



FEDERAL UNITS AND INTERNATIONAL LOANS

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ABSTRACT

The participation of Federal Union in international Loan is associated with the suspension of the Federal Government Constitution. There is no real federalism if the international relations are exclusively by the central government. Federalism have some characterize one of them is fiscal independent to manage himself by different way such as impose duties on goods for both export and import, International borrowing is a modern mechanism which is the regions can resort to when they need it. In the case of Quebec National Assembly in 2002 unanimously adoption of the law that requires the National Assembly's approval of all international agreements assent by Canada and that involve Quebec's matters of competence, Unlike the KRG. Although the Canadian Federalism known's as more centralized in decision-making process. Fiscal decentralization has another adventures to decline risk of macroeconomic instability. So free trade between countries and globalization are among factors that have encouraged many regions and territories to insist their quest for an international competence, could they can rely on self-governance and reduce the financial burden on the central government. From this point I concentrate on prominent role of the regions in how to obtain international borrowing on perspective of international Law. And take the right of the federal territories until if there an obstruction by the federal Government when the aim is developing the regions and revive of his economy. in the case of KRG have right to join an international Loan and transgovernmental fiscal relations in order to promote the region's Economy, health care and social amenities, it becomes a defacto which is acceptable of the international community. KRG can benefit from the experience of the Québec in the event of their



independence from Iraq on how to share the Iraqi debts between them. this study reveals that the debt sharing formulars; the Per capita estimates, GDP estimates, Belanger-Campeau and the historical benefits have good prospect for and applicable to the situation of KRG. Since the GDP estimates type is derived from the relative value of the KRG GDP against that of Iraq as a whole, this type could be appropriate for KRG considering its vast GDP contribution to the national coffer.

Keyword: Loan for Regions, example of Qubec and KRG, Iraqi debt, sharing debt, successor debt, Debt in post secessinst.

ABBREVIATIONS

ADB -----	Asian Development Bank
AfDB -----	African Development Bank
AFESD -----	Arab Fund for Economic and Social Development
APEC -----	Asia-Pacific Economic Cooperation
CCFTA-----	Canada-Chile Free Trade Agreement
CFIR-----	Consultative Forum of International Relations
CPCFQ-----	Commission permanente de coopération franco- Quebec
DRB -----	Direct Reciprocal Borrowing
DRL -----	Direct Reciprocal Lending
EIB -----	European Investment Bank
FCTC -----	Framework Convention on Tobacco Control
FTA -----	Free Trade Agreement
GDP -----	Gross Domestic product
IBRD -----	International Bank for Reconstruction and Development
ICSID -----	International Centre for Settlement of Investment Disputes
IDA-----	International Development Association



- IDB-----Islamic Development Bank
- IFC -----International Finance Corporation
- ILO-----International Labour Organization
- IMF---- - International Monetary Fund
- IPO -----Initial Public Offering
- KRG -----Kurdistan Region Government
- MIGA-----Multilateral Investment Guarantee Agency
- MinMecs ----- Ministers and Members of the Executive Council
- NAFTA-----North American Free Trade Agreement
- NCOP-- -----National Council of Provinces
- PCC -----President’s Coordinating Council
- TRNC-----Turkish Republic of Northern Cyprus
- UKEF-----United Kingdom Export Finance
- UNESCO-----United Nations Educational, Scientific and Cultural Organization
- UNFCCC-----Uited Nation Framework Convention on Climate Change
- USA-----United States of America
- WB-----World Bank
- WHO -----World Health Organization.

