

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[37] Gareth Stansfield and Liam Anderson, "Kurds in Iraq: the Struggle between Baghdad and Erbil," *Middle East Policy* 15, 1 (Spring 2009), 134-145.
[38] Lawrence, "a Precarious Peace"
[39] Stansfield and Anderson, "Kurds in Iraq," 134.

reached its peak in 2005, marked the establishment of the second de facto state in the Kurdistan Region and accelerated the process of Kurdish state-building.

5.5 THE FORMAL END OF THE CIVIL WAR: REUNIFICATION OF THE ADMINISTRATION AND ITS IMPACT ON STATE-BUILDING IN THE KURDISTAN REGION

The foundations of reunification were laid already in 1998, during the Washington peace talks. The constant plans for the invasion of Iraq provided the Kurdish leaders with more opportunities for unification talks. In March 2000 Talabani approached Barzani for reunification, invoking the "experiment in democracy": 'The 1991 uprising had many gains, such as the elections in 1992. For the first time the people of Kurdistan went to polling stations and cast their votes freely… Let us hold new elections with the presence of foreign supervisors. Let us normalize the situation in the cities of Kurdistan and give freedom to everyone.'[40] The invasion carried with it even more opportunities for reunification, as new subjects emerged which necessitated coordination at some level between the administrations. More importantly, the new competition over resources from Baghdad drove both parties to try and monitor each other's moves. The most significant of these opportunities was the need to police the border territories such as Taamim and Diyala. The first direct and public talks between both parties took place on June 12, 2003, in the summer resort of Dukan. Participants were Talabani and Salih for the PUK and Mas'ud Barzani and his nephew, Nechirvan Barzani, then the PM of the KDP-controlled administration. The meeting ended with an announcement of a decision to merge

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[40] *Kurdsat*, March 6, 2000. Cited in "Iraq: Kurdish PUK Leader Urges Rival KDP to 'Open a New Page', Calls for Unity," *BBC Middle East – Political* (BBC ME-P), March 8, 2000.

administrations.[41] Such statements gained support from leading personalities both within the KDP, such as Sami 'Abdul Rahman,[42] and the PUK, such as 'Adnan Mufti.[43]

As in 1992, the reunification was launched by an election campaign, which took place on the 30th of January, 2005, the same date as elections for the constitutional committee in Iraq. The KA ran for the elections as a unified list, consisting of, in addition to the PUK and the KDP, several other smaller parties: the Kurdistan Islamic Union, the Kurdistan Communist Party, the Kurdistan Toilers' Party, the Kurdistan Democratic Socialist Party, and the Kurdistan Democratic National Party. This coalition won approximately 90% of the votes, or 104 out of 111 seats in the KNA (five other seats were reserved to Christians, as in the 1992 elections).[44] Elections for regional presidency, which took place at the same time, saw the election of Mas'ud Barzani as president – a nomination made possible by the appointment of Talabani as the president of Iraq.[45] Nechirvan Barzani was nominated as the KRG's PM. The process of bureaucratic reunification began immediately after the elections and by the end of the 2005 most ministries were unified. The unification

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[41] Reported in *Kurdistan Satellite TV*, Jue 12, 2003. Cited in "Iraqi Kurdish Parties Decide to Merge Respective Administrations," *BBC ME-P*, June 12, 2003.

[42] Rahman refers to it as a step necessary for the security not only of the Kurdistan Region, but also of Iraq and the region. *Kurdistan Satellite TV*, January 2, 2004, Cited in "Iraqi Kurdish Official Stresses Need for Unity of the Region," *BBC SWB*, January 2, 2004.

[43] *Kurdistani Nuwe*, October 5, 2003. Cited in "Iraqi Kurdish PUK Official Rejects Forces from Neighbouring Countries," *BBC SWB*, October 7, 2003.

[44] The fact that the KDP and the PUK did not leave room for an opposition in the Kurdistan Region somewhat undermines the democratic nature of the newly established government. The elections process itself, nonetheless, was observed and monitored by various agencies, including UN agencies. For the technical details about the elections process as defined by the Independent Electoral Commission of Iraq see: IECI Regulation 13/2005, "Polling and Counting in Iraq," January 2005. <http://www.uniraq.org/elections/Regulations%20English%20PDF/IECI%20Reg%2013-05%20-%20Polling%20and%20counting%20-%20final.pdf>. See also IECI Regulation 14/2005, "Kurdistan National Assembly," January 2005. <http://www.uniraq.org/elections/Regulations%20English%20PDF/IECI%20Reg%2014-05%20-%20Kurdistan%20elections%20-%20final.pdf> (December 17, 2010). For a brief coverage of fraud allegations see: Annia Ciezadlo, "Party Foul," *The New Republic*, February 7, 2005.

[45] The Regional Presidency Law was one of the main subjects of contention between the two parties prior to reunification, as reported in *Xebat*, April 29, 2005. Cited in "Iraq: Main Kurdish Parties Differ on Regional Presidency Law," *BBC Monitoring International Reports*, April 30, 2005.

agreement was endorsed by the regional parliament (which was renamed into the Kurdistan Parliament, KP hereafter) on the 22nd of January, 2006.[46] Once again, the portfolios were assigned according to political affiliations, though the duality which characterised the first cabinet, with the nomination of a deputy from the other party to each ministry, was now revoked. The KDP and PUK once again shared between them the main portfolios, but this time some other parties also entered the coalition, receiving some other portfolios.[47] Concluding the process of constituting a government, Mas'ud Barzani stated on the KRG website in English that "We are determined to establish strong constitutional institutions to further support the democratic process. Our main task is forming a system of good governance through the participation of all groups, with transparency and accountability, which means a modern, professional government."[48]

The reunification process was gradual and somewhat lethargic. Although most ministries had been reunited by 2006, four ministries remained divided until 2009: Peshmerga Affairs, Finance, Interior and Justice Ministries. In addition, both parties kept their security agencies: *Parastin* (Protection), run by the KDP; and *Dazgay Zanyari* (Information Apparatus), run by the PUK. These agencies kept operating in the areas which were still under the influence of both parties, along the *Asayish* (Security) which was subordinated to the KP. The final reunification of the ministries took place in 2009 with the formal merging of the Peshmerga Ministry in June 2009. As explained by Denis Chapman, an American officer involved in the training of the

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[46] *Xebat*, January 22, 2006. Cited in "Iraqi Kurdistan Parliament Endorses Unification Agreement," *BBC ME-P*, January 23, 2006.

[47] For the assigning of portfolios see: "Kurdistan Regional Government Unification Agreement," *KRG website*, January 23, 2006.
<http://www.krg.org/articles/detail.asp?rnr=223&lngnr=12&anr=8891&smap=02010100> (December 6, 2010).

[48] "Unified Cabinet's Program: a Bright Future for All," KRG website, May 7, 2006. <http://www.krg.org/articles/detail.asp?rnr=95&lngnr=12&anr=10934&smap=> (on December 6, 2010).

Kurdish forces, reunification of the Peshmerga office was the most complex process, as it necessitated adjustment of the budget, as well as the establishment of trust between the two security forces.[49] The security agencies were to be subordinated to the regional parliament in 2010. While the slow process of regional integration could serve those critical of the KRG to portray it as a potentially unstable political force, prone to political divisions and warlords' greed, based on Stansfield's analysis of the benefits of the post-civil war divisions one may actually understand this process as a careful effort not to fall into the same pitfalls of the early 1990s. This is particularly true when it comes to such sensitive area as security and armed forces.

The KRG reunification enhanced the process of state-building in the region, which now took place simultaneously with reconstruction endeavours in the rest of Iraq. At least theoretically, the reconstruction programme and international aid changed dramatically from the pattern set by the OFFP, as it set capacity building as one of its main goals. With the removal of the embargo on Iraq, new agencies, NGOs and governments could now join the rebuilding efforts. Although the US government and its sponsored NGOs remained the most important sources of reconstruction and aid, new states and organisations now joined the reconstruction campaign, including the EU, Japan and South Korea.[50] While not taking part in the first stages of the post-war era, due to the fact that the US did not bring the war to a Security Council vote and the unpopularity of the war, UN agencies now assumed a key position in the reconstruction campaign. Through the UN Assistance Mission for Iraq (UNAMI), the

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[49] Dennis Chapman, *Security Forces of the Kurdistan Regional Government* (Costa Mesa, Mazda, 2011), 155-164.

[50] For a review of donors involved in the reconstruction process see Kenneth Katzman, "Iraq: U.S. Regime Change Efforts and Post-Saddam Governance," *Congressional Research Service Report RL31339*, November 21, 2005.

organisation basically supervised the transition from the OFFP into the new "democracy mission" phase, as referred to by Natali.[51]

The Kurdistan Region was in a much better state than the rest of Iraq, partly due to the fact that Iraq had been subjected to several aerial attacks since 1991, and especially in 2003; and partly because during this time, and especially since 1998, the Kurdistan Region had gone through an uninterrupted reconstruction process. As Michiel Leezenberg, a scholar and a long-time activist in the reconstruction of the Kurdistan Region, noted in 2005, "At present Iraqi Kurdistan is long past the reconstruction stage. The rehabilitation of basic infrastructural facilities, which in Iraq as a whole has yet to get off the ground, has made considerable progress in the Kurdish-held north since the establishment of a de facto independent entity there in 1991."[52] This actually had a negative impact on the level of aid to the Kurdistan Region, as now a larger share of the budget was directed to the ravaged central and southern provinces. As Natali notes, the seeming Kurdish aspirations for independence further impeded aid organisations, particularly those funded by the US government.[53] But this did not mean that the KRG was completely marginalised. Indeed, aid money served to build "industrial zone, hydropower stations, road rehabilitation, private sector development, and microwave links connecting cities such as Sulaymaniyah, Arbil and Kirkuk to the rest of Iraq, including Baghdad, Baquba, Basra, and um Qasr."[54] With its new vast resources, pouring in from both international aid and the income from the government, the gradually unifying KRG could now further develop the regional economy. "Behaving like a quasi-

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[51] Natali, *The Kurdish Quasi State*, 77.
[52] Michiel Leezenberg, "Iraqi Kurdistan: Contours of a Post-Civil War Society," *Third World Quarterly* 26, 4 (2005), 632.
[53] Natali, *The Kurdish Quasi State*, 79.
[54] *Ibid*, 83.

developmental state," the KRG now began to intervene in the economic life in the region with the purpose of encouraging foreign direct investment and "creating free market with a minimal state role that ensures the widest range of individual freedoms." This endeavour also intended to foster the rise of a private sector. With that in mind, the KRG introduced in the region "one of the most liberal investment laws of its kind in the Middle East."[55]

In addition to the economic development of the region, international aid was also conducive to further liberalisation of the political system and to the expansion of domestic public space. Because physical reconstruction of infrastructure required fewer resources than in the rest of Iraq, more money could now be allocated to issues such as good governance and the building of civil society. The reconfigured education system now incorporated into its curricula "Democracy mission norms – human rights, religious freedom, and gender equality."[56] The Kurdish authorities now made more efforts to include women and minorities (especially Christian and Turkoman) in the newly established state-apparatus and to enact laws to reduce endemic violence against women. These policies have gained some success in terms of promoting the rights and participation of women and minorities in political institutions and the bureaucracy. In terms of democratising the system, in 2009 the KRG made another step in its long democratic transition, when, in the elections which took place in July that year, the opposition movement *Goran* (Change) won about 23% of the votes.[57]

Even though limited in their scope, further democratisation and the success in state- and institution-building became important for the KRG in its effort to present to

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[55] *Ibid*, 86.
[56] *Ibid*, 91.
[57] I elaborate further on the subject of women and minority rights in the following chapter, in which I focus on the reciprocal impact between the pursuit of legitimacy and domestic development, since the discussion on the subject of democratisation and human rights necessitates a thorough explanation on the link between domestic reform and the pursuit of legitimacy.

the international public opinion its domestic sovereignty and to re-establish its international legitimacy. Throughout the years following its reunification, the KRG once again began promoting its image as an island of stability and prosperity in a chronically unstable region. To put it differently, in its interaction with the international community, the KRG has constantly been underlining its practical legitimacy. Interestingly, the term "democratic experiment" was now replaced with reference to the Kurdistan Region as *the other Iraq*. One of the first appearances of the term was in a KRG campaign to attract investment to the region. In one of the chapters, the narrator argues that "the Kurds have proven that they are, indeed, a committed force for freedom and democracy in a part of the world that desperately needs it… For the first time in history the Kurds set up their own civil democratic structures, and further developed their judiciary, police and security forces."[58] The stability and security in the region is already stated in the publication, which notes that "So strong has Kurdish security become, fewer than two hundred coalition troops are currently stationed throughout the entire Kurdistan Autonomous Region. And as of the spring of 2005, not a single coalition soldier has lost his life on Kurdish soil.[59] Amid sectarianism and the rise of religiously-inspired terrorism in Iraq, the secularism of the Kurdish leadership, security forces and people is invoked as well. One of the interviewees, a local man, was quoted saying that 'The Kurdish people in general are secular. They're less attached to religion than, let's say, the Shittes [*sic*] of the south or the rest of Iraq'.[60] In addition, a European English language teacher was quoted saying that "Any image of Islamic extremism… Just doesn't exist here… I teach

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[58] "Chapter Two: the Kurds Relationship with the West," in *Kurdistan: the Other Iraq*, 2006, 2. <http://www.theotheriraq.com/images/chapter2.pdf> (December 22, 2010).
[59] *Ibid*
[60] *Ibid*

classes where there are as many women as there are men. Where women are no more hesitant, or just as likely, to raise their hands and offer an opinion as are the men."[61]

Particular focus has been put by the KRG on its competence and consistency in protecting religious and ethnic minorities in its territory. In contrast to democratisation or political and economic liberalisation, legal protection and inclusion of minorities in the Kurdistan Region could by no means be portrayed as a historical precedent. Most governments in the region, including the Ba'th government in the past, have stressed their commitment to protecting minorities and incorporating them in political, social and cultural life. Nevertheless, the raging sectarian violence in Iraq and the targeting of Christians by almost all armed groups in the country, in addition to increased Western interest in the affairs of Iraq, served as a context for the KRG to present the international community with its tolerant and secular nature. Thus, since 2005 the KRG has served as a refuge for Christians fleeing the rest of Iraq. Such internally displaced people were allowed to settle in the region and practice their faith, with some help from the KRG in rebuilding churches and housing. Such measures have been highlighted by the KRG in its official media publications and in most opportunities of interaction with Western diplomats and representatives.[62] Of course, the parliamentary practice of reserving seats for minorities has been underscored as well. The KRG policy of opening its gates to internally-displaced

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[61] *Ibid*, 3.
[62] There are numerous examples for the KRG's campaigning of its success in protecting the basic religious freedoms of Christian inhabitants, but perhaps the best example is a report prepared by the KRG representation in London, circulated among participants in a session dedicated to the subject held in the British Parliament on November 30, 2009. See KRG UK Representation, "The status of Christians in the Kurdistan Region in Iraq," December 2009. <http://www.krg.org/uploads/documents/Status_Christians_Kurdistan_Region_Dec_09__2009_12_22_h16m26s16.pdf> (July 8, 2010).

Christian refugees was not merely a political one.[63] Many of the refugees were highly educated and were part of the intellectual and professional elites in Baghdad and Mosul, and the migration of thousands of them to the main Kurdish cities meant an important boost for the Kurdish economy, and subsequently de facto autonomy.[64] Nonetheless, the approach of the Kurdish leadership to the subject of Christian refugees, as reflected in statements by the Kurdish leadership, reflects the Kurdish association of the protection of minorities with sovereignty. It was Talabani, as the President of Iraq, who declared that "Christians should move to the secure autonomously administered Kurdish areas until the situation elsewhere had stabilised," as reported in one newspaper.[65] This is not to imply that the KRG had necessarily met all of its commitments in this regard, but it does serve as another good example of the manner in which the KRG has come to view sovereignty, interaction and state-building.

One image that was often invoked by the KRG when describing Kurdistan to international audiences during this period was of comparing Kurdistan to relatively small and wealthy nations, such as the Emirate of Dubai, South Korea and Singapore. Almost immediately after reunification, and with the help of international aid, the KRG began sending business emissaries to these countries, with the purpose of closely observing economic development schemes, and particularly those related to private sector-growth, in the above mentioned countries.[66] In June 2006, Kareem Sinjary, the KRG's Minister for Internal Affairs met in Dubai with the head of the

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[63] But not to other groups, such as Arabs, Sunni or Shiite. See Sarah Kenyon Lischer, "Security and Displacement in Iraq; Responding to the Forced Migration Crisis," *International Security* 33, 2 (Fall 2008), 109.
[64] Nizar Latif, "Iraqi Christians Flee to Kurdish North for Safety," *The National*, November 24, 2010. <http://www.thenational.ae/news/world/middle-east/iraqi-christians-flee-to-kurdish-north-for-safety> (May 5, 2011).
[65] *Ibid*.
[66] Natali, *The Kurdish Quasi State*, 86.

Dubai Chamber of Commerce and Industry. During the visit, Sinjary declared that "Although the hardships and difficulties Iraq has always been undergoing [*sic*], we, in Kurdistan, succeeded in surpassing those difficulties and have worked on developing the region economically, commercially, industrially and on the tourism level and we are in need of Dubai's leading experience on all fronts."[67] Shortly after this visit, Othman Shwani, the KRG Minister of Planning, noted that the KRG aspires to draw from the experience of 'successful models of places like Dubai, Singapore and South Korea', but with the ultimate aim of establishing a 'Kurdish model'.[68] In 2007 Nechirvan Barzani travelled to Dubai to meet with Sheikh Hamdan bin Mohammed Rashid Al Maktoum, the Crown Prince of Dubai and the Chairman of the Executive Council of Dubai to discuss bilateral relations between the emirate and the KRG. Shortly after, the Dubai-based English-language daily Gulf News published that "Kurdistan adopts Dubai plan to boost development," with the purpose of encouraging investors in Dubai to also invest in the KRG.[69]

The invocation of the above-mentioned entities was not coincidental.[70] The smaller Gulf emirates, much like South Korea and Singapore, are all relatively small nations, surrounded by powerful and sometimes hostile neighbours, which have often contested these states' independent existence. Yet, all of these actors have managed to

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[67] Middle East Company News Wire, "Senior Delegation from Iraqi Kurdistan Visits DCCI," June 28, 2006.

[68] Lara Fatah, "When a Plan Comes Together," *Soma Digest*, July 1, 2006. Cited by *KRG website*: <http://www.krg.org/articles/detail.asp?rnr=95&lngnr=12&anr=12025&smap=> (December 23, 2010).

[69] Duraid Al Baik, "Kurdistan Adopts Dubai Plan to Boost Development," *Gulf News*, March 17, 2007. As cited on *KRG website*: <http://www.krg.org/articles/detail.asp?smap=&lngnr=12&asnr=&anr=16771&rnr=95> (March 12, 2011)

[70] Nor has it been uncontroversial. At least one Kurdish intellectual, Fawzi Atroushi, noted the flaws in Dubai, including the fact that its leadership was assigned by the British imperialists, the lack of democratisation, the fact that the majority of the city are foreigners without even basic residential rights, and more. See Atroushi, "La nurid Erbil mathal Dubai" [we do not want a Dubai-like Erbil], *KRG website in Arabic*, June 30, 2007. <http://srv1.krg.org/articles/detail.asp?lngnr=14&smap=01010400&rnr=84&anr=18761> (March 12, 2011).

prosper economically and become financial and business centres. That Dubai has been conspicuous among these examples probably relates to the emirate's vast oil wealth, thus aiming to associate the KRG with oil wealth in international public opinion. By associating itself with such actors, the KRG has been trying not only to attract investors, but also to signal to the international community its potential for self-sufficiency.

Here again, the KRG aimed its effort not only at Western states, but rather made efforts to attract international legitimacy from actors which, as put by Henri Barkey, could hardly be considered as the KRG's "primary source[s] of legitimacy and… existential support."[71] One such example is the KRG's effort to attain legitimacy from Russia. Although Russia has been historically more inclined to support Baghdad and has generally demonstrated apprehension toward separatist or decentralisation tendencies, the KRG could not ignore Russia in its efforts. Thus, in 1998 the KDP sent an emissary to Moscow headed by Sami 'Abdul Rahman to meet with Yevgeny Primakov, the Russian Foreign Minister,[72] soon after establishing the first Kurdish representation in Moscow. The main task facing Khoshawi Babakir, the Kurdish representative in Moscow, was to moderate Russian antagonism toward the idea of Kurdish autonomy. He did so by portraying the Russian attitude toward the Kurds as a 'danger to the present democratic experiment in the KRG', which might lead to global instability, which Russia would probably not desire, as he put it in Russian.[73] Recalling the first years of his experience in Russia, Babakir was appalled to find out that most of the Russian policy-makers had not even known about, or

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[71] Henri J. Barkey, "Turkey's New Engagement in Iraq: Embracing Iraqi Kurdistan," *United States Institute of Peace Special Report 237*, 6 (2010).
[72] Khoshawi Babakir, *Kurdistan-Rusia: mulakhazat diplomasi Kurdi* [Kurdistan-Russia: notes of a Kurdish diplomat], translated from Russian into Arabic by Radwan Badini (Beirut: Dar al-Mawsu'at, 2006), 47.
[73] *Ibid*, 51-52.

chosen to ignore, the existence of the safe haven and its legal status. 'Even the people closest to us,' complains Babakir, 'were surprised to find out about the opening of a "Luna Park" [amusement park] in the town of Dohuk,' or on the activities of the internet cafes, 'spread all across the city'.[74] In other words, Babakir was disappointed to find out that the Russians did not know about the existence of Kurdish sovereignty over the Kurdistan Region. To change this, Babakir and his colleagues began to disseminate information about educational and cultural developments in the KRG, all published in a monthly bulletin in the Russian language, *Kurdisiya Mysli* [translated roughly as Kurdish Thought or Intellect], followed by an Internet website in the Russian language.[75] With the fall of Saddam Hussein, Babakir notes, Kurdish-Russian relations entered 'a new, unprecedented stage'. At present, the words "the Representation of the Kurdistan Regional Government" are a reality and fact in Moscow, and the official ministries hear and cooperate with them".[76] Russia, in turn, was one of the first states to open a consulate in Erbil after the fall of Saddam Hussein.

The case of Kurdish relations with Moscow highlights the importance of the semi-formal Kurdish representations in major capitals. According to the federal constitution, foreign policy remained exclusively in the hands of the federal government in Baghdad. Yet, the KRG could not have sustained its autonomy without having some form of communication with pivotal actors in the international community. More importantly, the KRG could not have constantly projected its achievements, and hence legitimate its existence, without such representations. The first KRG representations emerged out of a unification of the KDP and PUKs'

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[74] *Ibid*, 53.
[75] *Ibid*, 54-55.
[76] *Ibid*, 66.

representations in London, Paris, Washington, Ankara, Teheran and Moscow. These were joined by new representations in Bern, Madrid (also in charge of Portugal), Rome, Berlin, Vienna, Sydney, and Brussels (KRG Mission to the European Union). The formal capacity of these representations has been to advocate economic ties between the KRG and potential investors, to promote Kurdish cultural events in different countries and provide some basic consular services, mainly relating to documentation. But in reality, and in continuation to the precedent of the Kurdish parties' representations in Ankara, the official Kurdish representations became means to spread knowledge about Kurdish achievements and serve as a space for meetings between Kurdish representatives and politicians in those countries. That these representations were perceived by the KRG as an opportunity for direct contact with other governments is hinted in the official statement of the KRG's UK representation: "For decades the people of the Kurdistan Region were deliberately isolated from the world under the repressive policies of previous Iraqi governments, and especially under Saddam Hussein's Ba'ath regime. Since 2003, the KRG has ensured that we are full participants in the international community by forging closer foreign ties."[77]

The KRG's expectation that its economic and political progress would attract public attention to its cause is best demonstrated in a statement issued by the KRG EU mission in Brussels. When the EU failed to even mention the elections that had taken place earlier in Kurdistan in its 2005 report on political progress in Iraq, the KRG Mission protested against what it referred to as a 'dangerous omission':

> The report makes no reference to the elections in Kurdistan in Iraq to the Kurdistan National Assembly (KNA), the formation of a new Government and the appointment of a President of the Kurdistan federal region. KRG expresses

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[77] <http://uk.krg.org/pages/page.aspx?lngnr=12&smap=090000&pnr=30> (January 14, 2011).

its concern, not so much because the report fails to recognise institutions foreseen by the Transitional Administrative Law (TAL), but because the report makes no reference to the positive democratic example that the people of Kurdistan and these institutions have offered to the federal republic of Iraq and their important contribution to the stability of the whole region…[78]

As noted in chapter 2 of this research, nonetheless, the pursuit of international legitimacy goes beyond the focus on democratisation and liberalisation. Economic viability, domestic stability and potential contribution to regional security also characterise the interaction of de facto states with the international community. More importantly, taking this into account could better explain some of the foreign policies and actions taken by the KRG at the international level. Two examples are the role of oil in the KRG's decision-making process, and particularly the Kurdish willingness to take unilateral steps with regard to the extraction and export of oil in the Kurdistan Region even at the price of direct confrontation with Baghdad and even when the Kurdish short-term ability to extract oil from these reserves is doubtful; and the other aspect is the KRG's enthusiastic participation in the American-led global war on terror. The latter aspect in particular buttresses the argument brought up in chapter 2, that legislation should be viewed not only as a way to establish sovereignty, but also as a way to demonstrate it to other actors.

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[78] "Damaging Omissions in the Report on the European Union and Iraq – a Framework for Engagement," *KRG website*, July 8, 2005.
<http://www.krg.org/articles/detail.asp?smap=&lngnr=12&rnr=95&anr=4169> (December 9, 2010)

5.6 KRG'S COUNTERINSURGENCY CAMPAIGN AND THE GLOBAL WAR ON TERROR: OLD THREATS AND NEW OPPORTUNITIES

The KRG's counterinsurgency campaign in the Kurdistan Region has attracted very little, if any, attention. Yet, the measures taken by the KRG in its struggle against Islamist insurgents in the Kurdistan Region reveal an effort not only to eliminate the threat of terrorism to the region, but also – or even primarily – to prove to the international community the KRG's sovereignty and its autonomy from Iraq, as well as to distance itself from its image as a habitat of illicit activity and instability. A closer look at the KRG's counterinsurgency campaign, as provided in this section, further supports the assertion that the act of legislation can serve, in the context of de facto states, as yet another tool for exhibiting sovereignty and securing international legitimacy.

Perhaps the key here is the KRG's effort to integrate this regional campaign in the global war on terror campaign, initiated by the US following the September 11. As part of this global campaign, Washington began portraying the struggle against terrorism at the local level as yet another practice of good governance. Such effort is best demonstrated by the words of American President George W. Bush shortly after the September 11 attacks and prior to the invasion of Afghanistan: 'Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists. From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime'.[79] While for some Bush's words came to symbolise yet another dimension of American imperialist

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[79] George W. Bush, "Address to a Joint Session of Congress and the American People," September 20, 2001, as cited by *Harvard Journal of Law and Public Policy* 25, 2 (2001-2002), xiii-xx.

aspirations,[80] others have actually come to see the speech as an effort to build a clear image of the enemy – a distinction between 'us' and 'them'.[81] For the KRG, such Manichean portrayal of international politics, even if rigid and in fact far from reality, has been important for defining its identity.

The roots of the KRG's counterinsurgency campaign date to the early 2000s, when Peshmerga forces battled with Islamist insurgents concentrated in the region surrounding the town of Halabja.[82] Throughout 2001 the PUK Peshmerga forces reported clashes with Islamist militias, sponsored, according to the PUK, by Iran.[83] Based on some accounts at least, PUK Peshmergas had alerted American security agents about the possibility of a major terror attack only a few weeks prior to the September 11 attacks, based on their observations in the Kurdistan Region.[84] The allied invasion of Afghanistan in October 2001 and the overthrow of the Taliban regime intensified the struggle of the KDP and the PUK, as it drove some members of the Taliban movement, Kurds and non-Kurds alike, to find refuge in the mountainous Halabja region, where they joined *Ansar al-Islam*, a Taliban-inspired splinter group of the IMK which was based in the region.

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[80] G. John Ikenberry, America's Imperial Ambitions, *Foreign Affairs* (September/October 2002), 44-60; Edward Rhodes, "the Imperial Logic of Bush's Liberal Agenda," *Survival* 45, 1 (Spring 2003), 131-154;

[81] Ivan Leudar, Victoria Marsland, and Jiri Nekvapil, "On Membership Categorization: 'Us', 'Them' and 'Doing Violence' in Political Discourse," *Discourse and Society* 15 (2004), 243-266.

[82] Although earlier signs could actually be traced back to 1993, when PUK Peshmergas fought the IMK militias in the prelude to the civil war.

[83] International Crisis Group, "Radical Islam in Iraqi Kurdistan: the Mouse that Roared," *Iraq Briefing*, February 7, 2003, pp. 8-9 Available on:
<http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Iraq/B004%20Radical%20Islam%20In%20Iraqi%20Kurdistan%20The%20Mouse%20That%20Roared.ashx> (last retrieved: December 14, 2010),

[84] Quil Lawrence, *Invisible Nation* (New York: Walker and Company, 2008), 112.

As Quil Lawrence tells us, in contrast to other governments in the region, the KRG did not bandwagon on September 11 to gain American support.[85] However, this began changing already toward the end of 2001. Gradually, the Kurdish parties were trying to make the case that local insurgents were actually associated with global al-Qa'eda networks, thus positioning themselves on the side of the US and its allies. Jalal Talabani, for example, referred in one of his statements to Ansar as 'a kind of Taliban',[86] while the mountainous base of the movement in Halabja came to be referred to by Peshmergas as 'little Tora Bora', in reference to the Taliban's stronghold in Afghanistan.[87] Other reports from the region claimed that Ansar served as a proxy for Saddam Hussein in his efforts to undermine the KRG, and that the organisation had received arms and training from Baghdad.[88] In this manner, the KRG also associated the Ba'th government with al-Qa'eda, thus stressing the distinction between the Kurds and Baghdad.

While Ansar may indeed have had some connections to al-Qa'eda networks,[89] in reality it constituted a rather marginal threat to the Kurdish parties and their hold on the Kurdistan Region. Albeit divided, the secular KDP and PUK were still far more powerful militarily than Ansar, holding tens of thousands of relatively well trained and well equipped fighters, vis-à-vis the 700 fighters strong Ansar militia.[90] Even politically, Ansar had less popular support than the Kurdish parties, including in its own enclave of Halabja. A report by the International Crisis Group referred to Ansar

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[85] *Ibid*. Lawrence uses Ariel Sharon's government in Israel as one example of bandwagoning, namely using September 11 as an excuse to intensify its actions against insurgents and suspected terrorists in the Gaza Strip and the West Bank.
[86] As quoted in Catherine Taylor, "Taliban-style Group Grows in Iraq," *Christian Science Monitor*, March 15, 2002, p.1.
[87] Jonathan Schanzer, "Ansar al-Islam: Back in Iraq," *Middle East Quarterly* (Winter 2004), 41-50.
[88] See for instance Jeffrey Goldberg, "the Great Terror," *the New Yorker*, March 25, 2002, p.52.
[89] It should be remembered that al-Qa'eda itself is an amorphous body, with very loose links with its global "branches".
[90] *Ibid*

as a "minor spoiler in predominantly secular Kurdish politics in the Suleimaniyeh region."[91] In March 2003 the PUK Peshmerga forces managed to destroy Ansar's strongholds with some limited American support, forcing most of Ansar's members to flee to Iran.[92]

In light of Ansar's apparent weakness, one may question the KRG's insistence on linking Ansar with al-Qa'eda; a material explanation would suggest that, like other regimes in the region, the Kurdish parties sought to secure material aid for its fight against a terrorist threat. Yet, the Kurdish militias were already the recipients of aid as part of the anti-Ba'th coalition. The obvious weakness of Ansar rendered more assistance unnecessary. In other words, the Kurds did not need more assistance against Ansar. A better explanation, therefore, is a one which takes the KRG's pursuit of legitimacy into account: by portraying their fight against Ansar as part of the global war on terror, the Sulaymaniyah-based KRG was able to prove that the Kurdish authorities are keen to, and capable of, contributing to regional and international stability and that threats to those is to be removed by its security forces.

The KRG's conduct in the post-2003 period further supports this argument. While the rest of Iraq experienced terrorist attacks in an unprecedented scale, the KRG remained relatively safe of Islamist terrorism. In February 2004, *Ansar al-Sunnah*, an offshoot of Ansar al-Islam, launched a suicide attack in Erbil which resulted in 117 casualties, among them Sami 'Abdul Rahman, one of the KDP's distinguished leaders. Nonetheless, this was the last and only major attack in Kurdistan.[93] All in all, the Kurdistan Region experienced between the years 2003 and

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[91] ICG, "Radical Islam in Iraqi Kurdistan," 1.
[92] Elizabeth Rubin, "Second Front," *The New Republic*, April 7, 2003.
[93] Based on data taken from RAND Database of Worldwide Terrorism Incidents, available on <http://smapp.rand.org/rwtid/incident_detail.php?id=17952> (retrieved May 26, 2011).

2010 between 7 and 16 terrorist attacks, most of whom resulting in no casualties; this is against thousands of documented terror attacks in the rest of Iraq (including the disputed territories in Kirkuk).[94] Although partly the result of the KRG's long-term isolation from the rest of Iraq, it was also promoted by the KRG as one of its achievements.[95] Masrour Barzani, the head of the KDP's Security Agency, *Parastin*, commented in an interview about terrorism as a security threat to the region that, 'Yes, there is [a terrorist threat to the region], but it is much lower than to other parts of Iraq. And it would have been great had we not fought Islamist movements in the region and outside of it.'[96] Politically as well, the only active Islamist party in the Kurdistan Region, the Kurdistan Islamic Union, was co-opted into the KRG as a member of the KA bloc in 2005.

In spite of that, and in spite of the removal of Ansar from the region, the KRG kept demonstrating to the international community its commitment to counterinsurgency. In 2006 the Kurdistan Parliament (KP – replacing the KNA) passed a regional counterterrorism bill, Law No. 3 (2006): Anti-Terror Law in the Kurdistan Region.[97] The bill was passed a year after a similar legislation was passed by the Council of Representatives in Baghdad, and in fact is somewhat similar to the

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[94] The RAND DWTI identifies 16 attacks in Kurdistan, while the University of Maryland START Global Terrorism Database documented 7 attacks. For the latter see <http://www.start.umd.edu/gtd/> (May 26, 2011). START database also documented approximately 6000 attacks of various forms in the rest of Iraq.

[95] In "Kurdistan: The Other Iraq".

[96] Ma'd Fiad, "Masrur Barzani: la tujad fi il-Iqlim mukhabarat Amrikiyyah wa la Israiliyyah… wa Baghdad la tatajassas 'alyna" [Masrour Barzani: there is no American and Israeli intelligence in the region… and Baghdad is not spying on us], al-Sharq ul-Awsat, September 13, 2008.

[97] An online copy of the law is available in Arabic in Al-majlas al-watani likurdistan [Kurdistan National Assembly], *Qanun Raqm (3) li-Sanat 2006: Qanun mukafahati il-Irhab fi iqlim Kurdistan – Iraq*, [law No. 3 for the year 2006: Counterterrorism legislation in Kurdistan-Iraq] (no English copy available), March 4, 2006. <http://www.krg.org/uploads/documents/law_anti_tiror__2008_09_10_h17m15s56.pdf> (retrieved November 21, 2010).

Iraqi legislation.[98] Given that national security remained, according to the Iraqi constitution, in the hands of the government in Baghdad, one may question the necessity of the KRG to formulate such legislation. Moreover, the KRG had already had laws defining acts of terrorism and setting penalties, namely Articles 53 and 56 of Law 1, which the new counterterrorism bill drew from.[99] Hence, the KRG's need to come up with such a bill came to be questioned by outside observers: Hogr Chato, a legal expert from the region, maintained that: "there is no real need to issue an anti-terrorism law if it is possible to use the Iraqi penal law which is in effect and which contains penalties more severe than the penalties mentioned in the Kurdistan parliament's anti-terrorism law."[100]

One explanation for the KRG's embracement of such counterterrorism measures is the Kurdish leadership's effort to whitewash and legitimise abuse of political prisoners. Rebeen Rasul, a journalist from the region, for example, expressed his fear that "there are many gaps in the law which will permit security forces to prosecute those who oppose government policies."[101] A Human Rights Watch report as well related the torture of prisoners in regional detention facilities to the KRG's anti-terror legislation.[102] Nevertheless, such explanation fails to fully explain the KRG's motivation in coming up with a unilateral, regional legislation. Certainly, the

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[98] For comparisn see Iraqi legislation: Majlis al-Ruasa al-Iraqi, *Qanun raqmi 13, qanun mukafahati il-irhab* [Law no. 13, Anti-terrorism Law], November 9, 2005. <http://www.iraq-lg-law.org/ar/webfm_send/1244> (retrieved November 21, 2010).

[99] "Kurdistan Parliament Discusses Proposed Anti-Terror Bill," *Khabat*, December 28, 2005, 1. As cited in "Iraqi Kurdistan Parliament Discusses Anti-terrorism Law," BBC Monitoring-MEP, December 28, 2005.

[100] As noted in a report on the parliamentary discussions around the legislation. See Asso Salih, "Anti-Terrorism Law in the Kurdistan Region and Tightening Freedoms," *Niqash: Briefings from Inside and Across Iraq*, July 31, 2006. Available on: <http://www.niqash.org/articles/?id=1358&lang=en> (versions available also in Arabic and Kurdish).

[101] *Ibid*.

[102] HRW, "Iraqi Kurdistan: Caught in the Whirlwind, Torture and Denial of Due Process by the Kurdish Security," *HRW* 19, 2 (2007), 22-23.

KRG may have abused the legislation to silence political opposition. But this could have been done in the framework of the Iraqi legislation.

The counterinsurgency legislation, therefore, as well other dimensions of the KRG's counterinsurgency policies, could be understood if examined through the prism of its pursuit of international legislation. The Anti-Terror Law served as an opportunity for the KRG to prove that it is an important element in regional counterinsurgency efforts. If the KRG was aspiring to portray itself as an oasis of stability, then the Anti-Terror Law added a legal (statist) dimension into that.[103] More so, formulating its own legislation on such a publicly-debated subject further demonstrated the KRG's independence of the government in Baghdad. To put it shortly, the KRG's counterinsurgency campaign served as yet example for the manner in which the act of legislation came to serve as yet another way for the KRG as a de facto state to prove its sovereignty. That the KRG was somewhat aware of that can be viewed in an article published in *al-Ittihad*, the PUK's Arabic-language pamphlet; responding to the argument that Iraq's criminal law can serve the KRG in its war on local terrorism, the article justified the Anti-Terror Law by arguing that "taking into account the uniqueness of the Kurdistan Region and bestowing it with the necessary distinction in a manner harmonious and consistent with our Kurdistani identity."[104] That such text was published in Arabic, rather than Kurdish, can teach us that the KRG was trying to make a statement not only to its domestic audience, but also, or maybe even primarily, to those outside that were closely observing its increasing autonomy.

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[103] The main mechanism for executing the clauses of the Anti-terrorism law has been the Asayish, an exclusively Kurdish body, in contrast to the Peshmerga which, at least theoretically, had some links with the federal security services. See Chapman, *Security Forces*, 182-193.

[104] 'Awni al-Bazzaz, "Aara wa afkar: adhwaa 'ala qanun mukafahati il-irhab fi Iqlim Kurdistan – al-Iraq" [thoughts and ideas: shedding light on the anti-terror law in the Kurdistan Region - Iraq], *al-Ittihad* (no date available). Available on:
<http://www.alitthad.com/paper.php?name=News&file=article&sid=14602>

Although somewhat different in context, the issue of natural resources in the Kurdistan Region (namely oil), serves as yet another example for the manner in which the Kurdish de facto state's pursuit of legitimacy can explain its policies and how the act of legislation can also serve as a demonstration of domestic sovereignty.

5.7 THE KRG'S UNILATERALISM WITH REGARD TO OIL RESERVES IN THE KURDISTAN REGION: PROVING ECONOMIC VIABILITY

The question of oil is particularly significant to the examination of Kurdish de facto statehood not only because of the centrality of oil to Iraq's economy and to post-conflict reconstruction in the country, but also because in no other field was Kurdish unilateralism so conspicuous as with regard to the question of control and use of oil reserves in the Kurdistan Region and the disputed territories. In the aftermath of the overthrow of the Ba'th regime, the KRG put control over oil production and export at the core of its aspirations to consolidate and legitimise its autonomy. To achieve that, the KRG did not hesitate to go, on some occasions, for direct confrontation with Baghdad and to act unilaterally on several fronts. Such unilateral steps included regional legislation which stood, at least according to Baghdad's interpretation, against the constitution and initial agreements between the Kurds and Baghdad; as well independent contracts between the KRG and international oil corporations without Baghdad's authorisation. Such actions have attracted great attention from various observers. Most of those observers have viewed the KRG's actions as driven by its desire to secure revenues either for the purpose of secession from Iraq,[105] or for

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[105] Such line was embraced by Ankara, which viewed the KRG's policy with regard to oil reserves in its territory as well as its aspiration to rule Kirkuk as aiming to secure secession from Iraq. See also International Crisis Group, "Oil for Soil: Toward a Grand Bargain on Iraq and the Kurds," *Middle East Report*, No. 80 (October, 2008).

domestic purposes, namely the sustainment of its system of patronage through its civil service.[106]

Following the general line of this thesis, this section argues that Kurdish unilateralism with regard to oil could be better understood through the prism of Kurdish pursuit of international legitimacy. As demonstrated earlier in this chapter, the KRG has relied on funds allocated to it by Baghdad. Unilateralism potentially risked this income and thus the KRG's system of patronage in the region. Moreover, as Iraq's federal income derived mainly from oil, the KRG had financial incentives to maintain the constant flow of oil located in northern Iraq. Finally, the landlocked Kurdistan Region depends on Ankara as its gate to oil markets in Europe; however, Ankara made it clear on various occasions that it would not allow the KRG to unilaterally export its oil through Turkey's territory. The KRG has been aware of that, which in fact undermines the idea that it was motivated purely by the search of immediate revenues. As I argue here, KRG's unilateralism aimed primarily to demonstrate to the international community Kurdish control over oil reserves in its territory, and subsequently its domestic sovereignty. By exhibiting control over its oil reserves, the KRG sought to signal the international community that even without legal sovereignty, the KRG could function as an economically viable entity. Though independence probably did stand in the background of the KRG's actions, it was not the search for immediate secession that motivated its unilateral policy. One may argue

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[106] Michael Gunter, "Economic Opportunities in Iraqi Kurdistan," *Middle East Policy* XVIII, 2 (Summer, 2011), 104. See also Michael Rubin, "Is Iraqi Kurdistan a Good Ally?" *American Enterprise Institute Middle Eastern Outlook*, 1-9; Kamal Said Qadir, "Iraqi Kurdistan Downward Spiral," *Middle East Quarterly* 14, 3 (summer, 2007), 19-26. Hussein Tahiri, *The Structure of Kurdish Society and the Struggle for a Kurdish State*, 332-340.

that for the Kurdish leadership, control over natural resources in Kurdistan came to be associated with sovereignty.[107]

The fact that oil has been central to the Kurdish strife with Baghdad should not come as a surprise, given the fact that oil has stood at the core of Iraqi statehood, and that some of the most important oil reserves in Iraq are actually located in the Kurdistan Region or in for the contested territories in Kikuk, Diyala and Ninawa.[108] Certainly, the Kurdish leadership has gone through great efforts to demonstrate its entitlement and ability to extract oil from reserves in its territory. That short-term financial gains have been secondary to the effort to secure domestic sovereignty could already be noted in 1992, when the Kurdish leadership tried to establish some skeleton of a Kurdish national oil corporation (KurdOil), without even having the means to extract oil, and under an international embargo.[109]

The first signs of Kurdish unilateralism emerged shortly after the reunification of the KRG. While the KA initially took part in the negotiations in Baghdad over the national Hydrocarbon legislation, these negotiations soon reached an impasse. At least one of the reasons for stagnation was the KRG's support for the use of Production Sharing Agreement (PSA) while the other members of the coalition objected to such

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[107] This is not a new idea – as several studies have shown, the right to exploit natural resources, especially when contested by others, has come to be perceived by certain states and societies as a symbol of their sovereignty. See Hirst, *Oil and Public Opinion in the Middle East* (London: Faber and Faber, 1966). This applies to regions beyond the Middle East, and to various resources. See Carl E. Solberg, *Oil and Nationalism in Argentina: a History* (Stanford, CA: Stanford University Press, 1979); Sonja Marta Halverson, "Small State with a Big Tradition: Norway Continues Whaling at the Expense of Integration and Nordic Cooperation," *Syracuse Journal of International Law and Commerce* 31 (2004), 121-148.