CHAPTER ONE: INTRODUCTION AND COMPETENCY OF FEDERAL UNITS**1.1 INTRODUCTION**

KRG and Quebec are examples of Federal Units both are govern through the authority of their federal Constitution. For the KRG, the Kurdish status gravitates to reality when the people of Iraq voted for federal system through their constitution of 2005, while the Kurdistan Parliament adopted Iraq federalism in 1992. The federal concept in this subject of discuss refers to fragmentation of sovereign power of the state between the federal government and the regions. The KRG and Quebec continue to seek for survival and such that could stabilize their rights constitutionally but such moves are constantly faced with suspicion from the central government as it has always been perceived as a step to secession. Actually Units of the Federal system have a form of simple state except for external sovereignty, which is observed in real federalism of Switzerland and Belgium (Atkey, 1971, p23). Until the Federal Government have great role in International Treaty but that's not enough especially when the treaty becomes Federal provinces that are struggling for ratification (Paquin, S 2010, p13). The best way is consulting via common committee between them for negotiation and representation in international agreements as regard provincial subjects of jurisdiction (Harrington, J 2005, p466). The hot spot, which is more controversial among them, is borrowing from territories. Some times resorting to borrowing from the court case of world-wide Volkswagen Corp. v. Woodson as noted in the well-expanded research work of Brilmayer & Lee (1984) that although within the 'conflict of laws', sovereignty of state is explained to mean that restricting the opportunities of one state while the legitimate concern of the other is disregarded. Having an understanding that state territorial boundaries reflect truly sovereign borders Brilmayer & Lee (1984), there has been continuous demand and agitation for self-governance and sort of autonomy form break-away states or demand for such status from varying states across the globe (Duchacek, 1984). Fiscal decentralization is a attribute of Federalism, Federal Units able to manage himself, such as impose duties on goods in export and import (Brazil Constitution Act 1890). International borrowing is one modern mechanism which is the regions can resort to when they need it. but in federal system how to survive Regions

If the Central Government neglected and did not give his legal and financial dues in the absence of the Constitutional Court or bias? In addition if the Central Government sever Regions Budget and this Region in war against the most ferocious terrorist force such as KRG? In Iraq- KRG Case, if there any option for Regions due to International Law? It is known that contemporary international treaties and conventions regulate matters within the jurisdiction of the federal territories. Are federal regions entitled to international borrowing? Is international borrowing an international treaty? What are the positions of the federal states towards this issue? What is the position of international law?

What the position of Iraqi constitution? How to share the Iraqi debt when the Regions decided to independence? .It is known there is some example that the provinces have right for borrowing such as in India the provinces can borrow from the central government also can borrow from the International market. In German also the Federal Units can borrowing directly form International market. These questions raise themselves and require legal answers in the field of

both constitutional and international law, especially in the absence of explicit constitutional and legal provisions dealing with this issue like Iraq.

Research problem: seeking for the answers and legal solutions on aforementioned questions, this research requires the extent of the Federal Units right to resort to international borrowing, and whether the federal region has an international personality, How to fix the financial dues of regions in federal states. In this situation how many options the Regions have to survive his nations.

Research Hypothesis:

According to Iraqi Constitution the Iraqi Loan should distribute to all Provinces and Regions transparency and equally. Because the Debts remain for future Generation with interests if unable to payment in his period time, do not erase or decrease by demise of the government or by independence of the provinces as an independent state.

1.2 THE COMPETENCY OF FEDERAL UNITS

When there is no legal text associated with the statutory right of a state, then the nature of the state's existence will continue to be a contentious issue. In principle terms, there is no selection of any part of the state in public international law that is tuned to exercise the right to append signature to international treaty. It is rather to be exercised through the constitutional rules of the state irrespective of it is a simple or federal state (Garcia, M2010, p2). Looking at the draft of Vienna Convention on the Law of Treaties of 1969, this includes a provision of the Article 5 clause 2¹ that addresses the eligibility of member state of the federation to enter into international treaties as opposed to the text of the Federal Constitution. Obviously, at the end, the Convention does not include the Draft of Vienna Convention 1969. This translates that the Federal Units have ability to endure international responsibility, challenges and at the same time exercise their rights. In the same vein, there is a great role of protection of human rights, minorities and protecting cultural. But lack of attention to the sovereignty of a state in the event of a breach of international commitments has led to the involvement of Federal Units and resulting to the state acceding to international activities from the jurisdiction of the federal state. Recent treaties deals with sensitive internal matters which are further complicated when these matters within the jurisdiction of provinces' absolute modern treaty have concern related to economic and social issues. Further more today rules of International Law deals with persons such a uyusal persons and consider they are apart of International Law for purpose of protect them or punishment them if they do crime against humanity. For example they have right to represent themselves before International Court such an oppont for their Countries (Al-anbary, T, p11). Some scholars in believe provinces and territory have International personality because they have ability to acquire rights and assume obligations under international law. This legal basis came back to sovereignty in the provences. The international