[108] In his comprehensive examination of Iraq Peter Sluglett notes the role of oil in establishing Iraq in its current form by the British Empire. See Peter Sluglett, *Britain in Iraq* (London: I.B Tauris, 2007), 65-92; See also Mary Kaldor, Terry Lynn Karl and Yahia Said, "Introduction," in Kaldor, Karl and Said, *Oil Wars* (London: Pluto Press, 2007), 1-15.

[109] See page 155.

form of contraction.[110] Frustrated by this stagnation,[111] the KP passed in June 2007 the first draft of an autonomous Petroleum Law,[112] which eventually turned into the Hydrocarbon Law passed in the KP in 2009.[113] Based on this legislation, which accepted PSA as an acceptable (if not preferable) form of contraction, the KRG now claimed rights to sign contracts independently with international oil corporations for the extraction and export of oil from reserves in the Kurdistan Region. And indeed, shortly after signing the draft legislation the KRG declared that it was now capable of exporting crude oil in commercial quantities. It soon signed a PSA with several small and medium-size foreign companies to start oil extraction.[114] While initially the KRG expressed its commitment to sharing its income from oil with the central government, six months after the Hydrocarbon Bill was passed the President of the Region, Mas'ud Barzani, declared during a visit to the European Parliament that the KRG would keep for itself revenues from the extracted oil, since 'they [Baghdad] often use it against us [the Kurds]'.[115] On the same event, Barzani called on the EU to "help Kurdistan 'on how we can establish a successful administration, a good health and education system, and to have an independent judicial system and proper governance'," and urged European companies to invest in the KRG.[116]

This Kurdish unilateralism entailed immediate hostility and suspicion not only from Baghdad's side, but also from Ankara. In Iraq, the KRG's "insistence on a

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[110] Namely a contract in which an international oil corporation is guaranteed a certain share of potential revenues from oil in return for the exploration and extraction of oil reserves.

[111] Sean Kane, "Iraq's Oil Politics," 9.

[112] KRG, *Petroleum Law of the Kurdistan Region– Iraq*, June 29, 2007. <http://www.krg.org/pdf/2_English_Version_Kurdistan_Petroleum_Law.pdf> (December 19, 2010).

[113] Michael J. Kelly, "The Kurdish Regional Constitution within the Framework of the Iraqi Federal Constitution: a Struggle for Sovereignty, Oil, Ethnic Identity, and the Prospects for a Reverse Supremacy Clause," *Penn State Law Review* 114, 3 (2010), 748-749.

[114] ICG report counts about 20 oil companies signing contracts with the KRG, including companies from Turkey, the US, Australia Canada. See "Oil for Soil: Toward a Grand Bargain on Iraq and the Kurds," *Middle East Report* 80 (October, 2008), 16; see list of corporations by oilfields on http://www.krg.org/pages/page.asp?lngnr=12&rnr=296&PageNr=1

[115] Luke Baker, "Iraq's Kurds will Hold on to Oil Revenues," *Reuters* November 10, 2009.

[116] "Kurdish Leader Pleads for EU Investment," *UPI*, November 10, 2009.

decentralized oil regulation system… has helped awaken the sleeping giant of Iraqi nationalism."[117] Iraq's Minister of Oil at the time, Huassian al-Shahristani, described Kurdish oil exports as 'illegal and illegitimate',[118] while members of other parties and non-governmental organisations urged the government to fight this move.[119] In reaction to these claims, the KRG's Natural Resources Minister, Dr. Ashti Hawrami, justified this move by stating that 'We do not want to be hobbled by the political paralysis in Baghdad'.[120] He also invoked articles 112 and 115 in the Iraqi constitution, interpreting them as allowing regional governments in oil-producing governorates to 'administer and supervise the extraction process' and meant that 'local oilfield managers are answerable to the local authorities'.[121]

Ankara as well objected to Kurdish unilateralism. Not only was Turkey deterred by anything that smelled of Kurdish separatism, but it also had independent agreements with Baghdad with regard to the Kirkuk-Ceyhan pipeline. Syria and Iran as well have been hostile toward Kurdish independent oil exports.[122] Shortly after the KP passed the law, Turkey's Energy and Natural Resources Minister Hilmi Güler travelled to Iraq and met with Sahristani, in order to ratify the signing of the cooperation agreement between the two countries, and especially a proposed pipeline to carry oil from Iraq to Western Europe through Turkey.[123] It was also reported that

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[117] Lydia Khalil, *Stability in Iraqi Kurdistan: Reality or Mirage*: *Saban Center Working Papers* 2 (Washington DC: Brookings Institute, 2009), 1.
[118] "Iraq Still Doesn't Recognize Kurds' Oil Deals," *AP World Stream*, May 12, 2009
[119] The Association of Muslim Scholars, an organisation of Sunni religious scholars, for example, issued a fatwa against any trade with companies signing deals under the new Hydrocarbon Law. This was dismissed by the KRG as 'politics'. See: "Iraqi Kurds: AMS Anti-oil Law is Politics," *UPI Energy*, August 9, 2007.
[120] "Iraq Oil Future Uncertain under KRG Law," *UPI*, August 7 2007.
[121] In "Oil and Gas Rights of Regions and Governorates," *KRG*, June 12, 2006. http://www.krg.org/articles/detail.asp?rnr=95&lngnr=12&anr=11678&smap=; See also Michael Gunter, *The Kurds Ascending* (London: Pelgrave Macmillan, 2007), 49-51.
[122] Justin Dargin, "Securing the Peace: the Battle over Ethnicity and Energy in Iraq," *Harvard University Belfer Center Dubai Initiative Working Paper* (June 2009), 7.
[123] A plan which, so far, has not been executed. As reported in *Ayın Traihi* [history of the month], Turkish Prime Minister's official news website, August 8, 2007, item 4.

Turkey was considering a military operation in case the KRG was to execute any of the contracts it signed.[124] Even if such reports were exaggerated, they still reflected Ankara's hostility toward Kurdish unilateralism. True, Turkish energy corporations, such as Genel Enerji, also signed contracts with the KRG, thus benefiting from its conduct. Nevertheless, it should be remembered that most Turkish activism in the Kurdistan Region was done in coordination with Baghdad. As I elaborate in the next section, the KRG was prepared for such reaction, trying to soften it by demonstrating Ankara the benefits of access to oil. However, at least during the period following the passing of the Hydrocarbon Law in the region, Ankara remained stern in its hostility to Kurdish independent action. Facing uncertainties and instability, no major oil firm responded positively to the KRG's step, and all of the initial production and exploration contracts were with smaller risk-taking firms.[125]

Thus, an explanation that gives more attention to the KRG's pursuit of international legitimacy and desire to consolidate and demonstrate its domestic sovereignty can better serve us in understanding the KRG's oil policy. By passing regional laws and signing contracts with international oil corporations the KRG risked (to a certain extent) some of its immediate sources of income, but gained an opportunity to demonstrate to the international community its sovereignty as well as its economic viability.

Of course, assuming that the KRG was not interested in oil revenues would be naïve. Rather, the argument here is that the KRG was actually willing to risk some of

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[124] As reported in Darrell Prows, "Kurdish Oil Deals," *The Democratic Daily*, November 29, 2007.
[125] ICG, "Iraq and the Kurds: the High-Stakes Hydrocarbons Gambit," *Middle East Report* 120 (April, 2012), 3. Another ICG report counts about 20 oil companies signing contracts with the KRG, including companies from Turkey, the US, Australia Canada. See "Oil for Soil," 16. Only toward the end of 2011 the KRG managed to sign a PSA with a major oil corporation, ExxonMobil. Yet, as an ICG report suggested, by signing a contract with the KRG Exxon was probably more interested in bringing Baghdad and the KRG back to the negotiations table rather than giving up on future potential exploration contracts with Baghdad. See ICG, "Iraq and the Kurds," i.

its short-term income under the assumption that demonstrating would help it to consolidate its sovereignty and, in the long-term, serve it in attaining more international legitimacy for its currently contested status. To put it simply, one should not hesitate relating to the Kurdish leadership some long-term planning in its strategy. Embracing this has in fact some implications not only for our understanding of the KRG, but also for the resolution of the conflict between the KRG and Baghdad. If indeed contestation over oil is not merely a competition over financial gains, but is actually associated with the desire for sovereignty and the perception of statehood, then a revision of current allocation of oil income within the existing framework is probably not a viable solution,[126] since it does not settle the KRG's contested status and does not respond to the Kurdish aspiration to maintain and even expand their autonomy.

In a retrospect, the KRG's constant effort to legitimise its de facto autonomy from Baghdad by constantly presenting its domestic sovereignty during the second decade of its existence did not go unnoticed, as several observers acknowledged the KRG's success in maintaining stability and relative prosperity in Kurdistan. Already in 2005 Leezenberg noted that "The relative peace and prosperity of present-day Iraqi Kurdistan are unprecedented."[127] Dennis Chapman, working closely with the autonomous Kurdish security forces, stated that "Where other parties and militias in the Middle East have adopted the radical models of Marxism or militant Islam and often moved into the orbit of rogue regimes, the KDP and PUK and their forces have moderated themselves, remaining consistently secular… [and] openly seeking alliance

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[126] As suggested by the ICG, for example, in "Oil for Soil," ii.
[127] Leezenberg, "Iraqi Kurdistan," 635. Similar accounts are also noted by other close observers of this progress, such as Natali, *The Kurdish Quasi State*, 97-102; Brendan O'Leary and Khaled Salih, "The Denial, Resurrection and Affirmation of Kurdistan," in *The Future of Kurdistan in Iraq*, ed. O'Leary, et. al., 24-29.

with the United States and the West instead."[128] A symbolic aspect of increased international legitimacy was the willingness of governments to establish consulates in Erbil. While the opening of foreign consulates in provincial town in itself is not an exceptional step, it was the first time in Iraq's history that consulates were actually established in the Kurdistan Region. The first states to establish consulates in Erbil were Germany, France, Russia, and Iran. They were soon joined by the US, UK and Sweden. The establishment of consulates had a functional aspect, as now more foreigners were arriving to the Kurdistan Region as contractors, tourists and volunteers. And yet, the idea of establishing such representations in the Kurdistan Region was almost unheard of during the 1990s, although foreign nationals were already active in the region during that period. That the setting up of consulates was a sort of "vote of confidence" in the KRG is exemplified in the US Congress Resolution 873 of 2009 to launch a consulate in Erbil. According to the resolution, entitled *Establishing a United States Consulate in the Kurdistan Region of Iraq*: "[T]he establishment of a United States Consulate in the Kurdistan Region will demonstrate a United States commitment to maintaining and building upon the success and stability of this prosperous and democratic Iraqi region."[129] In order to regulate these relations, the KRG also reformed its own foreign service and re-established the Department of Foreign Relations as a ministerial department, headed by the Western-educated Falah Mustafa Bakir.

The KRG's greatest success in this regard was the establishment of a Turkish consulate in Erbil in 2010. This event marked a peak in a prolonged campaign, in which the KRG tried to legitimise its existence not only through demonstrating its

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[128] Chapman, *Security Forces of the Kurdistan Regional Government*, 7.
[129] US 111th Congress, Session 1, Res. H. 873, "Establishing a United States Consulate in the Kurdistan Region of Iraq,"
<http://rohrabacher.house.gov/UploadedFiles/Kurd_Consulate_H.Res._873.pdf> (October 5, 2010).

economic viability and progressive nature, but also its potential contribution to regional stability and to countering Turkey's concerns about regional instability and the threat of PKK terrorism. Focusing on the constantly changing nature of relations between Turkey and the KRG, it provides us with a clearer example for the manner in which the KRG's emphasis on stability and economic viability, including its control over oil reserves in the Kurdistan Region, came into play. And since Turkey can be described as one of the most important veto-states with regard to the future status of the Kurdistan Region, it makes some sense to conclude this chapter by providing an analysis of Ankara-KRG relations.

5.8 THE KRG AND TURKEY POST-2003: ANOTHER PERSPECTIVE ON LEGITIMATION

Relations between Ankara and Erbil deserve special attention.[130] As one of the region's most economically developed and militarily powerful countries, Turkey has also been the main veto-power with regard to any change in the status of the Kurdistan Region. Nevertheless, Turkey's approach to the idea of Kurdish autonomy witnessed some noteworthy vicissitudes since 2003. While initially the AKP government was alarmed by developments in the Kurdistan Region and in Iraq, it soon changed its policies and embraced a new attitude to the idea of Kurdish autonomy. Capturing this transformation in his thorough analysis of Erbil-Ankara relations in the years 2003-2004, Robert Olson argues that whereas during the 1990s relations between Turkey and the Kurdistan Region could be described as *state-to-*

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[130] This aspect is probably one of the better studied aspects of the Kurdish question in the post-2003 war, e.g. Olson, *The Goat and the Butcher*; Olson, *Blood, Beliefs and Ballots*, (Costa Mesa: Mazda, 2009); Michael Gunter, "Turkey's New Neighbour, Kurdistan," in *The Future of Iraqi Kurdistan*, ed. O'Leary et. al., 219-234; Åsa Lundgren, *The Unwelcome Neighbour: Turkey's Kurdish Policy* (London: I.B Tauris, 2007)

region relations, since 2003 they turned into *State-to-government(s)* relations.[131] This change was a product of the wider developments in Iraq and in the region, most notably the almost total collapse of Iraqi central governance, but also of Kurdish well-designed effort to secure Turkish legitimacy for the existence of Kurdish de facto statehood.

As noted earlier, during the late 1990s Ankara became more receptive to the idea of an autonomous Kurdistan Region, maybe under the assumption that the Kurds could not unify their region again in the aftermath of civil war. The invasion of Iraq in 2003 and the new role taken by the Kurds in Baghdad revived Turkish fears about the prospect of Kurdish statehood in the Kurdistan Region. In the immediate aftermath of the invasion, consequently, the AKP government witnessed all of its "red lines" in the region being crossed one-by-one. The Kurdish parties were now gaining unprecedented political power in Iraq through the IGC. The Peshmerga became the most formidable and best organised fighting force in the country, enhancing the status of the Kurds as the only able allies of the coalition troops. Kirkuk, seen as the cornerstone of a future Kurdish state in Ankara's eyes, was now going through an evident process of Kurdification under indirect control of the Kurdish parties.[132] And the Kurdish autonomy now became a legal entity with an even wider autonomy.

Alarmed by these developments, Ankara now tried to find new ways to maintain influence in Iraq and halt the expansion of Kurdish autonomy. The 2005 elections in the Kurdistan Region entailed a somewhat Pavlovian response from Ankara, with the spokesman of the Turkish Ministry of Foreign Affairs declaring that

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[131] Olson, *The Goat and the Butcher*, 24; 137-139. Olson is cautious not to use the term *state-to-state* relations, noting Turkey's objection to any transformation in the KRG's status.
[132] On top of that, a Kurd was elected as Kirkuk city's mayor in the same year.

the election of Barzani for regional presidency 'does not carry much meaning'.[133] To this the KRG Mission in Europe responded that

> The statement issued by Namik Tan, Turkey's Foreign Affiairs [*sic*] Ministry spokeman [*sic*], on 15 June is short-sighted, outdated and politically and diplomatically inappropriate… This is indeed surprising since the inauguration of President Barzani was attended by the president of Iraq and other dignitaries from the federal government, representatives of the US and UK -- both allies of Turkey… during the inauguration ceremony, President Barzani said: "We respect all neighboring countries and extend a hand of friendship to them. We will also work to establish best relations based on mutual respect and friendship"… President Barzani clearly expressed that the Kurdistan Government will not play a destabilising role in the region.[134]

Soon Ankara began taking a more active line of action in order to neutralise Kurdish autonomy, namely direct intervention in the region. Turkish military incursions as part of the "hot pursuits" after PKK insurgents had already taken place during the 1990s, with the KRG's consent, but the first post-war (consensual) Turkish presence was that of the unarmed observers sent from Ankara to Kirkuk in the aftermath of the fall of the city in 2003. In other cases such intervention took more sinister forms, such as assassination attempts on Kurdish officials. In one case, which came to be known as the 4th of July incident, an American marine force discovered a unit of the Turkish Special Forces on their way to assassinate the Kurdish mayor of Kirkuk, 'Abdul Rahman Mustafa. The Turkish soldiers were detained and their heads were covered in bags, which brought back images of the Guantanamo Bay detainees and caused uproar among the Turkish public.[135]

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[133] "Turkey Says Barzani's Selection as Kurdish President Meaningless," *AFP*, June 15, 2005.
[134] "KRG's Mission to the EU: Turkey is Out of Touch," *KRG website*, 18 June, 2005. <http://www.krg.org/articles/detail.asp?rnr=95&lngnr=12&anr=3764&smap=> (on December 9, 2010.
[135] Olson, *The Goat and the Butcher*, 28-29.

Another tactic used by Ankara to put Kurdish autonomy in check was to amplify its role as the protector of the Turkic-speaking Turkoman minority in northern Iraq. Turkey had shown an interest in the fate of the Turkomans already during the 1990s, but this interest increased dramatically during the period of the invasion, probably mobilised by Turkey to justify its intervention in Iraq.[136] A paper published by a leading a Turkish think-tank reflects clearly the main-stream thinking about the Turkoman community in Iraq. Referring to the Turkomans as "Constituting one of the three major entities of the modern Iraqi State,"[137] the paper stresses the utility of the Turkomans in Turkey's effort to gain some leverage in Iraq, especially in case of the emergence of "an autonomous, federal or independent Kurdish rule in Northern Iraq."[138] The ITF became one of Turkey's main proxies for putting pressure on the Iraqi government and the KRG. Yet, Turkey's support of the ITF fell short of drawing it into a direct conflict with the coalition forces as well as the Kurdish militias.

Turkey's ambivalence toward the Turkoman question was demonstrated in the case of the Tal 'Afar raid (also known as *Operation Black Typhoon*), which took place in September 2004. The raid on the predominantly Turkoman town in the Ninawa governorate, north-west of the Kurdistan Region, was conducted by American forces

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[136] A very simple example for the link between Turkish interest in the wellbeing of the Turkoman community in Iraq and Ankara's objection to the invasion can be found in number of references to the Turkoman question in the *Ayın Tarihi*, the Turkish government's official news source. During 2003, immediately following the invasion, about 41 items in the review referred to the Turkoman subject and the Turkoman parties. This is in contrast to 18 items in 2002, 2 items in 2001 and 4 items in 2000. During the first three years following the 2003 invasion (i.e. 2003-2006), 87 items referred to Turkoman question in Iraq; this is against 9 items in the first three years following the establishment of the KRG (1992-1995).

[137] H. Tarık Oğuzlu, *The Turkomans of Iraq as A Factor in Turkish Foreign Policy: Socio-Political and Demographic Perspectives* (Ankara: Dış Politika Enstitüsü – Foreign Policy Institute, 2001), 4. As Amikam Nachmani shows, the Turks and the representatives of the Turkoman community have advocated the idea that the Turkoman community consists of about 3,000,000 individuals, although Western estimates put the number on 300,000. See Nachmani, *Turkey: Facing a New Millennium* (Manchester: Manchester University Press, 2003), 11.

[138] *Ibid*, 26.

backed by Peshmerga forces in order to clean the city of al-Qa'eda nests. Among the casualties of the battle were many of the town's Turkoman residents.[139] On top of that, a Kurd from the town's Kurdish minority was nominated by the CPA as its mayor.[140] Ankara was gravely concerned with these developments and Turkish officials intensified their pressure on the American forces to show restraint and protect the lives of unarmed civilians in the town, and especially members of the Turkoman community.[141] Ankara was painfully aware of the Kurdish participation, as revealed in Turkish media outlets from the period.[142] Turkish officials initially refused to acknowledge Kurdish participation, and communicated directly only with American representatives. On the other hand, Ankara did not take any major punitive measure against the Kurdish parties. More importantly, the Tal 'Afar events made the AKP government realise that the KRG actually runs the affairs in the Kurdistan Region. Interviewed by journalists about the developments in northern Iraq, Foreign Minister Gül urged what he defined as Iraq's 'influential circles' to stop the killing of 'ethnic Turks'.[143] This vague statement, put in the context of events in Tal-'Afar, could easily be understood as directed to the leaders of the KRG, or to the Kurdish representatives in Baghdad.

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[139] Initially the ITF's representative in Ankara, Ahmet Muratlı, asserted that the clashes in the city had nothing to do with the Turkoman community. See: "Muratlı: Telafer Olaylarının Türkmenlerle ilgisi yok" *Zaman*, September 5, 2004. Soon, nonetheless, the ITF began to express concern about the potential implications of the violence on the Turkoman community and began encouraging Ankara to take measures to protect the Turkomans in the city. See: Türkmenler Telafer'deki çatışmalardan endişeli [Turkomans express concern due to clashes in the city], *Zaman*, September 10, 2004.

[140] Olson, *The Goat and the Butcher*, 123-124.

[141] In addition, Ankara began providing the Turkoman community in the city with international aid. See Salih Boztaş and Süleyman Kurt, "Ankara, Türkmenler için devreye girdi" [Ankara intervenes for the Turkomans], *Zaman*, September 11, 2004.

[142] See for example Yasemin Çongar, "Telafer'de ne oluyor?" [what is happening in Tal 'Afar?] *Milliyet Internet*, September 13, 2004, <http://www.milliyet.com.tr/2004/09/13/yazar/congar.html> (March 1, 2011); "Peşmerge Telafer'de" [Peshmerga in Tel 'Afar], *Sabah online*, <http://arsiv.sabah.com.tr/2004/09/13/gnd101.html> (March 1, 2011)

[143] Anatolia News Agency, "Turkish Foreign Minister Urges Iraq "Influential Circles" to Stop Killings," September 13, 2004, cited by BBC SWB, September 13, 2004.