¹Article 5 clause 2 (States members of a federal union may possess a capacity to conclude treaties if such capacity is admitted by the federal constitution and within the limits there laid down)

personality can therefore be restored to both Central State and Territories, both of them have sovereignty within their jurisdiction, if the provinces have no sovereignty how can do exercise their powers (Al-Bassissi, n.d, p2). Provinces enjoy a measure of sovereignty - fewer or more - at the heart of the constitutional document (Mahmud-Abd, p3).The concept of sovereignty did not remain exclusively only for States, but territory have sovereignty too.An international economic development has dominated the concept of sovereignty. As a result of technological revolutions are limited geographical dimensions among States, the individual emerged as a legal unit with general and special rights, which challenged the principle of traditional State sovereignty. Treaties have Impact in individual's directly. There is a treaties that directly assigns rights or obligations to individuals, for instance some treaty prevention piracy or certain actions relating to the conduct of individuals in war and gives rights to individuals to resort to an International Tribunal to face their own countries before the European Commission of Human Rights or before the European Court of Human Rights (Rome Convention, 1950). After the individual became interested in international law through the emergence of human law and the principle of international responsibility for global crimes against safety and security The concept of sovereignty is stripped from its absolute to relative formula, so the individuals are pay more attention in International Law than Sovereignty,. For instance Kofi Annan in his draft resolution to the General Assembly in 54th session, that sovereignty is no exclusive for state, but related to the individual themselves(Talal-A,p68).Taking a clue from the constitution ofFederalState thatallows provisions to sign an International Treaties, an example is theNigerian Constitution which permits the federal parliament to make law(s) on the implementation of any treaty. But this law is not available in the provinces without an initial acceptance by the local parliament for the implementation of treaty in these provinces (Nigerian Constitution Act, 1963²). For the Swiss constitution, the jurisdiction of the federated entities that allows treaties with foreign countries that pertains to the economic, border and police matters (Swiss constitution³). So the German Federal Constitution in 1949and according its Article 32, provincesare allowed to decide on treaties with foreign countries (German Federal Constitution⁴). In the Constitution of the United Arab Emirates 1971 and according its Article 123, members of the Emirates could conclude with local administrative regarding the nature of the specific agreements with neighboring countries especially that do not conflict with federal laws (UAE Constitution 1971⁵).Austrian Constitution of 1920, which is the oldest federal regulations in Europe at a time which gave the federal authority, it fulfills the obligations arising from international treaties within this discuss. The constitution noted that district is consulted before the signing of the federal power

²**Nigerian Constitution Act, 1963:** This constitution came into force on 1 October 1963. The 1963 constitution, which was based on the Westminster system, continued in operation until a military coup in 1966 overthrew Nigeria's democratic institutions.

³**Swiss constitution:** The Federal Constitution of the Swiss Confederation (Bundesverfassung der Schweizerischen Eidgenossenschaft - BV) of 18 April 1999 (SR 101) is the third and current federal constitution of Switzerland. It establishes the Swiss Confederation as a federal republic of 26 cantons (states). The Constitution was adopted by popular vote on 18 April 1999. It replaced the prior federal constitution of 1874, which it was intended to bring up to date without changing it in substance.

⁴**German Federal Constitution:** The Basic Law for the Federal Republic of Germany (Grundgesetz für die Bundesrepublik Deutschland) is the constitution of the Federal Republic of Germany. The Basic Law was approved on 8 May 1949 in Bonn, and, with the signature of the western Allies of World War II on 12 May, came into effect on 23 May.

⁵**UAE Constitution 1971:** The Constitution of the United Arab Emirates provides a legal and political framework for the operation of the United Arab Emirates (UAE) as a federation of seven emirates. The Constitution came into effect on 2 December 1971 and was permanently accepted in May 1996. Authored by Adi Bitar, a forming judge and legal advisor, the Constitution is written in 10 parts and has 152 Articles.



over any treaty that may affect the geographical scope (Austrian Constitution of 1920⁶). The Argentina constitutional amendment of 1994 and in Article 124 allows the opportunity for the provinces to sign international agreements in order to create economic development. While some federal constitutions have recognized sovereignty for provinces, such as Article 15 of the Soviet Constitution of 1936, said "*the sovereignty of member republics*" (Soviet Constitution of 1936).

Possible to say that based on the Vienna Convention of several years, the accession and signing of international treaties by the Federal Units became acceptable in the international arena. It is one of the modern developments in international law as well as globalization that have a basic role that make the component of the Federal State to become players at the international scene. This is so especially in light of the enlargement of international treaties which is not only limited to political and issues pertaining to relations but has as well expanded to include many issues such as the rules of labor, social security, human rights and various cultural, economic and technical relations. In most federal constitutions these issues are within the jurisdiction of competence provinces. In one word Sovereignty has become a means and not become a purpose.

For the Federal Units and borrowing also the Territories have Competence for it there are several provinces taking Loans regardless for his Constitution. For instance Canada is a federal State consists of ten territories each has competency for International Loan for any purpose wherever, whenever as well. Furthermore 2013 the Scottish parliament passed current legislation on borrowing power for his jurisdiction also the Ireland and Wales have the same right (Scherie and Greig, 2011, P10). Saarland and Bremen are two Provinces in German have right to access Intergovernmental Fiscal Relations just in 1993, their Loans arrived to 17 billion DM (Rodden, J, p23). So Monopoly of foreign affairs especially Loans authority if executive only for Central Government is a minimum power, and it's a sign to weakness of central government and inadequacy of foreign affairs for more power as well. While take part multi-government and Federal Units to obtain International Loans have a direct relationship to bring back to economic consciousness, its order to facility the burden on the Central Government, reconstruction of regions, also there is no any risk for sovereignty and vice versa. Consulting with Federal Units and sharing power with them order to avoid risk also ongoing to democracy system and coherent of foreign affairs policy into realistic. It's hard to institutionalized any government without participate Federal Units in the International borrowing process. memorandum of Understanding which was signed between Minister of Peshmerga and assistant Secretary of US Defense on July 12, 2016 without return to Federal Government its International Protocol and its Legally according Iraqi Constitution the KRG have used his authority according to Federal Constitution (Bryan baban, 2016). In here I want to focus and analyze the reasons why Quebec's economy grow and towards high level and vice versa in KRG, in Quebec's

⁶Austrian Constitution of 1920: The Austrian Federal Constitution (*Österreichische Bundesverfassung*) is the body of all constitutional law of the Republic of Austria on the federal level. It is split up over many different acts. Its centerpiece is the Federal Constitutional Law (*Bundes-Verfassungsgesetz*), which includes the most important federal constitutional provisions.

region, the projects is national project , have been impacted with the revenue of the integrity , those norms unwritten in KRG. The roadmap in Quebec depended on in international treaties while in KRG depended in international Companies. In onther hand if we revesion of Iraqi history pertain of international treaties, its clear Iraq was jointed totally for (86) in ternatioanl treaty since 28-4-1924 until 13-7-2009 (Iraqi commission of integrity). Unable the KRG to accession in this treaties which is come to provinces jurisdiction and benefit for his territory by Kurdistan parliament, however Quebec able to do, and classified the international treaty in two main part ratified and implementation, until his federal government came to the legal street and consulted with the Federal Units.