The presence of the PKK on the border between the Kurdistan Region and Turkey served as another incentive for the latter to deal with the KRG. Already during the 1990s the KRG proved its willingness to limit the PKK's ability to launch attacks from the KRG's controlled territory and this commitment was exhibited again following the US-led invasion of Iraq. As reported by the Turkish PM's office, in August 2006 Kurdish PM Nechirvan Barzani met with Murat Karayılan, Öcalan's successor as the PKK leader, in which he condemned the PKK's cross-border attacks and warned him that "he would not allow such actions."[144] Relating to a possible Turkish raid on the PKK, Talabani stated in November 2007 that 'the operation will be limited in scale and will not affect relations with the Kurds of Turkey'.[145] During 2008 Kurdish leaders became even more blatant in their critique of the PKK, with Talabani openly criticising the PKK as being responsible for Turkish incursions into Iraq,[146] Barzani condemning PKK attacks in a meeting with John Negroponte,[147] the American Deputy Secretary of State, and both leaders condemning the PKK's cross-border operations jointly during this year.[148] In another joint statement, Barzani and Talabani declared that 'We recognise Turkey's right to defend itself against terror. We are familiar with Turkey's sensitivities. We will not remain quiet but will not declare war'.[149] And after a visit by President Gül to Iraq, Talabani told journalists that 'This is our advice: either the PKK abandons the armed struggle, or it must leave our country… Terror affects all of us negatively'.[150] That these statements were recorded and published by the Turkish PM's official news agency reflects at least some acceptance in Ankara of their viability.

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[144] As cited in *Ayın Tarihi*, August 2, 2006, item 12.
[145] *Ayın Tarihi*, November 17, 2007, item 8.
[146] *Ayın Tarihi*, July 16, 2008, November 11.
[147] *Ayın Tarihi*, October 5, 2008, item 8.
[148] *Ayın Tarihi*, October 6, 2008, item 10.
[149] *Ayın Tarihi*, December 24, 2007, item 8.
[150] *Ayın Tarihi*, March 20, 2009, item 4.

The KRG from its side often made sure to demonstrate to Turkey that any effective action could only be taken in coordination with the Kurdish authorities. Ayın Tarihi records various statements made by Kurdish leaders which can be interpreted as explicitly hostile to Turkish intervention in the region. In 2006, Talabani, as the President of Iraq, protested after a meeting with Barzani against joint Iranian-Turkish operations in the Kurdistan Region, maintaining that 'the [Iraqi] government rejected the understanding between the Ba'th regime and Turkey regarding cross-border operations'.[151] In 2007 Barzani was quoted by Ayın Tarihi, threatening that "If Turkey intervenes in Kirkuk, we as well will intervene in Diyarbakir and revolutionise [Turkey's] 30 million Kurds".[152] And in another instance, the Iraqi Minister of Interior, "speaking on behalf of the KRG" (according to Ankara), referred to Turkey's air attacks against the PKK as a 'violation of Iraq's territory'.[153] Nonetheless, in spite of their militant content, such statements should be seen more as a way for the KRG to bargain its stand vis-à-vis Ankara, rather than genuine threats. The KRG did not have the ability to prevent Turkish incursions into its territory, but it could utilise them to secure its autonomous existence. And despite its relative weakness vis-à-vis Turkey, the KRG often proved capable of limiting Turkish actions within the region. As a KRG official described to researcher Michael Knights, although Turkish soldiers are located within the region, with the KRG's approval, they were blocked on different occasions by the Peshmerga from taking action against the PKK forces in the region.[154] After all, at the end of the day the KRG too had an interest in removing

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[151] *Ayın Tarihi*, July 14, 2006, item 11.
[152] *Ayın Tarihi*, April 9, 2007, item 4. This statement entailed the submission of a Turkish diplomatic protest to the government in Baghdad.
[153] *Ayın Tarihi*, September 28, 2008, item 5.
[154] Michael Knights, "Guiding the Kurdish Role in Securing Northern Iraq," in *The Future of the Iraqi Kurds*, The Washington Institute for Near East Policy No. 85, ed. Soner Cagaptay (July 2008), 24.

PKK elements from the region, but without being viewed as coming against the Kurdish cause in Anatolia.[155]

The PKK, nevertheless, was not the only factor affecting relations between Erbil and Ankara. The economic opportunities that the KRG could offer Turkish contractors and investors, as well as Turkish government-owned corporations, have also enabled transformations in Kurdish-Turkish relations. According to some accounts, about 500 Turkish corporations have been active in Erbil and Sulaymaniyah, constituting around half of the foreign companies in the region and enjoying revenues of billions of dollars.[156] The border-town of Zakho, up until 2003 a desolated post on the Iraqi (KRG)-Turkish border and a centre of smuggling, now became a gate for flourishing legal (in addition to continuing illegal) economic activity. As "the Other Iraq" campaign, as well as the KRG's unilateralism with regard to oil, reveal, the KRG had already recognised the power of economic interests in securing its legitimacy, and Turkish firms had been encouraged to take part in the Kurdish economic boom in the region. Already prior to the passing of the KRG's independent Hydrocarbon Law in the KP, the Kurdish leadership was trying to persuade Turkish authorities about the potential benefits of such a step. In March 2007 for example, Hawrami argued that 'It is in Turkey's interest to be in direct contact with us. It is a "first come first served" situation… There are 20-25 billion barrels of oil reserves in Kurdistan. It is more than we need.' Hence he added, 'it is in

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[155] This is perhaps reflected in Talabani's note in April 2009 that "that the PKK has laid down its arms does not mean that the organisation has given in. It means that a political process has begun. If the PKK continues with the armed struggle, it will do so in its own country's [i.e. Turkey's] territory." Cited in *Ayın Tarihi*, April 19, 2009, item 7.

[156] In 2007, for example, Turkish firms have earned about $2.6 billion. Turkish exports to the region in the same year have reached between $2.8 and $3.5 billion. See Natali, *The Kurdish Quasi State*, 93-94, based on data gathered from interviews and from USAID Iraq program reports.

Turkey's interest as well to establish relations with us.'[157] Shortly after the passing of the draft law, Barzani and Hawrami found it necessary to publicly deny Kurdish support of PKK guerrillas in the Kurdistan Region.[158] As Natali described it, the Kurdish leadership invited the Turkish government to "invade economically and not militarily."[159] Though Ankara remained consistent in denying the KRG the right to independently export Kurdish oil through its territory, its willingness to trade with KRG and indeed the rapidly increasing volume of trade between both governments may serve as an indication of Ankara's willingness to reconsider its stand on the matter as well, in case stagnation in Iraqi oil export continues. Henri Barkey has noted that Ankara as well came to view the KRG as a stabilising factor within Iraq. The Kurdish fierce fighting against Islamist groups in northern-Iraq and its objection to implementing the Shari'a law in Iraq, a demand often advocated by Shiite and Sunni parties in Baghdad, have led Ankara to see the Kurds as a reliable actor within Iraq.[160]

5.9 CONCLUSION

The second decade of Kurdish de facto autonomy from Baghdad witnessed a further consolidation of Kurdish sovereignty over the Kurdish provinces. The Kurdish administrations were gradually reunified; the status of the Kurdistan Region as an entity within federal Iraq provided the Kurds with new avenues for interaction with the international community, as did international aid that increased following the overthrow of the Ba'th regime; and the new reality in Baghdad provided the Kurds

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[157] Cengiz Çandar, "Türkiye'nin petrol için Bağdat'ın değil, Erbil'in kapısını çalmak zorunda" [For its oil Turkey needs to knock on Erbil's door, not Baghdad's], Hürriyet, March 17, 2007. <http://arama.hurriyet.com.tr/arsivnews.aspx?id=6140787> (February 15, 2012).

[158] *Ayın Traihi*, August 7, 2007, item 7.

[159] Natali, *The Kurdish Quasi State*, 93. A similar open-border policy has also been established between the Kurdistan Region and Iran, another (albeit much less significant) adversary of the KRG.

[160] Barkey, "Turkey's New Engagement in Iraq," 5.

with new political powers, with Kurdish politicians often playing the role of lobbyists for the Kurdish cause. Against this background, the KRG was able to continue its efforts to legitimise its existence, a task which remained a central foreign policy aim, since increasing signs of Kurdish independence now irritated its neighbours, particularly Ankara.

The collapse of the Iraqi state and its descent into a near civil war and sectarian violence served the Kurds well in their efforts to emphasise their achievements in terms of maintaining regional security and stability and reforming their political system. The discourse of the "democratic experience" from the 1990s turned into the "other Iraq" and the emphasis on democratisation of the political system was supplemented by Kurdish efforts to prove that their authorities are capable of maintaining local security as well as contributing to a regional one. Oil reserves in the region served the KRG in exhibiting its potential economic viability. The need to continue and rely on these factors in their interaction with the international community can explain why the Kurdish leadership was often willing to take certain decisions that did not settle well with its short-term interests, such as the willingness to go for conflict in Baghdad and risk its income that was flowing from the Iraqi government. The main contribution of this chapter to this work, in addition to further demonstrating the importance of the pursuit of international legitimacy, has been to point out the changing nature of this pursuit amid the development of the KRG, and its impact on other aspects of Kurdish foreign policy. It also supported the argument raised in chapter 2 with regard to the importance of legislation as a mechanism of national liberation in de facto states. The following chapter complements this one, by showing how the pursuit of international legitimacy relying on domestic sovereignty could actually pave the way for further political reforms.

CHAPTER 6. THE PURSUIT OF INTERNATIONAL LEGITIMACY AND THE PROCESS OF STATE-BUILDING: EXPLAINING DOMESTIC DEVELOPMENTS WITHIN THE KRG

The domestic sphere of de facto states and its development against the background of non-recognition and limited legitimacy is an important element in this study. The argument carried in this research is that the pursuit of legitimacy at the international level, which is based to a great extent on the actor's domestic sovereignty, may pave the way to further developments at the domestic level. This depends on the manner in which de facto states formulate their pursuit of legitimacy, the domestic structure of the de facto state, and its exposure to and interaction with the international community. In the case of the KRG, as in some other cases of de facto statehood, the pursuit of international legitimacy relied to a great extent on successful state-building, democratisation and liberalisation of the political, social and economic systems. And indeed, various observers have witnessed some progress in the KRG, at least in terms of a political transition toward a more representative political system in the region. As this chapter demonstrates, this transition is to a large extent the result of transnational advocacy which relied on coalitions of external and local actors, all taking part in the constitution of the KRG and utilising the KRG's pursuit of international legitimacy in advocating their principles and values.

In this sense, this chapter supplements the previous chapters. Whilst those focused mainly on the KRG's emergence as a de facto state and its foreign policy and interaction with the international community, this chapter elaborates more on the

impact of this interaction on the KRG's domestic developments in the fields of democratisation and liberalisation of the political system. Special focus is given to the subject of the struggle with regard to women's rights and the transnational struggle against gender-based violence in the region. This is because this subject reveals how transnational networks committed to a certain principle managed to utilise the KRG's need for legitimacy, its constant commitment to reform and the importance of emerging global norms for advocating shifts in certain areas.

6.1 THE CONTEXT OF DOMESTIC TRANSFORMATION: THE KRG'S DOMESTIC STRUCTURE AND THE CHANGING NATURE OF INTERACTION AND INTERVENTION DURING THE FIRST TWO DECADES OF ITS FORMATION

Internationally-held ideas and norms played an important part in the KRG's development and interaction. Understanding their impact requires us to take two factors into account when examining the KRG. The first is that of interaction between the KRG and the international community. The second factor is the KRG's domestic structure, namely the nature of Kurdish governance and the relations between the KRG and the Kurdish population. Interaction is essential because it is through interaction that new ideas have been conveyed to the KRG. Such ideas have percolated through the KRG's domestic structure which has determined the level of influence certain ideas may have on the Kurdish leadership.

Notwithstanding the double embargo, the KRG interacted with other actors throughout its existence, such as NGOs, aid-relief organisations and UN agencies. Members of the diaspora have served this process of interaction by mitigating

between the KRG and external actors, but also by exposing the Kurdish population to external actors. The previous chapter indicated that the legalisation of the KRG's autonomy in the new Iraqi constitution expanded the scope of interaction by allowing new actors to join the process of state-building in the Kurdistan Region and by making it easier for the Kurdish leadership to travel and meet with new actors. The activity of NGOs and aid-relief agencies in the region has been relatively consistent and rather influential. While prior to 2003 those organisations had refrained from assisting the KRG in capacity-building, this changed with the overthrow of the Ba'th regime. International aid to the region then entered a new stage, which Denise Natali has defined as that of the *democracy mission*. During this period, foreign assistance transformed from the "traditional delivery of goods" into "capacity building and long-term development." Enjoying more domestic legitimacy following its reunification and agreements with Baghdad, the KRG was now encouraged by the providers of aid to introduce ideas about governance and the roles of the state into the region, mainly through the education system and school curriculum. As Natali describes the new reality, "External aid programs reinforced existing civil society-building efforts such as training workshops for youth, human rights campaigns, and technical assistance based on anticorruption, violence against women, and civic education."[1] In addition to the Kurdification of the school curricula, "Democracy mission norms – human rights, religious freedom, and gender equality – were incorporated into the academic curricula, while English was adopted as a second language in all schools."[2]

Natali's review of international aid to the Kurdistan Region is somewhat rigid, as demonstrated earlier in this volume. Capacity building efforts, including endeavours to democratise the KRG, took place already during what she defines as

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[1] Denise Natali, *The Kurdish Quasi State*, 76.
[2] *Ibid*, 89.

the aid relief phase. Already in the early 1990s NGOs had tried to shape the emerging democratic experiment, as election monitors and as advisors to the KRG.[3] Furthermore, Natali does not devote sufficient attention to the causal link between international aid and domestic political change, focusing more on the changing nature of aid. Natali has been, however, one of the first to realise and examine the impact of international aid and interaction between the KRG and aid-providers on the evolution of the political, social and economic system in the region. Based on Natali's review, several conclusions can be drawn:

- First, international aid served to expose the Kurdish leadership and people to international society, mainly by amplifying the Kurdish plight internationally, but also by conveying international norms and practices of good statehood into the KRG.

- Second, the activities of international aid agencies somewhat legitimised the KRG, both domestically and internationally, by working directly with Kurdish authorities.

- Finally, the initial aid relief operations in the KRG also served to legitimise further intervention in the KRG: Their commitment to assisting the KRG shaped international NGOs' image as an ally of the Kurdish people. Hence, one may assume that when such organisations began advocating reforms in the KRG and assessing its commitment to the standards they set, the Kurdish leadership, in contrast to other regimes, could not reject such intervention as a foreign illegitimate intervention or tag transnational actors as "foreign agents."

Though initially reluctant to intervene in the process of capacity-building in Iraq, UNAMI gradually came to play an increasingly important part in the

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[3] See pages 143-144.

reconstruction of the country. In addition to infrastructure, UNAMI also took upon itself to reconstruct the Iraqi political system. It did so by reflecting to the government in Baghdad and the KRG the standards of good statehood, as viewed by the UN agencies. It did so through monitoring political processes in both administrations, direct interaction with officials in both administrations and through its *Human Rights Report* (HRR), a series of reports released in the period between 2005 and 2010 in changing frequency, detailing the progress of each administration in certain fields of governance. Initially the HRR were short and focused primarily on elections, detention of prisoners, military operations, the rule of law and reconstruction activities, with all other subjects falling under the category of *overall situation of human rights*.[4] Starting from 2006, however, the reports became more detailed, paying attention to the situation of women, children, minorities, religious freedom, freedom of expression and media, kidnappings and more, all under distinct categories. Thus, the HRR detailed the standards that constituted good governance. In addition, the report contributed further to the KRG's sense of autonomy, whereas early reports referred to Iraq in general without relating directly to the KRG[5]. Later reports came to devote specific attention to the KRG, with each section often distinguishing between the performances of the two administrations in the reviewed areas. Both governments also replied separately to such reports, defending their positions and reporting on their progress in the different categories.[6]

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[4] See for example UNAMI, *HRR*, May 1-June 30, 2005. All UNAMI documents are available on: <http://www.uniraq.org/docsmaps/undocuments.asp>

[5] In fact, the KRG was mentioned as a distinct entity for the first time only in the April 2006 report, referred to once as the *Kurdish* Regional Government. See UNAMI, *HRR*, March 1-30 April 2006, 8.

[6] See annex to UNAMI, *HRR*, July 1-December 31, 2008. That the HRR reports were taken seriously by the KRG, or at least perceived as a factor that can potentially shape international public opinion, is evident in the KRG's reactions to the reports, its denial of negative references to the KRG and its reliance on details casting the KRG in a positive light as a source of legitimacy. Such deliberation often took place in the KRG's publications in English. See for instance Ako Muhammed, "KRG Criticizes UNAMI Report," *The Globe*, January 9, 2010.

The diaspora was earlier described as a pivotal element in the reconstruction of the region. Recent studies have established the role of diaspora communities as transnational actors, a notion which has been embraced enthusiastically by students of the Kurdish diaspora.[7] Members of the large Kurdish diaspora communities in major European capitals have not only been exposed to Western ideas about governance, but have also developed national identity through their activism.[8] The establishment of the KRG in 1992 was celebrated across Kurdish diaspora communities in the West, regardless of their country of origin. As Khalid Khayati observed "For many diasporan Kurds, the Kurdish autonomous region is the only "liberated" part of Kurdistan, whose interaction with the Kurdish diaspora in the West gives expression to the practice of transborder citizenship, as manifested in considerable transnational exchanges, including diasporan Kurds' support for democracy and reform in Iraqi Kurdistan."[9] After decades of lobbying for the Kurdish cause in their respective countries, diaspora Kurds now had an opportunity to participate in the state-building process taking part in their homeland. Returnees from the Kurdish diaspora had been playing a significant role in the Kurdish administration and political process during the early 1990s. In addition, members of the Kurdish diaspora had become one of the pillars of civil society activism in the Kurdistan Region. During the civil war and its atrocities, this enthusiasm somewhat waned, but with the overthrow of the Ba'th

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<http://www.kurdishglobe.net/display-article.html?id=A185EE5B25B1057F0CB8C766A3234210> (January 9, 2011).

[7] Diane E. King, "When Worlds Collide: The Kurdish Diaspora from the Inside Out" (PhD diss., Washington State University, 2000); Khalid Khayati, "From Victim Diaspora to Transborder Citizenship" (PhD diss., Linköping University 2008); Ann-Catrin Emanelsson, "Diaspora Global politics: Kurdish transnational Networks and Accommodation of Nationalism" (PhD diss., Göteborg University, 2005).

[8] See the above; see also Fiona Adamson and Madeleine Demetriou, "Remapping the Boundaries of 'State' and 'National Identity'," *European Journal of International Relations* 13, 4 (2007), 489-526.

[9] Khayati, op. cit., 106.

regime, it was revived.[10] Now, members of the diaspora gained a chance to carry the ideas that they had absorbed in the West about government and society. Often highly educated, members of the diaspora have been considered valued assets for the KRG, and their ideas have enjoyed some prestige. Moreover, Diane King tells us, Kurdish society has been receptive to Kurdish returnees and members of the diaspora and their ideas, giving them an important place in society.[11] All of these factors have given the Kurdish returnees leverage to influence decision-making processes in the Kurdistan Region.

Based on the model of transnational intervention and domestic structures formulated by Risse-Kappen and Checkel, we could also approach the second factor, that of the KRG's domestic structure. As reviewed in chapter 2 of this research, both Risse-Kappen and Checkel have observed that government centralisation determines the manner in which ideas from the global level are transferred into a certain environment and implemented by the government.[12] Gaining access to a centralised government is a difficult task, since such a government may be disengaged from its society. Yet, when an actor does manage to gain access to a centralised government and present its ideas, there is a higher chance that such ideas would be implemented. Building coalitions with local actors, such as local NGOs and individuals, is an essential element in the success of transnational activism. Here comes into importance the concept of transnational advocacy networks (TANs), as used and defined for example by Keck and Sikkink. The strength of such coalitions lies in the connections

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[10] Ann-Catrin Emanuelsson, "Shall We Return, Stay or Circulate: Political Changes in Kurdistan and Transnational Dynamics in Kurdish Refugee Families in Sweden," *Journal of Migration and Refugee Issues* 4, 3 (2008): 134.

[11] King, "Back from the 'Outside': Returnees and Diasporic Imagining in Iraqi Kurdistan", *IJMS* 10, 2 (2008), 208-222.

[12] Thomas Risse-Kappen, "Introduction," in *Bringing Transnational Relations Back In* (New York and Cambridge: Cambridge University Press, 1995); Jeffrey Checkel, *Ideas and International Political Change* (New Haven: Yale University Press).

built between external and domestic actors, with the external actors often using their position to amplify the domestic outcry and grievances of domestic actors and to lobby for their cause, while domestic actors provide the external actors with some basic infrastructure for activism.[13]

Much like other de facto states, KRG can be defined as a *state-dominated* domestic structure, based on the criteria set by Risse-Kappen.[14] Since its formation, the KRG has been a relatively centralised government, with policies dictated mainly by the politburos of the KDP and the PUK; the government has been the main employer in the region and the main engine of growth;[15] and at least until the second half of the 2000s, the security forces, namely the Peshmerga and the *Asayish/Parastin* have often been immune to criticism.[16] On the other hand, since 2003 the KRG has faced an increasingly vibrant civil society, inspired by developments in the Kurdistan Region and the diaspora. Media, NGOs and even domestic political and social movements, concerned with certain socio-political factors, have all managed to channel their societal demands to the government. This, together with the KRG's openness to international intervention, out of sheer necessity mitigated the KRG's centralisation to some extent.

Taking into account both of these factors, then, is necessary if we seek to understand the success of transnational advocacy networks in taking part in the formation of the KRG, and resultantly the Kurdish willingness to take certain actions

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[13] See page 19.

[14] See definition in page 76 of this thesis.