1.3LEGAL NATURE OF LOANS CONCLUDED WITH INTERNATIONAL PERSONS

Public loan is a sum of money to be borrowed by Public administrative from a public or private person, provided that the debtor undertakes to repay the amount with its interest at the certin time.the lenders are subscribe to the bonds when they are put on international money market.International lending is a process of fiscal policy every state resort to whenever inneed as to achieve social and political balance because loans have several types andeach type has its own legal system. Every legal system is preserved or organized byseveral pieces of legislation and Legal nature of legislations differs from one toanother. Hence, we will focus on international loans in legal perspective byinternational laws. Searching for legal perspective is not written occasionally becauseending had special attribute and is different from other revenue sources such as taxand fees. These attributes makes it to be cautiously and carefully to deal with it . So we must know the legal nature of international loans whether the international lending isan international instrument, bilateral contract, administration contract or internationaltreaty and how deal with them. External loans are the loans that take statehood frominternational persons or of persons which is usually applicable to IPO (Rasool, A, p7).International loans may be in the form of an international financial agreement or in the form of an exchange of letters. To make sure for this name of designation take examples of Iraqi borrowing from International Development Association of the WB in 2007 for Electricity Reconstruction Project.Iraqi Parliament passed a law for the ratification of this debt, called law of ratification of the **financial agreement** between the Government of Iraq and the International Development Association of the WB No. (5) Of 2007.inadittion when Iraq borrowed from Japan also passed the Law for ratification under name Confirmation of Correspondents, **exchange of letters** and the Minutes of the Discussions on the Japanese Loan to the Iraqi Government No. 59 (IraqiGazette No. 4052, 2007).Further more there is Loans between people of International Law without considered an international treaty but merely a **financial contract** between two persons,also exclusion of concluded to International Law, but subject to another law such as *national law*.this loan isnot considered an international treaty but merely a financial contract between two individuals,For instance the Loans between Danish-Malawi in 1966, which was subject to Danish law and loan contracts between the United States and Britain, which were subject to the United States law.pay in addition International Loans with foreign private persons can not be considered international treaties, It is not governed by the rules of public international law .In **case of Dame langlois** ,The French Council of State went on to the holders of the bonds demanded payment of their value either in gold or in French francs ,it went on to adapt these International loans as **administrative contract**(Abboud,H,n,d).could get International Loan thuroght International organizations Such as IMF, IBRD, IFC, IDA, ICSID, and MIGA or Regional financial organizations are



those organizations that aim to finance certain group of nations, linked together in a geographical location but in many states are providing assistance to non-developing countries regardless of their location such as EIB, AfDB, ADB, IDB, and AFESD (Rasool, A, p28). So the idea of International Loans to protect right of Lender usually settlements governed by International Arbitration if there is any dispute between the parties, The subordination of the loan with international persons to public international law remains subject to the desire of the parties, which may agree to exclude this law and subject the loan to another law such as national law. Some of the Constitutions such as Iraq Constitution, select Treaty to his exclusive authority, but based on documents above the Federal Units ability to access Loans because taking Loan is not International Treaty.

1.4 QUEBEC AND KRGs ROLE INTERNATIONALLY

After the Quebec election of April 2003 which brought the Liberal Party led by Jean Charest into power, Quebec seems to be popular agitation that Canada's other provinces should play a more central role in international organizations, in international issues and territorial negotiations. Since 2003 Quebec have thirty (30) representative offices around the world, then Quebec's National Assembly unanimously adopted a law that requires the National Assembly's approval of all international agreements concluded by Canada that involve Quebec's matters of competence. It is noticeable that the National Assembly of Quebec became the first parliament in the world even before the Parliament of Canada to approve the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression (Paquin, S 2010, p170). While the Supreme Court of Canada have a role to distinguish between treaties and other terms this distinction appears in *Attorney General of Ontario v. Scott*, in this claim defined treaty such as *"an agreement between states, political in nature, even though it may contain provisions of a legislative character which may, by themselves or their subsequent enactment, pass into law. But the essential element is that it produces binding effects between the parties to it"* (Can, 1956). Hence in addition, there are some Institutions such as (NCOP), (CFIR), (MinMecs) and (PCC), made to support and represent the provinces where they can express their certain needs and for coordinate with the national sphere of government, all of them have one task to promote provinces and rely on themselves (Randt, m, p5). Additionally, another event when the Prime Minister of Canada R.B. Bennett ratified three ILO Conventions These ILO conventions are enumerated as one applicable to hours of work; one on the weekly period of rest; and the last one on the establishment of a minimum wage, but for implementation need local legislation to enforce the law, this action under the provincial jurisdiction, when they asking the judicial body Privy to that is the Council in London which then gave a verdict that implies *"federalism is the foundation of Canada; the provinces are not obliged to undertake legislative measures in order to implement a treaty that is concluded by the executive branch of the federal government"* (Stewart, 1938; McCONNELL, 1968 & Jensen, 2011).