[15] One observer noted that about 1.1 (out of approximately 4) million people in the region are employed by the KRG. See Fawzi al-Atroushi, "Hawla katili il-nisaa wa al-ihtilal al-idari fi Kurdistan al-'Iraq," [about the killing of women and the administrative occupation of Kurdistan] *KRG*, July 7, 2007. <http://www.krg.org/articles/detail.asp?lngnr=14&smap=01010400&rnr=84&anr=18908> (June 23, 2011). Even if this number is inflated it still marks the power of the government as an important employee. See also Natali, *The Kurdish Quasi State* 41-42, 114.

[16] Amnesty International, *Hope and Fear: Human Rights in the Kurdistan Region of Iraq*, 9-10.

and conduct certain reforms. The following sections demonstrate the manner in which these factors have facilitated political and social reforms in the region.

6.2 THE PURSUIT OF INTERNATIONAL LEGITIMACY, TRANSNATIONALISM AND POLITICAL REFORMS IN THE KRG

As revealed throughout the last chapters, successful election campaigns in the region served as a key element in the KRG's interaction with the international community. If the 1992 elections marked the beginning of the "democratic experiment" in the Kurdistan Region, the 2005 election campaign marked the launch of the "other Iraq" campaign. In these elections, which took place on the 30th of January, simultaneously with the Iraqi parliamentary elections, the PUK and the KDP ran together as the Kurdistani Alliance, which won about 89.55 percent of the votes. In 2009, however, the KA faced the emergence of parliamentary opposition in the form of the *Gorran* (Change) List, which won about 25 percent of the parliamentary seats in the elections which took place on the 25th of July 2009. The excessive focus on parliamentary elections, successful as they may be, has been highly criticised by outside observers, who have pointed out that the elections did not lead to positive developments in other areas.[17] More importantly, in both cases the election campaigns had some undesirable results. Whilst in 1992 the elections and the ensuing political system resulted in the eventual collapse of the KRG,[18] in 2005 the KA was condemned for the unification of both parties and for the fact that the new government now faced no real opposition.

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[17] See for example David Ghanim, *Iraq's Dysfunctional Democracy* (London: Praeger Publishers, 2011), especially the chapter "Elections and Illusive Democracy," 117-134.

[18] As suggested by Gareth Stansfield in "Governing Kurdistan: the Strengths of Division,"

Although the critique regarding the overemphasis of elections at the expense of other essential elements of democratisation is rather accurate, they did have an immense impact on the region. Not only being a precedent in the region, the elections also served as another platform for transnational actors to take part in the formation of the KRG and to convey their ideas about good governance into the region. Reverting once again to the historical elections of 1992, the Electoral Reform Society went beyond its role as election monitors. As the ERS's chairman and one of the chief monitors in the elections process, Michael Meadowcroft gained direct access to the Kurdish leadership. This allowed him to try and shape the Kurdish leadership's perceptions of the political system. In one example, Meadowcroft tried to influence the KRG to abandon the allocation of seats to minority groups, viewing it as a dangerous and divisive political mechanism. As he contended,

> It is not my place to comment on the politics of having reserved seats [for Christians] but **I draw attention to the possibility of looking again at this provision** both in regard to the potential dangers of having religious identity noted on Ids and also so that minority leaders can assess whether they may have more influence – and in a healthier way politically – by using their links with major parties to make arrangements... to secure more representation than the five reserved seats.[19]

In the preparations for the 1995 elections, which the ERS was due to supervise and monitor as well, Meadowcroft also advised the KRG to lower the 7 percent threshold for entering the parliament, observing that "In any case, whatever system is used, the threshold level needs to be considered. In 1992 it was 7%, which excluded all but the

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[19] Meadowcroft and Martin Lunn, "Elections for Iraqi Kurdish National Assembly and Leader of the Kurdistan Liberation Movement: Monitoring Report," (London: ERS, May 19, 1992), 6 [emphasis in the origin].

two main parties."[20] While the KRG did not give up the allocation of seats for minorities, it did follow Meadowcroft's advice and reduced the entry threshold to parliament.

Later election campaigns provided the KRG further opportunities to interact with other NGOs and transnational actors which carried with them new ideas, through the participation of others as election monitors. Each campaign entailed the participation of a long list of election monitors, which included democracy promotion INGOs, together with Western-based Kurdish diaspora organisations. The latter had been trained and funded by larger democracy-promotion INGOs such as USAID, the International Republican Institute (IRI) and the National Democratic Institute (NDI).[21] One monitoring mission in the 2009 elections was sent by the Unrepresented Nations and Peoples Organisation (UNPO), an NGO aiming to promote self-determination for its members, but also human rights and good governance among its members (which also included the KDP and the PUK). The UNPO sent its monitors following complaints on irregularities in the 2005 elections in the region, and especially the prevention of Christians and other minorities from participation in these elections. Reviewing 36 polling stations in the regional parliamentary and presidential elections in 2009, the mission commented that "Good practice was noted in a number of polling centers. The sharing of experience at all levels of the electoral process should be encouraged in the post-election period to highlight problem areas and spread good practice."[22] But in addition to condoning the KRG for that, the UNOP report also

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[20] Meadowcroft, "Iraqi Kurdistan – Elections," September 9, 1994, MEADOWCROFT/4/12/1, A:\Kurd94-1.
[21] United States Government Accountability Office, "Rebuilding Iraq: U.S. Assistance for the January 2005 Elections," *Report to Congressional Committees*, GAO-05-932R September 7, 2005; see also UNAMI, "Status of Observer/Agent Accreditation for the Kurdistan Region Electoral Events, No. 4," July 20, 2007.
[22] UNPO, "Elections Observation Report: Presidential and Parliamentary Elections, Kurdistan Region of Iraq," July 25, 2009, 6.

condemned the KA for leaving propaganda material outside polling stations and urged it to facilitate the voting of women in the region.

Because the election campaigns served the Kurdish leadership to attract international attention to the region, they also allowed opposition movements to counter the KRG's decision-making even outside the parliament. One interesting example is that of the Kurdistan Referendum Movement (KRM). Emerging initially among members of diaspora communities across Western Europe, the KRM advocated the secession of the Kurdistan Region from Iraq and the foundation of an independent Kurdish state in the Kurdistan Region. Following the pattern of Kurdish activism in the diaspora, KRM launched its activism by petitioning the UN Secretary General Kofi Anan about the Kurdish right for independent statehood. Soon, nonetheless, the movement's activism began shifting toward the Kurdistan Region itself, where it began to gather wider public support. In a bold step, the KRM ceased the 2005 elections as an opportunity to publicly pressure the KRG, and its members conducted a referendum outside polling stations, in which voters were asked to vote for or against Kurdish independence. About 98.8 percent of the participants voted for secession. The KRG rejected the results of the referendum and launched an effort to co-opt the KRM's activists. Such actions by the KRG were condemned by two observers as a disregard of Kurdish public opinion and as an undemocratic step.[23] Although such a statement is not entirely incorrect, the referendum marked one of the first instances in which the Kurdish public channelled its grievances in a non-violent manner to the Kurdish leadership. Though the KRG did reject the referendum, its leadership found itself forced to face the public and justify its unpopular policies.

<http://www.unpo.org/images/unpo%20election%20observation%20report%20(kurdistan,%20july%20 2009).pdf> (June 6, 2011).

[23] Azad Berwari and Thomas Ambrosio, "The Kurdistan Referendum Movement: Political Opportunity Structures and National Identity," *Democratization* 15, 5 (2008), 891-908.

Elections also served as a platform for the local NGOs to interact with emerging transnational actors, thus establishing TANs that further allowed those NGOs to advocate reforms in the political system. One way has been for local NGOs to utilise funding and training provided by INGOs to inform the Kurdish public about public rights and participation in political life. The *Kurdistan Institute for Elections* (KIE), financially supported and trained by American NGOs such as the NDI, IRI and the National Endowment for Democracy (NED), for instance, organised pre-election seminars in which "The scope of the discussions reached to that range of talking about violations of human rights by the political power, lack of social equality and equity, lack of services, lack of individual freedom and other public problems in the society."[24] In 2009 KIE together with Kurdistan-based Democracy and Human Rights Development Centre and Women's Legal Assistance, the German WADI Foundation (acronym in German for Association for Crisis Assistance and Development Cooperation) and the American Civil Society Initiatives joined together and formulated a draft law of organising rallies and demonstrations in the Kurdistan Region. As the KIE explains the idea behind the draft code

> We presently hear about public rallies in different places without having any regulations or appropriate laws to protect the participants and ensure their safety. Regarding the promotion of people's awareness about their rights and obligations towards arranging rallies and in order to engage ourselves in advocating the rights and freedom of the people as well as making equivalences between the rights of organizing rallies and the public safety systems, we determined to formulate this draft code.[25]

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[24] Kurdish Institute for Elections, "Citizens and Electoral Enlightenment Campaign," October 10, 2009. <http://www.kie-ngo.org/Diryje.aspx?Jimare=16&Babet=ProjectandActivities2> (May 26, 2011).
[25] "Twenty Three Parliament Members Confirm the Draft Code on Organizing Public Rallies and Demonstrations," *KIE official website,* November 11, 2009. <http://www.kie-ngo.org/Diryje.aspx?Jimare=17&Babet=ProjectandActivities2> (May 26, 2011).

Even if modest, the bill, which was eventually passed by the parliament on November 3, 2010 after being submitted by 23 members of the KP, meant the first instance of legal regulation of public protest in the Kurdistan Region since its establishment. In another case, an intensive and prolonged advocacy by the *Aynda* (Future) Centre for Youth Issues (FCYI), funded and trained by the Washington-based IRI, eventually led the KRG to amend its regional Election Law, lowering the minimum age of candidacy in the Kurdish elections from 30 to 25. As stated in a report about the campaign (which came to be known as *Campaign 25*)

> After almost two years of public awareness campaigns and government outreach, Aynda succeeded in lobbying the KRG to lower the candidacy age in advance of the KR's July 2009 parliamentary elections. Following that success, Aynda helped train young candidates running for parliament in that election, and in large part due to the Center's efforts, today four percent of the Kurdish Region's parliament is under the age of 30. These youth representatives would not hold their seats without the efforts of the Aynda Center.[26]

The increased social activism in the Kurdistan Region with regard to the elections, motivated, inspired and funded by transnational intervention, eventually had its mark on the political system in the region, with the emergence of a new opposition bloc in the KP. In July 2009, Gorran List won 23.5 percent of the seats in parliament,[27] thus challenging the major parties' hegemony of the political process in the region.[28] The blow was particularly severe from the PUK's perspective, as Gorran's founder, Nawshriwan Mustafa, was a former PUK Peshmerga commander

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[26] Hal Ferguson, "IRI's Hal Ferguson Highlights the Role of Young People in Iraq's Democracy," *FCYI official website*, October 10, 2010.
<http://www.aynda.org/EN/operations/get_article.asp?language=EN&ArticleID=2483> (May 27, 2011).
[27] Gorran became an official party in 2010, after the elections. Its members ran as independent candidates in the elections,
[28] After the publication of results, Gorran leadership accused the Kurdistani List of sabotaging the elections. However, as the elections were heavily monitored by organisations of varied background, one can assume that the rigging of the elections was limited, at least to some extent. Patrick Cockburn, "Reformist Gains in Kurdish Vote Shake Iraq's Quiet North," *the Independent*, July 27, 2009.

and Talabani's deputy in the party, who had retired a few years earlier, accusing both Talabani and the Barzani family of authoritarianism, corruption and inability to run the affairs of the region. Most of the members of the party were former PUK members and the party's main support came from Sulaymaniyah, Talabani's stronghold. The KA remained in power, with Barham Salih of the PUK now replacing Nechirvan Barzani as the regional PM. Yet, the old Kurdish elite now came under a greater domestic check by a vocal opposition party with its own media outlets and public base of support.

Grudgingly forced to accept this new reality, the KA-led KRG found it again an opportunity to capitalise on the success of the electoral process as an example to the Kurdish commitment to democratisation. Qubad Talabani, the KRG's representative to Washington (and Jalal Talabani's son) stated in front of an audience of policy-makers and academics at the Washington-based Middle East Institute that

> We were challenged by some to achieve the 'gold standard' in elections. We accepted that challenge – and we delivered. We have achieved much in our experiment in democratic self governance – and of course there is much more to achieve. And we intend to achieve it… Now, there will be an even more vibrant opposition within the Kurdistan parliament…We all expect vigorous debate and there certainly will be new dynamics within the KRG and throughout Iraqi Kurdistan.[29]

Shortly after, and days before his appointment as the PM of the Kurdistan Region, Barham Salih boasted in an interview to the London-based pan-Arab daily al-Sharq al-Awsat that

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[29] Qubad Talabani, "Remarks on the Elections of 25 July 2009 and Related Issues – Middle East Institute," *KRG*, August 13, 2009.
<http://www.krg.org/uploads/documents/Qubad_Talabani_speech_MEI_Kurdistan_Elections_11Aug0 9__2009_08_13_h8m53s57.pdf> (June 7, 2011).

The recent elections constitute a turning point in the Kurdistani democratic experiment in terms of the details of the electoral competition and the programs and the various views of the competing lists, including the Kurdistani List… The Kurdistani List's point of view is focused on maintaining the gains and correcting the failures in the field of administrative corruption… Regardless of our expectations, 70 percent of the votes to Mr. Mas'ud Barzani as president and about 59 percent of the votes in support of the Kurdistani List are an exceptional success in any genuine democracy, in light of the heated competition which took place in Kurdistan. We are proud in the success of the electoral process and the democratic process which led to this democratic atmosphere in the competition between the different lists, and we are proud of our victory in this competition."[30]

And in another interview on the subject, Ja'far Ibrahim, the KRG's representative in Dubai maintained that

The political mentality of those in power in the Kurdistan Region enabled the region and all the refugees, who used to stay in London and Europe, to live a free and proud life in the Kurdistan Region. This mentality transformed [life in] the Kurdistan Region from its most base point [sic] into a type of life that can be matched with lives in developed societies. The Kurdistan Region has turned into a democratic experiment through this mentality.[31]

Thus, the KRG integrated local developments in their interaction with the international community in a conscious effort to further legitimise the Kurdish de facto state. By so doing, the Kurdish leadership paved the way for further reforms, sustaining the cycle of interaction, transnational intervention, implementation and further interaction.

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[30] Mu'id Fayyad, "Barham salih kabil intikalihi ila Arbil: Baghdad 'asimatna wa la yumkin an natrakuha lil-akhirin liyukareru masir ul-balad" [Before moving to Arbil, Barham Salih: Baghdad is Our Capital, We Cannot Leave it to Others to Decide Fate of the Country], *al-Sharq al-Awsat*, August 19, 2009. <http://www.aawsat.com/details.asp?section=4&article=532419&issueno=11222> (on June 8, 2011).

[31] "Rundown Talk Show" *Dubai al-Sharqiyya Television in Arabic*, July 29, 2009. Cited by BBC Monitoring MEP, August 5, 2009.

In other instances, the democratic transition in the region also allowed TANs to struggle for freedom of expression in the region. Whilst during periods of key transformations, such as the early 1990s and the post-2003 period, independent media outlets flourished and enabled criticism of the KRG and of important political figures, other periods actually witnessed official efforts to silence critique and thwart journalist freedom in the region. The Kurdish parties did so through controlling major media outlets in the region, persecution of journalists in regional courts for defamation, and even physical harassment of journalists. Freedom House described the ambivalence in this area in a 2008 report, noting that

> Broadcast media in the Kurdish north are dominated by the two main political parties, but independent print outlets and internet sites have arisen in recent years. Independent journalists are able to criticize powerful interests with more freedom than in the rest of Iraq, but those who offend local officials and top party leaders or expose high-level corruption are increasingly subject to physical attacks, arbitrary detention, and legal harassment.[32]

This report, therefore, indicates that some process had taken place against government efforts to limit it. The sources of progress could be traced back to transnational activism and the impact of wider democracy promotion initiatives in the region. Relying on their greater access to technology and information, Kurdish youth and young professionals in Europe began establishing communication networks dealing with political and social realities in the Kurdistan Region. Unlike locally based journalists, members of the diaspora were spared from physical or legal persecution. Therefore, one subject that was heavily covered in the transnational Kurdish media was that of persecution and harassment of journalists in the Kurdistan Region, which was considered to be detrimental to the nascent democratic transition

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[32] Freedom House 2008 Annual Report, "Iraq,"
<http://www.freedomhouse.org/template.cfm?page=22&year=2008&country=7414> (July 4, 2010).

in the region. When the Austrian-Kurdish activist and journalist Kamal Sa'id Qadir was arrested in 2005 in the Kurdistan Region, a major uproar among Kurdish writers in Europe attracted the attention of international media. Qadir was arrested for defaming the Barzani family and especially Mustafa Barzani, which he described as a KGB agent.[33] Initially Qadir was sentenced to 30 years in prison in a quick trial; yet following international pressure by diaspora activists in direct contact with the KRG, NGOs such as Amnesty International (AI) and the Austrian government, Qadir was released from prison.[34] Masrur Barzani, head of the Asayish and President Barzani's son, justified the KRG's actions in the case of Qadir by arguing that although freedom of media is essential, individuals in the region have often abused this right for defamation and slander.[35] But the debate about Qadir's arrest was soon integrated in the discourse about the KRG's position and prospects, with critiques of the KRG and of the Barzani family's hold of the region using it to doubt the KRG's democratic nature and subsequently the necessity of the US to protect it.[36]

Not only diaspora media took part in shaping this field of freedom of expression – UNAMI as well played an important part in the introduction of new norms of freedom of expression into Iraq and the Kurdistan Region. Already in 2006 UNAMI introduced a section on freedom of expression in its reports, following the violence against journalists in Baghdad.[37] But it was in 2007, simultaneously with the

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[33] See Kamal Sa'id Qadir, "The Barzani Chameleon," *Middle East Quarterly* 14, 2 (Spring, 2007), 87-88.

[34] Michael Rubin, "Dissident Watch: Kamal Sa'id Qadir" *Middle East Quarterly* 13, 2 (Spring, 2006), 95-96.

[35] Indeed, some controversy did surround Qadir's case, who not only claimed that Mustafa Barzani was a KGB agent, but also accused "members of the Barzani clan of frequenting Russian prostitutes, referred to one clan member as a 'homosexual' and publicly described Masrur Barzani as a 'pimp'." Qadir himself acknowledged in a 2006 interview that the Asayish did not prohibit him from writing but demanded him not to use certain terms. See a report in Terrorism Focus, "Controversial Security Chief of Iraq's Kurdish Enclave Discusses War on Terrorism," 5, 34 (September, 2008).

[36] See for example Michael Rubin, "Is Iraqi Kurdistan a Good Ally."

[37] UNAMI, HRR, January 1-February 28, 2006, 5.

greater attention given by UNAMI to the KRG, that it also began dedicating more attention to the subject in its reports.[38] UNAMI was soon joined by Amnesty International and Reporters without Borders (RWB) in its campaign for freedom of expression in Iraq.[39] The combined advocacy carried some tangible results with regard to promoting freedom of expression in the Kurdistan Region. In 2007 the KP issued Law No. 24, *Press Law*, which was amended again on September 22 that year, giving what Freedom House defined as "unprecedented freedoms" to journalists and eliminating imprisonment penalties for defamation. According to Freedom House reports, the law was implemented rather successfully in many of the cases reviewed, eventually leading to a "numerical improvement" in its 2009 annual report.[40] Violence against journalists in the region, and particularly journalists critical of the security forces, did not cease to exist,[41] but in spite of the troubles and critique against the government, an RWB report indicated in 2010 that "The status of press freedom is better there than in neighbouring countries and provinces, mainly because of Kurdistan's adoption, in 2007, of a protective Law of Journalism. The Kurdish intelligentsia is dynamic, and the number of its media outlets has exploded in the last few years."[42] In short, then, at least during the second decade of de facto statehood, the KRG was experiencing further liberalisation in the field of freedom of expression. This liberalisation was the product of transnational intervention, which percolated into the KRG through its own pursuit of international legitimacy and its aspiration to bolster its leadership's constant reference to its democratic experiment.

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[38] UNAMI, HRR, January 1-March 31, 2007, 10-13.

[39] AI, *Hope and Fear: Human Rights in the Kurdistan Region in Iraq* (London, 2009); RWB, *Between Freedom and Abuses: The Media Paradox in Iraqi Kurdistan* (2010).

[40] The report covered the whole of Iraq, but the improvement was related directly to the legislation in the Kurdistan Region. Freedom House, "Freedom of Press 2009," <http://www.freedomhouse.org/template.cfm?page=350&ana_page=372&year=2009> (July 22, 2011).

[41] AI, *Hope and Fear*; RWB, *Between Freedom and Abuses*.

[42] RWB, *Between Freedom and Abuses*, 2.

The previous paragraphs have demonstrated how the KRG's pursuit of international legitimacy, based on claims to practical or earned sovereignty, has facilitated transnational intervention, which in turn contributed to further positive developments in the region. The following section builds upon this review to provide an analysis into the manner in which women's rights TANs came to utilise the KRG's pursuit of international legitimacy to advocate government action against violence against women. By so doing, the chapter provides a detailed example of the mechanisms employed by TANs, by shedding new light on a socio-political subject which does not often get to be analysed in studies of the KRG.

6.3 THE TRANSNATIONAL STRUGGLE AGAINST VIOLENCE AGAINST WOMEN IN THE KURDISTAN REGION: PURSUIT OF LEGITIMACY AND NEW OPPORTUNITIES

Committing to the democratisation of the Kurdish political system has been a less controversial task for the Kurdish elites, partly because such measures were reconciled with public demands. In contrast, the issue of women's rights necessitated greater government intervention in the private sphere of its population. It therefore carried the risk of direct confrontation between the KRG and the more conservative elements of Kurdish society, among them important allies of the KRG. Therefore, even though amid the Kurdish leadership there have been individuals who genuinely believed in gendered equality and the need to promote women's rights, the KRG's urgent need to secure popular support has often led it to marginalise the subject. In fact, for most of the first decade of its existence, the KRG treated public discussions around the subject of violence against women as something of a taboo. The Kurdish

leadership by no means opposed the gendered equality issue and did try to portray itself as striving to integrate women into public life. The most common feature of this was their constant emphasis on women's participation in the fighting against Iraqi repression as Peshmergas.[43] Nonetheless, any effort to extend this equality to the private sphere encountered male Kurdish antagonism. During the second decade of its existence, in the post-invasion era and especially after reunification, some important changes took place in the KRG's approach to the subject. These changes included a greater willingness to publicly discuss the former taboos about violence against women, and new legislation and government action against violators of this new legislation. As in the above examples, this was also the product of transnational activism utilising the KRG's need for international legitimacy.

The starting point for understanding this process lies in the institutionalisation of the struggle against gendered violence as an international norm which governments are expected to adopt. During the 1980s the subject of violence against women became integrated in the wider debate within international society about human rights. Issues such as FGM, domestic violence and wartime sexual violence now became part of the agenda of women's rights networks.[44] This process was further exacerbated during the 1990s, with the 1993 Vienna World Conference on Human Rights and the 1995 Beijing Fourth Conference on Women. These two major conventions provided women's rights advocacy networks opportunities to interact with other human rights-related advocacy networks and learn and implement their strategies and tactics. The Beijing Conference was particularly significant because during the Conference, participant governments came to incorporate language suggested by NGOs directly, or

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[43] See for example Michael Howard, "Revenge Spurs Women's Army," *the Guardian Online* [London], November 26, 2002, <http://www.guardian.co.uk/world/2002/nov/26/iraq.michaelhoward> (January 7, 2011).
[44] Keck and Sikkink, *Activists beyond Borders*, 165-166.

at least consulted with NGOs to shape their positions on the issue. Although the final document of the Beijing Conference was merely a policy statement with no legal binding power, many activists heralded this document for "raising the awareness of governments and holding them accountable for their practices."[45] Hence, women's rights networks were successful in generating a discursive change at both national and global levels, "as reflected in the positions governments took condemning violence against women at the UN conferences at Nairobi, Vienna, and Beijing."[46]

Further progress was documented in 2001, when the United Nations Security Council issued its Resolution 55/66, entitled "Working towards the Elimination of Crimes against Women Committed in the Name of Honour." The Resolution explicitly stated that "States have an obligation to exercise due diligence to prevent, investigate and punish the perpetrators of such crimes and to provide protection to the victims, and that the failure to do so constitutes a human rights violation."[47] The Resolution also called upon states to "implement their relevant obligations under international human rights law and to implement specific international commitments... To intensify efforts to prevent and eliminate crimes against women committed in the name of honour... [and] establish, strengthen or facilitate, where possible, support services to respond to the needs of actual and potential victims..."[48]

The perceptive shift was also introduced into the process of state recognition, as embodied in the first instance of formulation of standards of recognition to an

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[45] *Ibid*, 188. The Beijing conference is especially important to this chapter, as the conference became a point of reference for Kurdish women's rights activists during their local advocacy campaign, as I intend to show later in this section.
[46] *Ibid*, 192-193.
[47] UNSC, A/RES/55/66: "Working towards the Elimination of Crimes against Women Committed in the Name of Honour," January 31, 2001.
<http://www.unhchr.ch/huridocda/huridoca.nsf/b617b62bcb39ea6ec1256610002eb7a6/d71daccfe833c9a3c1256a7700542307?OpenDocument>
[48] *Ibid*

aspiring an aspiring state since the early 1990s, namely the 2003 Standards for Kosovo. While paying attention to the issue of minority rights, property rights and freedom of movement, the documents referring to the recognition of the post-Soviet and post-Yugoslav republics in the early 1990s did not mention specifically the issue of women's rights or violence against women.[49] Yet, these issues were an integral part of the Standards of Kosovo programme. Thus, under the article concerning Provisional Institutions of Self-Government, for example, the Kosovar authorities are expected to include representatives of all communities, as well as a "significant proportion of women."[50] Elsewhere, under the article relating to "Equal Access to Justice," the document states that there must be an "effective action to eliminate violence against women and children, trafficking and other forms of exploitation, including preventative education and provision of legal and social services to victims."[51]

In Iraq, the 1980s witnessed a regression in the Ba'th regime's progressive attitude toward women's rights. Facing an economic crisis, and subsequent challenges to his legitimacy, President Saddam Hussein tried to gain domestic support by revoking policies and legislation that aimed to integrate women in education and the national workforce. This dire situation was felt even more strongly among Kurdish women due to the genocidal policies of the Ba'th regime and the Anfal campaign which resulted in an increase in the number of widows who could not support their

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[49] A collection of the documents relevant to the recognition of the post-Yugoslav and post-Soviet republics, including the "Declaration on the 'Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union'" and the "Declaration on Yugoslavia," could be found in Danilo Turk, "Recognition of States: A Comment," *European Journal of International Law* 4, 1(1993), 66-91.
[50] UNSC, *Standards for Kosovo*, Presented on December 10, 2003 in Pristina, Kosovo, p.5. <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20Standards.pdf>
[51] *Ibid*

families.[52] The establishment of the KRG was a sign of hope for women in the region. After all, women had played an important role in the Kurdish national liberation struggle leading to the foundation of the KRG, whether as Peshmergas, political activists and leaders (e.g. Leyla Zana in Turkey), or even by supporting the Kurdish fighters. The opportunity to take part in the constitution of their new national project attracted women from everywhere in the region and many of them overcame great difficulties, such as distance from home, or even illiteracy, to take part in the 1992 elections.[53]

The fledgling feminist movement in the region emerged, according to one contemporary observer, with the election of six women to the parliament and with the 4000-strong Kurdish Women's Organisation which was established in 1991.[54] The initial focus of women's rights advocacy in the region was on the subject of political representation, integration of women into the workforce and financial support for widows who had lost their husbands during the Anfal campaign and could not support themselves, although there was also some protest against the legality of the widespread practice of polygamy in the region.[55] Nevertheless, the subject of domestic violence gradually came to the fore of Kurdish women's rights activism. This was not coincidental; during the immediate period following the withdrawal of the Ba'th administration from the region, the Kurdistan Region experienced a sharp increase in the number of cases of gendered violence. The first wave of violence was actually perpetrated by Peshmerga forces, which targeted women that were suspected of "shaming" Kurdish honour by serving as prostitutes for Ba'th officials, although

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[52] Nadje al-Ali and Nicola Pratt, *What Kind of Liberation* (Berkeley: University of California Press, 2009), 37-54.
[53] Fran Hazelton, "Land of Hope and Glitter: Fran Hazelton Examines the Fledgling Feminist Movement in Iraqi Kurdistan," *The Guardian* [London], June 25, 1992, p.21.
[54] *Ibid*.
[55] Nadire Mater, "Iraq: Kurdish Women Struggling to Liberate," *IPS*, June 8, 1992.

this definition also included women who were raped by the Iraqi security forces.[56] The Kurdish authorities eventually put an end to this phenomenon, but at this stage domestic violence had become prevalent in the region, which witnessed a surge in the number of crimes committed by fathers, brothers and husbands against their daughters, sisters and wives respectively, for shaming the family, usually for having some form of extramarital relationship.

Amid the KRG's reluctance to counter the problem, women's rights activists began taking independent action. In 1993, the Kurdish Communist Party-affiliated *Independent Women's Organisation* (IWO) established the first shelter for women at risk in the Kurdistan Region. In addition, the IWO joined other women's organisations in demanding the KRG to abolish the practice of polygamy; revoke the Iraqi Personal Status Law, which allowed polygamy and de facto legitimised honour killings and which was still enacted in the region, and in general to introduce gender-egalitarian legislation into the region.[57] Almost from the start, the IWO was aware of the need to build contacts with other women's rights organisations around the globe. Consequently, activists began to do all they could in order "collect petitions and mobilize international women and human rights groups in support of Kurdish women."[58] As one IWO activist recalls,

> The most immediate task of the IWO was to prevent 'honour killings', by *documenting and exposing such crimes in Kurdistan and abroad*, and by insisting that the perpetrators be brought to justice. The other primary task was to *raise people's awareness and to campaign for the repeal or amendment of laws that discriminate against women…* In the future IWO, which from 1997

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[56] Shahrzad Mojab, "No 'Safe Haven' Violence against Women in Iraqi Kurdistan," In *Sites of Violence: Gender and Conflict Zones*, eds. Wenona Giles and Jennifer Hyndman (Berkeley: University of California Press, 2004), 120.
[57] Shahrzad Mojab and Rachel Gorman, "Dispersed Nationalism," *Journal of Middle East Women's Studies* 3, 1 (Winter 2007), 74.
[58] Mojab, "No 'Safe Haven'," 124.

assumed the name 'Committee in defence of Iraqi Women's Rights' outside Kurdistan, hopes to address contraception, health and education by visiting women in schools, as well as open more shelters to protect women. To do all this, the organisation needs support from the international community.[59]

Based on this, one can argue that the foundations for women's rights transnational activism were actually laid during this period of the mid-1990s, when Kurdish local activists discovered the power of international community in generating domestic change. This is an indication that the Kurdish public, notwithstanding the double embargo, was not isolated from the international community and was aware of global socio-political developments.

The civil war which emerged in 1994 inflicted great suffering upon women, who often fell victim to sexual violence during the fighting. For this reason, women also stood at the core of efforts to stop the war.[60] The Kurdish diaspora had an important part in maintaining this link: living in Western Europe and North America, members of the diaspora were fully exposed to global developments and were free to move around the globe for interaction purposes. For instance, the only Kurdish representatives to the 1995 Beijing Conference came from the diaspora. Bari Karadaghi, the executive of the California-based *Kurdish Human Rights Organisation* who attended the conference told in an interview to the KDP's party organ *Khabat* that

only five Kurdish women participated in the conference, which is a small number considering its [the conference] massive size and the number of participating missions. This is due to two reasons: first, the Chinese government set obstacles to popular missions, particularly those of persecuted people… and

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[59] Surma Hamid, "The Moon Rises after Sunset," in *Fire, Snow and Honey: Voices from Kurdistan*, ed. Ginna Lennox (Rushcutters Bay: Halstead Press, 2001). [Italics added]
[60] Mojab and Gorman, "Dispersed Nationalism," 66.

second, Kurdistan is divided [between Turkey, Iraq, etc.] and the governments that divide our nation do not allow Kurdistani women to participate in such conferences and congresses, unless it serves their purpose, which Kurdish women reject… In fact, the forum for the popular women's organisations in China [i.e. the conference] serves a model for women everywhere and is particularly influential, considering the participation of missions from all over the world.[61]

This privileged position of living in the diaspora and being able to fully communicate with international society also allowed diaspora activists to be freer in their critique of the Kurdish leadership. Replying to a question about the actions required by the government with regard to women's rights and whether the demands by women contradict the Kurdish traditions and practices, Karadaghi commented that

When we call for the elimination of injustice and the illegal conduct against women it does not mean a rebellion against religion and morality. We demand that the parliament and the government formulate laws that would protect the rights of women and give them a decent role in building society… setting limits to polygamy … [as well as] the protection of women from rape and forced marriage.[62]

Recognising as well the potential impact of the diaspora community, the IWO established a branch in London which was operated almost entirely by members of the Kurdish community in the city. In February 2000 it was the London branch which petitioned the UN Secretary General, Kofi Anan, to support the IWO's efforts to convince the Kurdish leadership to revoke the Iraqi Personal Status Law in the region. The younger generation of Kurds in the diaspora was particularly appalled by the issue of violence against women, mainly because the practice became more

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[61] Khabat, "Al-mara al-Kurdiyya fi al-Mutamar al-'Alami al-Rabe' li-Hukuk al-Mara fi Bekin" [Kurdish Women in the Fourth World Congress for Women's Rights in Beijing], November 5, 1995, no page number).
[62] *Ibid*

widespread among their own communities, thus tainting the image of the Kurds in their new homes.[63]

The occupation of Iraq and the overthrow of the Ba'th regime led to an increased interest in the fate of women's rights, as part of the general interest in human rights and democratisation in the country. The occupation authorities and their Iraqi predecessors put women's rights and their integration in the political system and public sphere at the centre of their agenda. This policy has been criticised from a feminist perspective on several grounds: first, it has been argued that the focus on women's rights and democratisation emerged only after the coalition forces failed to prove the existence of weapons of mass destruction or links between the Ba'th regime and al-Qa'eda;[64] second, positioning women at the centre of what Al-Ali and Pratt refer to as an imperialist project, drew a backlash, as nationalist and religious forces in Iraq positioned women at the centre of their anti-imperialist agenda, often targeting women's organisations as collaborators with the occupation; finally, the occupation authorities and the Iraqi government have been accused of sacrificing women's rights for the sake of alliance-making as part of the war on terror campaign. The lives of Iraqi women, according to Al-Ali and Pratt, have worsened since 2003.[65]

This description of post-war reality is not inaccurate; one cannot refute the suffering of Iraqi women or the failure of the CPA and its predecessors to deliver at least some of its commitments to protect the human rights of Iraqi citizens. On the other hand, the occupation also meant that the subject of women's rights, women's place in society and state obligation to protect women's rights suddenly came once again into the limelight, in all forms of public and political discourse. This was even

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[63] Ann-Catrin Emanuelsson, "Shall We Return, Stay or Circulate?" 148-149.
[64] Al-Ali and Pratt, *What Kind of Liberation*, 56-57; 80-85.
[65] Ibid, 55-120

truer for the Kurdistan Region, where the democracy mission was particularly active. This also meant more opportunities for interested actors to have a closer look into social, political and economic affairs in the Kurdistan Region and to expose unpleasant socio-political realities. One such reality was the scale of the phenomenon of FGM in some parts of the region. In 2005, the German WADI Foundation published the results of a study conducted by its volunteers in the Germian region (a district of the Sulaymaniyah governorate, eastern of Kirkuk) between 2002 and 2004. This was the first study of its kind not only in the Kurdistan Region, but in the Middle East as a whole and it disclosed that about 60 percent of the women in certain parts of the region were circumcised. WADI volunteers argued that their long presence in the region and the frequent medical help they served to its women enabled them to conduct such a study, since it provided them with access to a large number of women who were more than willing to openly discuss the subject.[66] WADI's study became an important tool in the hands of local activists, and was immediately integrated in their campaign for government action on the subject of FGM.

Facing the prevalence of domestic violence and the incompetence of the KRG's in countering the problem, women's rights organisations embraced more vigorously the common TAN's strategy of data gathering, its delivery to public attention, and shaming the KRG. In one example, a local NGO dedicated to women's rights advocacy named *Asuda*, self-described as "the only non-affiliated [i.e. non-partisan] NGO working on women's issues,"[67] used the funds granted to it by INGOs to establish Research and Awareness departments. The latter department aimed to "promote the consciousness of society with regard to the consequences of violence

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[66] Nicholas Birch, "Ancient Practice Still a Threat to Iraqi Women," *Washington Times,* August 22, 2005, A15.
[67] Asuda, "Profile of Asuda", July 2006, 3. <http://www.asuda.org> (June 23, 2011).

against women," by building networks with local institutions (media, academy, etc.,), while the former aimed to conduct academic studies on the women's situation in society and especially "carrying out scientific researches on subjects of violence against women."[68] This was in addition to building more shelters for women at risk across the region, which made Asuda the largest operator of such shelters in the Kurdistan Region. Furthermore, Asuda was quick to exploit the new public spheres opened for Kurdish individuals and organisations and used its funding to participate in major conferences as the KRG's representative. This has allowed it to interact with various women's rights and human rights NGOs, such as AI for example. Other NGOs have tried to directly influence the legislative process, taking advantage of the renewal of the process after reunification. In this manner, the *Khatuzin Centre of Social Action*, another NGO dedicated to the promotion of women's rights, used the summer 2005 meeting of the Constitutional Committee, a group of parliamentarians assembled to write the new Kurdish constitution based on the regional laws formulated in 1992, to submit a bill which called for the banning of FGM, polygamy and "the giving of women as brides to reconcile families in conflict." The bill was partially based on the African Union's 2003 Rights of Women in Africa and the UN's 1979 Convention on the Elimination of All Forms of Discrimination against Women, although the petition did not include the sections about homosexuality and abortion appearing in the latter two.[69] The meeting of the Constitutional Committee and the process of reformulating the constitution were not random – they represented yet another stage in the underpinning of Kurdish autonomy from Iraq. By contributing to

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[68] *Ibid*, 5.
[69] Cyrille Cartier, "Iraqi Kurdish Women Voice Hopes for Constitution," *KRG*, April 25, 2006. <http://www.krg.org/articles/detail.asp?smap=02010200&lngnr=12&asnr=&anr=10688&rnr=73> (June 24, 2011). The constitutional committee, it should be stated, had only one female member, Pakhshan Zangana," representing the Communist Party.

this process, Khatuzin, as well as the subject of women's rights, basically became a part of reconstructing the Kurdish de facto state in the aftermath of 2003.

Members of the diaspora were particularly valuable for building networks for local NGOs, but also in putting pressure on the KRG to take action against violence toward women. After the murder of a Swedish woman of Kurdish origin by her father in 2004, the Swedish government agreed, following pressures from local Kurdish activists, to host in Stockholm an international conference on the subject of honour killings with participants from 200 states. Although initiated following a domestic event, the organisers of the conference made it clear that its conclusions and findings apply to all governments, including that of the KRG. The hosts of the conference, Foreign Minister Laila Freivalds and Gender Equality Minister Jens Orback, stated that "these dialogues are effective we can see, for example, through the fact that they have helped countries with which Sweden has taken up this question at a high level, to amend their legislation with relation to honour murders, (or) such as in the *case of the autonomous Iraqi Kurdistan…*[70]

An important tactic used by advocators of women's equality and the struggle against violence toward women has been to associate the subject with democratisation and modernisation. One can assume that this has been done, consciously or unconsciously, because the KRG has been keen to be associated with both these terms, as revealed throughout this volume. One such example is a book in the Arabic language published by Tahir Hasso Zebari, a social scientist from Salahuddin University. In the book, entitled *The Role of Kurdish Women in Political Participation*, Zebari argues that if the twentieth century was the century of people's

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[70] AFP, "Sweden Hosts International Conference on Honour Killings," December 6, 2004 [italics added].

liberation, then the 21st century is the century of women's liberation. Already in the introduction Zebari stresses that women's rights were established in the postwar period as an integral part of the wider claim for human rights, including all forms of violence and discrimination against women. The 1995 Beijing Conference and other similar conventions served as forums to prove this claim.[71] Trying to establish the importance of this research, Zebari argues that

[From] a practical consideration, the importance of this study stems from its dealing with a vital issue in the Kurdish society, which represents an important element in the characteristics of the democratic transition which the [Kurdish] society is going through… *our political position requires the promotion of our possibilities and achievements within the framework of changing the status of women. And this framework [in turn] falls within the framework of real political development.*[72]

In another instance, Zebari argues in the book that

at a time when the subject of democracy occupies a central position in the Kurdish renaissance which began in the early 1990s, and particularly with the establishment of the Kurdistani parliament and the Kurdish government in 1992, the importance of the question of the Kurdish woman constitutes the backbone of this program. *[This is] in light of the organic connection between the democratic transformation and women's liberation on the one hand, and the role of women in the general Kurdish question (liberation, development, and unity) on the other hand…* [on] the basis of that, *the liberation of women and their participation in the productive political process, on an equal basis with men, constitutes a fundamental principle in a true democratic transition.*[73]

An article published by Fawzi Atroushi, a veteran Kurdish publicist and the Deputy Minister of Culture in Baghdad since 2005, serves as one more example.

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[71] Tahir Hasso Mir Zebari, *Dawr al-mara al-Kurdiyya fi al-musharaka al-siyasiyya* [The role of Kurdish women in political participation] (Erbil: Dar Aras lil-tabi'a wa al-nashr, 2006), 16.
[72] *Ibid*, 18. [Italics added]
[73] *Ibid*, 65. [Italics added]

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Published on the KRG's official website in Arabic, the article criticises the KRG's incompetence in countering the phenomenon of 'suicide' among women, i.e. the disguise of honour-killings as suicide, which has been on the increase since the criminalisation of honour killings

> there is a 'masculine' conspiracy, which has nothing to do with manhood, which stands behind these false claims. It involves the victim's husband or relative as well as elements in the medico-legal [profession] and the judiciary system that try to cover the incidents of intentional killing and the sexual, mental and social crimes that the Kurdistani women are subjected to, in light of the laziness and incompetence of the Union of Jurists in Kurdistan…[74]

He warns of hasty treatment of the problem and the danger of approaching it only in order to satisfy international public opinion:

> [Treatment of the subject] should happen willingly and gradually, through hard and prolonged endeavours from all concerning sides, in collaboration with working teams and competent advisors, so that the subject would not turn into temporary bubbles and a temporary reflection of internal and external voices that condemn this serious and frightening phenomenon, or an effort to appease the worries of European civil society organisations which have put Iraqi Kurdistan under scrutiny and have issued negative reports which do not portray the KRG well.[75]

This statement, coming from a long-time supporter of the Kurdish cause and advocate of reforms within the Kurdish system, reveals that the Kurdish leadership has been aware of international scrutiny of its actions, trying to please its sponsors and potential supporters. It also reveals that such awareness could serve those promoting further changes. There are various examples of other Kurdish writers who have brought the issue of women's rights and violence against

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[74] Fawzi al-Atroushi, "Hawla katli al-nisaa wa al-ihtilal al-idari fi Kurdistan al-'Iraq," *KRG*, 2007.
[75] *Ibid*

women to the fore. In contrast to Zebari and Atroushi, however, many of the authors preferred not to refer specifically to the KRG's conduct, but rather to criticise the conduct of surrounding governments, particularly the Iraqi,[76] and also the Saudi, for instance.[77] This was probably done as a defence mechanism, but may have also meant to enable the Kurdish public and government to disassociate themselves from the rest of Iraq.

Another example reflects the manner in which members of the diaspora as well have used this tactic of associating women's rights and the struggle against violence toward women with democratisation and development. In 2007, several diaspora-based activists were involved in preparing a comprehensive report on the subject of HBV in both the Kurdistan Region and the UK. The report, hosted by the British Bristol and Roehampton universities but funded directly by the KRG, fulfilled two of the main aims of the advocacy movement: it brought the subject of honour-based violence further to the attention of international public opinion, and it allowed the authors to advise the KRG, while associating its recommendations with the discourse of good governance.[78] Already at the opening of the report, which was published in both English and Kurdish, the researchers associated the report with UN

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[76] Qais Qaradaghi, "Al-mara wa tariqaha al-sa'ib fi al-wusul ila markaz sina'at al-qarar fi al-'Iraq al-jadid," [Women and their difficult path toward the centre of decision making in the new Iraq] March 8, 2006. <http://hewler.net/articles/detail.asp?lngnr=14&smap=01010400&rnr=84&anr=9767> (June 21, 2011); another interesting example is a book entitled *Violence against Women: A Comparative Legal Study of International and Domestic Public Law*. The book was written by Dr Shahbal Deza Yi, an advisor to the KRG's Human Rights Ministry and was published in Erbil. The focus of the book is the Iraqi Central Government, and the KRG is not mentioned even once. Yet, the subjects discussed are the same subjects which have been at the centre of debate about the KRG's obligation to the safety of women. The fact that someone from within the government's ranks, as junior as she may be, has published such book, implies at least a growing tolerance to discussion on the subject. See Deza Yi, *al-'unf dhida al-mara: baina al-nazariyya wa al-tatbiq* [Violence against women: between theory and practice] (Erbil: Dar al-Aras, 2007).
[77] Madhi Kakei, "al-mara wa al-nizam al-'alami al-jadid," [women and the new international order) *KRG online*, March 8, 2006.
<http://hewler.net/articles/detail.asp?lngnr=14&smap=01010400&rnr=84&anr=9769> (June 21, 2011).
[78] Perhaps the fact that the report referred to the UK as well served the authors by neutralising any potential claim for bias against the KRG.

General Assembly Resolution 57/179, entitled *Working towards the elimination of crimes against women committed in the name of honour.*[79] The report made a clear association between modernisation and the protection of women's rights by arguing that "Modernization is now bringing economic, social and cultural changes, both negative and positive, to Iraqi Kurdistan, and initiatives to change harmful cultural practices are part of this modernization and democratization effort, to which this research is committed."[80] It adds that "An important underlying issue is the need for wide-ranging addressing of gender-equality, and the development of a gender equality scheme, as a *strong government modernizing commitment.*"[81] This was, then, yet another example for the manner in which advocators of certain ideas used "higher" values in order to persuade governments to embrace certain policies.

The continuous transnational activism in Iraq in general, and the KRG in particular, eventually instigated UNAMI, the most symbolic presence of the international community in the country, to take part as well in the campaign to prompt both Erbil and Baghdad to take action on the matter. At the outset, UNAMI avoided from taking part in the campaign against domestic violence. The HRR volume covering the first two months of 2006, for example, referred to the subject of violence against women in only one sentence, as part of its coverage of the impact of sectarian and political violence on civilian life: "Women and children are also increasingly affected by the current security situation in Iraq."[82] But amid continuous public outcry, the agency became more involved in the campaign, enabling local and

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[79] A revised version of UNSCR A/RES/55/66. Nazand Begikhani, Aisha Gil, Gill Hague and Kathwer Ibraheem, *Final Report: Honour-Based Violence (HBV) and Honour-Based Killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK*, (Centre for Gender Violence Research, University of Bristol, Roehampton University, in partnership with Kurdish Women Rights' Watch: London, November 2010), 18 (page 13 in the Kurdish version), <http://hbv-research.com/page.aspx?pid=10&lng=2> (December 13, 2010).
[80] *Ibid*, 19.
[81] *Ibid*, 98. [Italics added].
[82] UNAMI, *HRR*, January 1-28 February 2006.

international activists to put pressure on the local authorities. This change was also echoed in the HRR, now dedicating substantial sections to violence against women. In 2009 UNAMI joined Asuda in conducting research into HBV in the Sulaymaniyah governorate (the centre for Asuda's activism). Here again, the report made a clear association between the subject of protecting women in relation both to democratisation and development. Moreover, it linked the subject directly with statehood; in addition to drawing attention to the 1995 Beijing Conference, the UNAMI/Asuda report also underlined the UN General Assembly Resolution A/RES/55/66, *working towards the elimination of crimes committed in the name of honour*, according to which "*states have an obligation to prevent, investigate and punish perpetrators.*"[83] In fact, the report included a whole section regarding "States' Obligation to Prevent and Protect under International Law," which relies on UN documents on the subject of state obligations to counter gendered-violence.[84] The report encourages the KRG to work closely with NGOs and other non-state actors:

> It is further recognized that it is important to utilize expertise from actors in other countries with Kurdish populations and the wider Middle East, including local actors who have been successful in working with at-risk women, in order to formulate and implement best practice based on examples from areas where honor related violence is a recognized problem. It is strongly recommended that the government support collaboration with NGOs and governmental actors from outside the Iraqi Kurdistan Region with experience on these issues to formulate education and awareness campaigns, legal strategies and protection services.[85]

The report did encourage the KRG to work closely with Baghdad on the subject in order to "amend national penal laws that justify honor-related motives in murder and

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[83] Tanyel B. Taysi, "Eliminating Violence against Women: Perspectives on Honor-Related Violence in the Iraqi Kurdistan Region, Sulaymaniya Governorate", a Report prepared by UNAMI and ASUDA, February 2009, 8-9; reference taken from page 45 [italics in origin].
[84] *Ibid*, 9-10.
[85] *Ibid*, 43.

work to bring not only regional measures, but also policies and practices into compliance with international standards."[86] Nonetheless, the explicit reference to states' obligations, in a report aimed to attract the attention of the Kurdish leadership, underscores at least some conscious effort to affect the KRG by referring to its higher aspirations.

The KRG's reaction to the campaign toward the end of the decade reveals the direct and important impact activists and networks have had on some dimensions of the KRG's socio-political agenda. As noted earlier, publicly discussing the subject of domestic violence was treated almost as taboo by the KRG, both because it did not want to alienate its conservative supporters, but also because it was aware, already from its inception, of the importance of Western public opinion and the negative implications of gendered violence on the Kurdish image. The KRG's early desire to please public opinion can be inferred from the fact that the KRG willingly embraced the subject of women's parliamentary representation. Women were holding ministerial positions within the KRG already during the 1990s. Moreover, the Kurdish parties were the only ones to nominate women for ministerial positions in post-2003 Baghdad. In addition, the KRG has always tried to be ahead of Baghdad with regard to women's representation in politics: when the Iraqi parliament set a 25 percent quota on women's representation in parliament, the KP increased the minimum quota in the region to 30 percent. With regard to women's parliamentary representation, one may argue that it was easier for the Kurdish leadership to embrace such representation, because both the regional and federal parliaments were in fact powerless. Indeed, both the KDP and the PUK's politburos had no female representatives. Nevertheless, the

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[86] *Ibid*, 44.

KRG's willingness to integrate women into politics indicates at least an understanding of international expectations about the role of women in domestic politics.

The increasing role of diaspora activists in the promotion of change in the Kurdistan Region, their association with local activists and their capability of amplifying the Kurdish women's distress at the international level were essential for the women's rights network in persuading the KRG to begin discussing the subject of domestic and gendered violence, and even to take action in the area. Interestingly enough, it was under the divided administration in the post-civil war era that women's rights networks had their first major achievement.[87] In April 2000, the Sulaymaniyah-based KRG issued a resolution that criminalised honour killings and restricted polygamy. Decree No. 59 gave the courts discretion to ignore Articles 130 and 132 of the Iraqi Penal Code, making it clear that "[t]he killing or abuse of women with the pretext of cleansing the shame is not considered to be a mitigating excuse." The Erbil-based KDP administration was soon to follow, issuing a similar resolution, Law No. 14 which stated: "The perpetration of a crime with respect to women under the pretext of honorable motives shall not be considered an extenuating legal excuse for the purposes of applying the rules of articles 128, 130 and 131 of the Penal Code, number 11, 1969, amended."[88] More interesting is the process that had led to this action: the campaign was launched by independent women's organisations in the region, in a somewhat clandestine manner. Not only conservative and religious elements objected to such demands, but also the party-affiliated women's organisations. The latter had traditionally preferred to follow the party line, blaming such practices as FGM and honour killings on local "traditions" or Islamic customs, rather than the incompetence

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[87] This supports Gareth Stansfield's assertion that division actually carried some benefits for the state-building process in the region, as it was only under the divided administration that such reforms took place Stansfield, *Iraqi Kurdistan*, 5.
[88] Tanyel B. Taysi, "Eliminating Violence Against Women," 44.

of the Kurdish leadership.[89] As soon as the subject infiltrated discourse in the diaspora, and was amplified by activists in Western Europe, the party-affiliated women's organisations rushed to follow the independent activists and lobbied the government to take action on the matter.[90] It was then eventually embraced by the male-dominated Kurdish leadership. The legislation carried a mixed success. One report indicates a decrease in the number of honour-killings during the period following the legislation.[91] On the other hand, during the same period there was an increase in the number of cases of suicide among women. Some have pointed out that such suicides were instigated by those women's families who, facing the risk of penalties for HBV, moved to different tactics of persecution, either disguising murders as cases of suicide, or convincing those women to commit suicide.[92] Though this estimation is probably rather accurate, it is also an indication of the fact that KRG legislation indeed prevailed in the region and was taken seriously by its residents.

In spite of this initial step, the Kurdish leadership still resented any independent effort to document and bring to the fore issues of domestic and gendered violence and discrimination. This involved the harassment of independent women's shelters and organisations, as well as of individuals involved in data gathering. For instance, the Kurdish authorities initially tried to hinder data collection for the 2005 WADI report, hauling the surveyors and accusing them of 'publicizing the country's secrets', according to the testimony of Assi Frooz Aziz, coordinator of WADI's Germian medical team.[93] This was evidence that the Kurdish leadership became "embarrassed" by the reality in the Kurdistan Region, fearing for its reputation as the

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[89] Al-Ali and Pratt, *What Kind of Liberation*, 142-144.

[90] Mojab and Gorman, "Dispersed Nationalism," 74.

[91] Joshua Kucera, "Political Changes Reduce Kurdistan Honor Killings," *Women's eNews*, July 7, 2002. <http://oldsite.womensenews.org/oldsite/article.cfm/dyn/aid/964/context/archive> (June 20, 2011).

[92] E.g. Atroushi, "hawla katili 'l-nisaa"

[93] Birch, "Ancient Practice Still a Threat to Iraqi Women," A15.

main authority in the region, which meant another significant achievement for the women's rights TAN.

During the second decade of de facto statehood, nevertheless, the KRG became even more willing to bring the subject of gendered violence to public debate. One of the first signs of this shift was the KRG's toleration of publications, and even critique, on such subject matter, even in its own official publications, such as its official website, one of its central propaganda tools.[94] In 2007 the KRG took a further step by conducting its own official investigation into the subject of violence against women in the Sulaymaniyah governorate, with violence referring to honour killings and attempted killings, cases of suicide, forced marriage, prevention of education and defamation. According to the report, whose findings were published on the KRG's website in Arabic, 1108 women were subjected to various forms of violence and oppression, including murder or attempted murder. The report also stated that whereas 289 women committed suicide in 2005, this number had risen to 533 in 2007, which also constituted 88 percent of violence victims, vis-à-vis 22 percent of cases of death in 2005.[95] The fact that it was the Human Rights Ministry in charge of such a study may indicate that the KRG internalised the idea that the subject of women's rights was part of the wider subject of human rights (in contrast to an internal security matter, for instance). The study itself served to promote the debate in the KRG about women's rights. One columnist, for example, argued on the KRG website that

Societies now view these [honour killings] through laws and legislation which help to protect… human rights… *If we want to elevate the Kurdistan Region*

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[94] E.g. Kakei, "al-Mara wa al-Nizam al-'Alami al-Jadid;" Atroushi, "Hawla Katli al-Nisaa wa al-Ihtilal al-Idari fi Kurdistan al-'Iraq;"

[95] "Sultat Iqlim Kurdistan Tuhawilu Tahjim 'Amaliyyat al-Katl al-Murtabata bima Yu'raf bi Ghasl al-Ghar" [the Kurdistan Region authorities try to estimate honour-based killings of women], *KRG*, July 4, 2007. <http://www.krg.org/articles/detail.asp?rnr=81&lngnr=14&smap=01010100&anr=18840> (June 19, 2011)

and turn it into a model for the governments and states of the region, then we should push and demand our government in the region, and first and foremost President Barzani, to legislate laws to protect women with immediate effect, otherwise the number of these crimes will increase...

Today, if one is interested in, and follows, the issue in the Kurdistan Region, one expects efficient solutions from the government and an end to such abuses of women's rights… Then we could say that the region is a part of the Middle East that has a civilised view of, and protects, the rights of the other half of the population… [The new legislation means that] the Kurdistan Region will walk the path of advanced and prosperous societies and keep pace with progress… So that people and the world look at Kurdistan with respect and great reverence…[96]

FGM was not covered in this report, but in 2009 the Human Rights Ministry conducted a research into this subject as well, focusing on the region of Chamchamal.[97] In addition, it was the KRG that funded the 2007 investigation into HBV in the Kurdistan Region and the UK.[98] This served as another sign for the KRG's openness on the subject, but also served it in presenting itself as a progressive government. These steps led to the establishment of the Honour Killing Monitoring Commission in 2007 by PM Nechirvan Barzani, which aimed to monitor the implementation of legislation with regard to violence against women.[99] Directories were also established in Dohuk, Erbil and Sulaymaniyah, to monitor implementation of government policies on the subject in each region. Pakhshan Zangan, then an MP for the Communist Party and a women's rights activist, argued that "Their existence is

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[96] Shivan al-Sheex 'Alo, "jaraim ghasl al-ghar fi Iqlim Kurdistan… Wa ma dawr hukumat al-Iqlim ittijahiha" [honour-based crimes in the Kurdistan Region and the role of the region's government against it], *KRG website*, July 14, 2007.
<http://www.krg.org/articles/detail.asp?lngnr=14&smap=01010400&rnr=84&anr=19064> (June 10, 2011).
[97] Human Rights Watch, *They Took Me and Told Me Nothing: Female Genital Mutilation in Iraqi Kurdistan* (New York: Human Rights Watch, 2010), 40.
[98] Begikhani et al, "Final Report".
[99] "Al-Barlaman al-Kurdistani Yastadhifu 'Ashra Wuzara li-Muhajaat il-'Unf Dhida al-Mara [The Kurdistani parliament hosts ten ministers to tackle violence against women], *al-Sabah al-Jadid*, July 5, 2007.

a message to men that the government is beginning to pay attention to women's issues. At the same time, it gives women more confidence when they see that the government is serious in defending their rights".[100]

Such actions paved the way for further legislation and action by the KRG. In 2007 the KRG confirmed the status of the law against honour-killings, by excluding convicted honour-based murderers from a general amnesty given to other convicts in the region.[101] In the same year, the KRG passed, for the first time in its history, a bill prohibiting FGM and setting prison sentences against perpetrators.[102] And in 2008, following an intensive advocacy by the women's rights network, the KP reformed the Personal Status Law, No. 188, in the region. The new reform prohibited forced and early marriage; it did not prohibit polygamy entirely, but now set further restrictions on the practice. Under the new conditions, a man was allowed to marry only two women, rather than four, as allowed by Shari'a (and the Iraqi) Law.[103] This was presented as a compromise by the KRG, relying on the narrow gap between supporters and objectors to the legislation.[104] Additionally, in 2008 the KRG's Ministry for Social Affairs initiated the first government-sponsored centre to counter violence against women, referred to also as the Centre for Monitoring Violence

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[100] An interview with Zangana, in Begikhani et al, *Final Report*, 63.

[101] Other categories excluded from the amnesty included "those involved in terrorism, murder during robbery, drug trafficking, killing foreigners, forgery of currency and government documents, *honor killing*, threats against national security, or stealing government funds." See Qassim Khidir, "Prisoners in Kurdistan Given a Second Chance," *The Kurdish Globe* [henceforth the Globe], June 21, 2007.

[102] HRW, *They Took Me and Told Me Nothing*, 68.

[103] Only with the first wife's consent before a court; and only "If the wife is afflicted with a [medically]-proved chronic incurable disease that prevents having sexual intercourse, or if the wife is infertile" Iraqi Kurdistan National Assembly, "Act No. 15 of 2008, The Act to Amend the Amended Law No. (188) of the year 1959; Personal Status Law in Iraq Kurdistan Region," November 13, 2008. English version available on:
<http://ogi.krg.org/download/documents/legal/krPersonalStatueCode2008_english.pdf> (June 28, 2011).

[104] For a report on the voting and the debate see: Hiwa 'Aziz, "Taqyid Ta'dud il-Zawjat fi Iqlim Kurdistan: Al-Asbab wa al-Tada'iyyat" [restrictions on polygamy in the Kurdistan Region: Reasons and implications], *al-Sharq al-Awsat*, November 18, 2008. Also appears on the KRG website: <http://www.krg.org/articles/detail.asp?lngnr=14&smap=01010100&rnr=81&anr=26579> (June 11, 2011).

against Women. The establishment of the centre was justified by the "increase in the rates of suicide among women and the spread of the phenomenon of violence against women, whether for honour-related or other socially-related reasons."[105] This centre was followed by the establishment of two more centres, run by the Ministry for Social Affairs.

Much like in other cases of reforms and social, political and economic progress, the KRG incorporated this new reality into its campaign to legitimise its existence and aims. The image of a Kurdish leadership willing to internalise actions that stand in contrast to "tradition" and the conservative population's demands, much like its commitment to democratisation, has been a key element in the construction of an image of a government keen on becoming part of international society. The various publications and op-eds reviewed in this chapter in English and Arabic may suggest that the KRG related some benefit to actually publicising the internal debates on the subject.[106] In this manner, the Kurdish Globe, the KRG's semi-official pan-Kurdish newspaper in the English language, published several articles about the KRG's commitment to women's rights. In one example, the Globe stated that

> The Kurdistan Regional Government (KRG) is creating a mechanism to ensure the Region's laws to protect women from violence are implemented at all levels…. This will ensure that crime prevention and data-collection departments, the police and the judiciary cooperate more closely and apply the law correctly and effectively to protect women… Following the commission's meeting, Prime Minister Barzani said, "The changes agreed today will further

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[105] Ma'd Fayyad, "Iftitah Awali Markaz li Mu'alajati Kadhaia al-'Unf Dhida al-Nisaa fi Kurdistan al-Iraq," [launch of the first centre for countering violence against women in Iraqi Kurdistan], *al-Sharq al-Awsat*, January 10, 2008. Also appears on the KRG website:
<http://www.krg.org/articles/detail.asp?smap=01010100&lngnr=14&anr=22254&rnr=81> (June 11, 2011).
[106] The many publications which have appeared on the KRG's official website serve as an indication for that; although large segments of the population in the KR do not have access to the web, the KRG website is an important means for the KRG to communicate its image, as well as to engage with the urban, better-educated segments of society.

strengthen the rule of law in the Kurdistan Region when it comes to prosecuting those who commit crimes against women. It is essential that our courts investigate and prosecute crimes against women in the most efficient way possible."[107]

And in a report about Nechirvan Barzani's meeting with representatives of AI and discussion about the AI's report on violence against women, it was argued that

'Nechirvan Barzani highly evaluates the Amnesty International report, which says that the KRG efforts have worked in reducing the phenomenon,' read the statement. It then quoted PM Barzani: 'From this side, we must make Kurdistan a perfect example for all of Iraq and end that phenomenon. We must attempt to totally end violence here'.[108]

Maybe one more example of the KRG's effort to stress its pledge to meet the standards of international society was the fact that amendments to the Iraqi Personal Status Law in 2008 were among the very few laws that the KRG has published in English, in addition to Kurdish and Arabic, the two others being the Kurdistan Region Investment Law and the Kurdistan Region Oil and Gas Law. If we accept that natural resources have become a symbol of sovereignty, as argued earlier in this research, and that the Oil and Gas Law is a marker of this sovereignty, then we also can accept the idea that publishing the amendments became another part of the KRG's efforts to prove its sovereignty.

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[107] The Globe, "KRG to Enforce Laws Protecting Women from Violence," June 17, 2008.

[108] The Globe, "KRG Campaigns to End Violence against Women," June 6, 2008. For other examples see The Globe, "Yazidi Girl's Murder Sparks Widespread Condemnation," May 2, 2007; Qassim Khidhir, "Honor Killing," *The Globe*, July 11, 2007; The Globe, "PM Barzani Addresses Women's Conference," 17 July, 2009.

6.4 CONCLUSION

The above chapter reviewed the manner in which the KRG's interaction with the international community, revolving to a great extent around the KRG's earned sovereignty, has also shaped the domestic processes of democratisation and liberalisation. By underlining the continuous interaction between the KRG and the international community, the above paragraphs demonstrated the link between de facto statehood, the pursuit of international legitimacy and transformations inspired by internationally-held norms about governance. TANs committed to the promotion of certain ideas have served as pivotal elements in the process as mediators in the interaction between the KRG and the international community, allies of domestic activists, and protestors and major instigators of domestic change.

Many have dismissed the progress made by the KRG with regard to countering violence against women, suggesting that measures toward democratisation and liberalisation have been taken primarily in order to appease international public opinion or satisfy donor states' demands. Such a hypothesis, also advocated by Kurdish critiques of the KRG, is not entirely untrue. However, this can only serve to explain Kurdish motivation in taking certain measures. It completely fails to trace the sources of such assumptions, the process which led the KRG to assume that exhibiting certain characteristics might serve its interests (i.e. survival and legitimation) and the processes and mechanisms which led to the implementation of at least some of the KRG's commitments in practice. Undoubtedly, the KRG's success in meeting all of its commitments has been rather limited. But it has taken place nonetheless and therefore requires scholarly attention. Trajectories of domestic developments, set during the KRG's first two decades of existence, will determine future developments in the Kurdistan Region.

CHAPTER 7. CONCLUSION

The investigation of the Kurdish struggle for national liberation, and especially since its 1991 transformation into a de facto state as presented in this thesis, carries some important insights into the development and evolution of this movement and the autonomous entity it established. Based on this case study, this research provides a new explanation of the policy-making processes and strategies of de facto states, namely entities with domestic and Westphalian but no legal sovereignty. This explanation has taken into account the contested sovereignty of de facto states, their resultant pursuit of international legitimacy, and their ensuing interaction with the international community and various transnational actors.

Between 1958 and 1991 the Kurdish national liberation movement in Iraq represented a compact ethnic minority concentrated in the country's northern provinces. Suffering what they viewed as government persecution and cultural oppression, the Kurdish liberation movement was mostly preoccupied with guerrilla warfare against the Iraqi security forces, with the aim of securing the (often vaguely-defined) Kurdish right to self-determination. The government in Baghdad, in turn, employed multiple methods to counter Kurdish demands, through forced assimilation, deprivation of the Kurdish population from resources, ethnic cleansing and genocide.

In 1991, nevertheless, the movement went through an abrupt, but momentous transition; following the end of the Gulf War, the Kurdistan Region gained political and administrative autonomy from Baghdad. Put in terms of sovereignty, the region secured, for the first time in its history, some form of Westphalian sovereignty, in the sense that potential invaders were now prevented from challenging the authority of the regional leadership. But to maintain this Westphalian sovereignty, the Kurdish

leadership came to understand that it should establish domestic sovereignty – based on international understanding of this concept. The Kurdish parties maintained their control over the affairs of the region, but this transition necessitated a process of adjustment and learning. Moreover, this transition dramatically changed interaction between the Kurdish national liberation movement and Baghdad, as well as neighbouring countries and the international community.

As the region's neighbours perceived the Kurdish leadership's actions (rather justly) as undermining Iraq's territorial integrity, it now had to legitimise its existence and to justify its autonomy from Baghdad. While prior to 1991 the Kurdish leadership rationalised its war against Baghdad mainly by referring to past injustices, the Kurdish right for self-determination and its oppression by Baghdad, it now came to rely on its ability to run its affairs independently and successfully. This necessitated the Kurdish leadership to try and understand what it means to be a new state and what constitutes domestic sovereignty. Such understanding was inspired by the changing normative environment of the post-Cold War era. In this environment, the legitimacy of new or aspiring states has come to rely, at least theoretically, on their ability to secure domestic legitimacy, maintain their stability, democratise and liberalise their political, economic and social system and contribute to regional security. Inspired by global normative changes, one of the first measures taken by the Kurdish leadership was to go through historical elections in 1992. Its success in doing so became a central tenet in the KRG's interaction with the international community, and the Kurdish leadership came to relate to its existence as a 'democratic experiment'. The civil war which erupted in the mid-1990s interrupted the development of the KRG as a de facto state and its interaction with the international community. Toward the late 1990s, after the end of the civil war and the division of the administration, both

processes were renewed. The 2003 war in Iraq, however, drove the KRG to once again renew and enhance both of these processes. Particularly essential to this process was the reunification of the KRG in 2005, its new status as an autonomous region within federal Iraq, but also the rapid collapse of the Iraqi state. These factors meant that the KRG gained even more autonomy than it had had during the first decade of de facto statehood. Justifying this autonomy now came to rely not only on democratisation, but on the KRG's ability to maintain domestic security, economic prosperity and viability, and its potential contribution to regional security. Consequently, the KRG's foreign policy came to be oriented toward demonstrating such traits.

In this fashion, the KRG followed the pattern of many other de facto states that emerged during the early 1990s after a period of fighting the states controlling their claimed territories. And much like other de facto states, the KRG found it necessary to reconsider its strategy in securing its sovereignty. Based on wider international processes, but also its understanding of its position in the state-system, the KRG's discourse of earned sovereignty came to rely on internationally-held standards of recognition. One could justly argue, as so many have done, that statements made by the KRG did not always meet the reality in the region; corruption, nepotism and internal power struggles undermined the KRG's portrayal of its economic and political achievements. However, as the last chapter demonstrates, the KRG's foreign policy of demonstrating its earned sovereignty actually paved the way to further reforms in the KRG. It allowed transnational coalitions of external and domestic actors to utilise the KRG's own foreign policy and discourse to exert pressure on it to take further changes in the same fields that served its legitimation efforts. NGOs, UN agencies and chiefly diaspora activists came to employ different

methods to do so: gathering and collecting data about KRG's actions, shaming the latter by publishing such data at the international level, and linking their causes, whether they were further democratisation of the system, the promotion of freedom of expression or women's rights, with international legitimacy.

And indeed, one could say that toward the end of the second decade of de facto statehood, the KRG made significant socio-political progress, and reached an advanced stage of state-building – a progress at least partly correlating with its commitments to maintain a viable and secure autonomy within Iraq. In chapter 6 I demonstrate this by showing how political and social developments in the Kurdistan Region were driven by the KRG's own commitments to ameliorate its system, which were in turn utilised by TANs. The case of KRG action against gendered violence during the second decade of its existence is a most powerful case: from something of a taboo in the region, the KRG gradually came to view the subject as one which might negatively affect its legitimation campaign, and therefore of top political priority. This change of attitude, gradual but still substantial, became a central tenet of the KRG's fierce legitimation campaign. Such a change could not be explained solely based on domestic activism or international pressure. It is a product of a combination of circumstances, including the KRG's status as a de facto state, the emergence of government protection of women's rights as an international standard of good statehood, and the existence of keen advocators.

7.1 THE KRG AND THE PURSUIT OF LEGITIMACY AS A FACTOR IN DE FACTO STATES' POLICY-MAKING PROCESSES

As noted in chapter 2 of this thesis, the idea that legitimacy is a key to understanding the foreign policy-making of de facto states has gained increasing popularity in recent studies of the phenomenon.[1] This study followed suit, setting the pursuit of international legitimacy as a key in understanding the evolution of de facto states and their policies. It has gone, however, a step beyond existing studies by suggesting that the pursuit of legitimacy cannot in itself explain changes in the conduct of de facto states. Rather, the pursuit of legitimacy serves as an engine for a process of interaction, learning, and transition, which are essential components of changes in the behaviour of actors. This research, therefore, has sought to reconstruct the process of the pursuit of legitimacy and reveal its components: the key agents of change, namely TANs, as well as their mechanisms, i.e. the use of the de facto state's need for legitimacy, lack of sufficient administrative and political knowledge, and international normative shifts.

The circular model of interaction-implementation-legitimation presented in chapter 2 aimed to simplify this argument.[2] The KRG serves as an excellent example to support this model. In 1991 it came to interact with the international community as a de facto state aspiring to maintain its recently earned autonomy. Based on its early learning, it came to rely on the democratisation of its system as the foundation for its earned sovereignty. This in turn allowed advocacy networks composed of various actors, e.g. NGOs, diaspora activists and UN agencies, to press the KRG to take further action to meet its commitments about democratisation of the system. When the

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[1] See primary discussion in Bartmann, "Political Realities and Legal Anomalies," 15-16; more recently Caspersen, *Unrecognized States*.
[2] See page 85.

KRG implemented, or at least claimed to implement the policies advocated by the TANs, it also came to integrate them into its foreign-policy, namely its deliberation about its status as a de facto state.

De facto states have become increasingly important for understanding regional geopolitics, and decisions taken in such states have implications far greater than their real size. But they have also become important because they reflect developments in international society and its standards. A better understanding of their behaviour and development is therefore essential. The conclusions of this research could better serve this, especially if implemented in other case studies. While this research has chosen to focus on a single case, that of the KRG, a multiple-case study analysis based on the model presented here, could form the basis of future research. While the single case study method employed in this research was necessary for its focus on such complex issues as identity, interaction and advocacy, a multiple, large-N case study could provide some new insights about the role of de facto states in international politics.

7.2 THE DE FACTO STATE, INTERNATIONAL POLITICS AND IR THEORY

The study of the KRG in particular, and of de facto states in general, further contributes to our understanding of international politics and IR theory. It sheds more light on the importance of international legitimacy to the relations between actors, and on the behaviour of actors. It also underlines the importance of interaction and learning to these processes, as it serves to explain more deeply the manner in which ideas are transferred at the international level and eventually internalised at the domestic level. This study, therefore, joins a long list of studies that have aimed to

deconstruct international politics and states and understand the origins of actions, processes, and changes. The de facto state has some unique characteristics that distinguish it from other actors in international politics, but it is still a product of international society, having norms with regard to relations between different communities at the global level, and desired forms of organisation for different communities.

Though international legitimacy is a key concept in this research, it nonetheless diverges from the common tendency among students of international legitimacy to examine it as a product of great powers negotiations, constructed mainly at the structural level and is then imported by interested actors.[3] Focusing on the KRG and on de facto states in general entails putting the limelight on actors that seek this legitimacy and the manner in which they engage with the concept, internalise it and use it. The pursuit of international legitimacy, this research argues, is a form of communicative action, a source of debate and deliberation about the nature of international society, its standards and membership in this society. Hence, even if less influential at the international level, the manner in which de facto states and secessionist movements engage with the concept of international legitimacy and the ways in which they force different members of international society to debate about the subject, are all bound to have some influence on future transformations of the concept, either in terms of its essence, or even in terms of the impact it might have on international politics. After all, the case of Kosovo did set a precedent that has been used by other aspiring states, and the developments in the KRG have driven actors, even if still limited in number, to urge leading members of international society to

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[3] See for example Ian Clark, *Legitimacy in International Society* (Oxford: Oxford University Press, 2005); Mlada Bukovansky, *Legitimacy and Power Politics* (Princeton: Princeton University Press, 2002).

reconsider their uncompromising support in the principle of territorial integrity. Whether changes will take place in the KRG's status or not, its actions will have an impact on how we view international legitimacy.

The de facto state is a notable, though by no means the only, actor that face chronic crises of legitimacy. Various recognised states face continuous contestation of their right to take certain actions, or even their right to exist by another member of the international community. Although several scholars have already demonstrated the importance of legitimacy to the survival of actors, very few have examined how actors that face legitimacy crises deal with this situation, and even less have actually tried to back their study with a thorough empirical examination. This research fills all of these cavities by focusing on an actor that has experienced an extreme and prolonged situation of delegitimation, whether for its existence, actions, or aspirations. But its findings could serve students of other cases; researchers should only bear in mind when approaching the subject of legitimacy that several factors should be taken into account in their examination: the level of the crisis of legitimacy (namely the impact that delegitimation has on the actor's survival prospects and subsequently its urgency in trying to secure international legitimacy), the level of interaction between the actor and the international community, and the nature of the international society to which the actor aspires to belong.

7.3 FURTHER STUDY OF THE KRG: THE CONCEPT OF DE FACTO STATEHOOD AS A PLATFORM FOR FUTURE RESEARCH

The study of the KRG and of its transformation from being an insurgency movement lacking any territorial base into the government of a de facto state is significant for

any future study of the Kurdish question in Iraq. The study of the KRG itself is not an easy one, particularly since the consolidation of the KRG is still a process in the making.

Still facing a vague future at the time of this study, the Kurdistan Region is bound to go through dramatic changes in the future to come. Understanding these changes could not be accomplished without taking into account the process that the KRG has undergone during the first two decades of its existence. Although this thesis has shied away from dealing directly with policy-relevant questions and advice, it does not discourage others from doing so. On the contrary, the tools provided in this research could serve for such purposes. First and foremost, this study presents a rigorous examination of the KRG, its interaction with the international community, aspirations and identity, the dilemmas it faced and the actions that it chose to take in its troubled two decades of existence. This study also stresses the irrelevance of the concept minority in relation to the Kurds in northern Iraq, and therefore the framework of state-minority relations, which still characterises some studies of the subject. Moreover, this thesis has underlined the transnational nature of the KRG as a project of state-building. Even if not the first to note the transnational aspect of the Kurdish national liberation movement in Iraq,[4] this is probably one of the few studies that link between this transnational dimension, the process of state-building and the connection between those and the shifts in international society. Additionally, this research prompts students of the KRG to pay greater attention to the diaspora as a key element in the development and the process of state-building in the Kurdistan Region.

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[4] See for example Martin van Bruinessen, "Transnational Aspects of the Kurdish Question," Working Paer, Robert Schuman Centre for Advanced Studies, European University Institute (Florence: EUI, 2000); Denise Natali as well gives a great attention to the issue of transnationalism in her analysis of development in the Kurdistan Region, although she does not define it as such, in *The Kurdish Quasi State*.

Again, this is not the first study to point out the increasing involvement of the Kurdish diaspora in the region, but it has gone beyond most existing studies in its effort to understand diaspora activism not only in the context of the region, but also in the context of transnational activism in Kurdistan, as a conveyer of ideas into the region.

Not only IR scholars and political scientists, but also sociologists and anthropologists could use this study as a platform for future research. Due to space constraints, the study could only focus on specific aspects of domestic socio-political developments inspired by transnational activism, the pursuit of legitimacy and global normative shifts. However, the possibilities for investigation into the KRG based on the tools provided in this research vary widely. Education, health and even the financial system in the region could be studied through the understanding that interaction and learning shape domestic institutions. All of these aspects of the Kurdish de facto state in northern Iraq have been targets of international intervention and aid; and in many cases, and this applies particularly to education, these institutions have been central to the process of state-building and state-formation.

Throughout this study I have been careful to stress not only that the Kurdish reforms are far from being complete, but also that they are by no means irreversible. Dramatic changes within the KRG and changes of regional and international circumstances may drive the Kurdish leadership to reconsider its priorities and commitments. These factors, nonetheless, should not render this study and its findings irrelevant; such potential shifts still indicate that the pursuit of international legitimacy remains a key in understanding de facto states. Chapter 2 of this research demonstrates that in some cases, when de facto states have felt that the international community and its legitimacy had become irrelevant, their leaderships came to limit their interaction and withdraw from some of their commitments. Such a scenario is

also possible in the Kurdistan Region, as its leadership may find other means to maintain its autonomy.[5] Students of the Kurdish question should therefore take such developments into account when examining the Kurdish question in Iraq, and remain attentive to the manner in which the Kurdish leadership views its status and its option for maintaining its autonomy. On an optimistic note, one may assume that the Kurdish public in both the Kurdistan Region and in the diaspora, after enjoying the ability to have a say in the formation and development of the region, might resist government attempts to revert to more restrictive forms of governance.

Since its formation, the KRG has existed in something of a limbo (some would say out of the choice of its leadership). It has faced many questions about its present and future, whether as a part of a federal Iraq, or as an independent Kurdish state. This process may have been a traumatic one for the Kurdish people, who still face so many uncertainties, probably exacerbated by their tragic past; but it is also a process that carries with it some significant implications for the future of the Kurdish people in Iraq. The fact that this process of state-formation has taken place under conditions of great uncertainty prompted the Kurdish leadership to view the process itself as a path toward determining the future prospects of the Kurdish entity. This has provided this research with an invaluable opportunity to come up with new conclusions about international politics, IR theory and the Kurdish question in northern Iraq.

Yet the findings of this research also raise new questions. The KRG in particular and de facto states in general are complex objects of analysis, primarily because they are in the midst of a transition – a transition which might never be completed. While the need to focus on the key hypotheses of this research have prevented me from directly dealing with these questions, my findings and the

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[5] Based on Caspersen, *Unrecognized States*.

theoretical framework I have developed in this research provide a platform for addressing the questions that have emerged out of this study.

Perhaps the biggest question that remains is about the future of the KRG and the prospects of its progress on the continuum of national liberation, namely the KRG's secession from Iraq and its transition into a fully recognised state. As stressed throughout this thesis, the KRG never declared independence from the rest of Iraq, nor did its leadership ever make any explicit statement about its desire to secede. In fact, in most of their public statements, the leaders of the KRG expressed their commitment to Iraq's territorial integrity.[6] On the other hand, the Kurdish leadership has made many statements which can be interpreted as implicit declarations of its real intentions. As demonstrated consistently in this research, the Kurdish leaders have made sure to stress in any discussion about federalism, the voluntary nature of the Iraqi union, and the Kurdish right to secede. Especially at times when tension between Erbil and Baghdad has risen, as happened in 2008 for example, the Kurdish leadership became even more vocal in stressing the voluntary nature of the Iraqi union, thus implicitly threatening revisions.[7] A review of the Kurdish discourse during the 1990s, and even more so in the post-2003 era, reveals that the idea of statehood and the belief that the nation-state is the political embodiment of nationalism, as well as the way to protect the safety and cohesion of the Kurdish people, remains extremely powerful in the minds of Kurdish nationalists, activists and politicians alike.[8]

More than words, the KRG's actions reflect the impact that the idea of statehood has had on Kurdish political thought and the KRG's conduct. Throughout

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[6] As noted earlier in this research, this does not disqualify the KRG from being defined as a de facto state .See page 60.

[7] And especially Mas'ud Barzani, who, in contrast to the PUK leader and the President of Iraq Jalal Talabani, has been based in the region itself.

[8] See for instance the Kurdistan Referendum movement, established by members of the diaspora.

the first decades of its existence, the formation of the KRG and its consolidation of power were all inspired by the state and its institutions. In other words, the KRG was building up a state, without expecting legal and diplomatic recognition. True, the Kurdistan Region was reintegrated into Iraq in 2003 and the KRG gained formal recognition as an institution within federal Iraq – but it was during this period that efforts toward securing the KRG's autonomy were actually intensified. The Kurdish insistence on independent legislation in various fields, whether in terms of energy, domestic security, or social affairs, all reflected the KRG's desire to consolidate and demonstrate Kurdish sovereignty. By 2010 it could be said that the KRG had achieved the highest level of autonomy it could have achieved without fully seceding from Iraq.

The reason for the Kurdish ambiguity with regard to sovereignty is the consequence not of commitment to Iraq's territorial integrity, but rather Turkish objection to any such move. Indeed, Turkey has become the main veto-actor with regard to any change in the status of the Kurdistan Region, as part of its role as the keeper of the status quo in regional affairs. Hence, whether or not the KRG is to become an independent state depends, to a great extent, on Ankara's willingness to accept such a change to the status quo. And although Ankara proved to be far more receptive to the idea of Kurdish autonomy than had been predicted by observers during the 1990s, there is still a major gap between such shift in policy and Turkish willingness to accept the idea of a Kurdish state.

To some extent, the question of whether the Kurdistan Region will become a fully recognised state or not is less relevant to this study, which examines the development of de facto states, rather than the question of recognition. This question nevertheless is an interesting one, constantly attracting the attention of analysts of Iraqi and regional geopolitics. Of course, predicting the future of regional

developments is almost an impossible mission – but the insights provided in this research can help us to assess the prospects of change, or at least understand their sources.

This leads to another question mark, now surrounding the prospects of international recognition of the KRG, or any other de facto state: will the international community ever be willing to revise its adherence to territorial integrity, and recognise aspiring states based on their earned sovereignty, and especially such ones that respond to international standards of good governance? And should the international community even revise its current commitment to territorial integrity? Again, this research has avoided answering this question, primarily because focusing on this question would risk diverting attention again to the structure, namely the international community and its representative institutions, at the expense of the agent itself, namely the KRG and other de facto states. Nevertheless, this research has the potential to contribute to the ongoing debate in academic and policy-making circles about the nature of recognition, the right of entities to be recognised states and the obligation of other states to recognise entities that succeed in meeting the standards of statehood.[9]

With regard to the first question, empirical evidence so far indicates that the international community, in most cases, has proven intransigent in its objection to unilateral secession, regardless of the circumstances and whether justification for such action is based on remedial claims, or on earned sovereignty. The case of Kosovo

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[9] Among the notable scholars taking part in this debate, there are those who argue for democracy and other international standards to serve as the foundation of recognition, and those who object to this notion. In the first group we could find Allen Buchanan, "Recognitional Legitimacy and the State System," *Philosophy & Public Affairs* 28, 1 (Winter, 1999), 46-78; and Diane Orentlichter, "International Responses to Separatist Claims," in *Secession and Self-Determination,* ed. Stephen Macedo and Allen Buchanan (New York: New York University Press, 2003), 20-49; and in the second one could find Donald Horowitz, "A Right to Secede?" in *Secession and Self-Determination,* ed. Macedo and Buchanan, 50-76.

indeed constituted a precedent, in the sense that it was the only occasion in which a unilaterally secessionist entity was recognised by other states, based on its alleged (and in reality partial) success in meeting the international standards of legitimacy, as formulated by members of the international community. But even in Kosovo's case, the main considerations behind this contested recognition were, as James Ker-Lindsay demonstrates, related to political expediency; in the sense that most members of the international community that chose to recognise Kosovo, viewed independence as necessary to prevent potential outbursts of violence in the Balkans and other parts of Europe.[10]

The KRG provides a more convenient case for the international community, as the Kurdish leadership never declared independence or even its explicit desire to secede from Iraq. But the often hostile international community's reactions to any step taken by the KRG which might be interpreted as secessionist indicate that the prospects of recognition are rather low. Nonetheless, if the question of Kurdish independence in northern Iraq becomes a reality, it is possible that the KRG's success in proving earned sovereignty, as well as its commitment to at least some standards of good governance, will probably play an important role in the decision of states on whether to recognise such a move. As shown in chapter 5 of this research, Kurdish claims of earned sovereignty often served as grounds for some acts that can be considered as legitimising the KRG's authority in the Kurdistan Region.

Answering the second question would require me to make a judgement about the nature of international community and its mechanisms of recognition. I have avoided making this judgement throughout my research, and here is probably not the

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[10] Ker-Lindsay, "From Autonomy to Independence: the Evolution of International Thinking on Kosovo: 1998-2005," *Journal of Balkan and Near Eastern Studies* 112 (2009), 141-156.

right place to make such an assessment. Still, the case of de facto states and the KRG should raise the following questions: can recognition based on earned sovereignty, and especially on values such as democratisation and the protection of human rights, promote such values and establish their status as sources of state legitimacy? Can such recognition, based on the actions of de facto states and their prospects of integrating into their regional level, further contribute to regional stability, or might it in reality entail deterioration of stability and security?

The case of the KRG and other de facto states reveals that conditioning recognition with certain norms can in fact enhance their status as criteria for recognition, at least by turning them into focal points of communicative action and argumentation. And while the KRG did experience a period of civil war that led to intervention by external powers, throughout most of the first two decades of its existence it served as some source of regional stability – as can be viewed by the increasing volume of cooperation between Erbil and Ankara. Various factors could negatively affect the course of the KRG's development, and as stated repeatedly throughout this research, nothing about the status of the KRG, its actions or strategies is irreversible. But the processes it underwent between 1991 and 2010 necessarily left an important mark on the KRG, and its future developments will necessarily take place against them.

At the time of writing, the Kurdish national liberation movement in Iraq is still facing significant uncertainty about its future status, its aims and the strategies it should employ to protect its autonomy and indeed expand it. This research provides the necessary foundations for any future investigation of the KRG, and of de facto states in general. The potential for future research is vast, and it is this research's greatest service to future scholarship if it not only answers many of the existing

questions about the Kurdish national liberation movement and international society, but also encourages researchers to come up with new questions.

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