Canadian system gives provincial Premiers the ability to seek out and sign agreements without formal legislative authority, and allows for custom and tradition, rather than formal arrangements, to be the basis for agreements with foreign jurisdictions (Eyre, D, p4). Quebec can convince the Federal Government that the Treaties and International Instrument consist of two fundamental steps. The first consist of (negotiation, signature and ratify) and last steps is implementation. The responsibility of the first step exclusively rested on the shoulder of the Federal Government, the final step is the concern of the legislative measures which are necessary in order to



apply a treaty as a matter of domestic law that belongs to provincial governments. For instance, the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards was conducted by Canada's federal government its first step but application is second step. (Contini, 1959; Quigley, 1960; & Aksen, 1971). The Hague Convention on Civil Aspects of the Abduction of Children was concluded by the federal government (in phase 1), but implemented exclusively by the provinces (in phase 2) (Anton, 1981; Copertino, 1990; Weiner, 1991; Todd, 1995; Beaumont & McElevay, 1999 & Weiner, 2008). The Hague Convention 1993 for Protection of Children and Cooperation in Respect of Inter-Country Adoption was ratified by Canada in 1996 but came into effect in 1997. This treaty was adopted by the Quebec National Assembly in 2004 and implemented by Quebec in 2006 (Government of Canada). Furthermore,

the Convention of UNFCCC and the Kyoto Protocol which was adopted in 1997 was adopted by Canada in 1998. However, Kyoto has neither been approved nor implemented by the National Assembly of Quebec. In case of Framework Convention on Tobacco Control (FCTC) of the WHO was adopted in 2003 and Canada assented to in 2003. Although, it was adopted by Quebec's National Assembly in 2004 but its implementation began in 2005 which is two years after Canada's ratification. Quebec is observed to have concluded some 550 international agreements (Requejo, 2010). In June 2004, the Federal parliament approved two international agreements in Ottawa with Chile and Costa Rica despite the fact that they had already been in force for seven years, because the implementation of the treaty have been in Quebec's jurisdiction, the Parti Québécois voted against it in 2005 (Paquin S, 2010, p178).

This mechanism which was first adopted by Quebec allows its parliament to pass a law which authorizes all the treaties which has Canada's accession particularly when such treaty is related to Quebec's matters. It is known that the Canadian Constitution does not explicitly provide those rights for the Cantons, provinces and territories, their rights in article 132 of the Canadian Constitution Act of 1867 is also expressed in international law that: The Parliament and the Government of Canada shall have all of the powers necessary to fulfill Canada's obligations, or those of its provinces, as part of the British Empire, towards foreign countries, arising from treaties concluded between the empire and those foreign countries (Canadian Constitution Act of 1867). While Iraqi history regarding to international treaties clearly reveals that Iraq had a total of (86) joint international treaties starting from 1924 (precisely on 28-4-1924) until 2009 (precisely on 13-7-2009) (Iraqi commission of integrity). KRG unable to accession treaties which is include to his jurisdiction, KRG lack for passing law that is supported by the Kurdistan parliament to joining and classify the treaties. Like Quebec do it before. Unlike the case of Canada, the Iraqi Government prevent the participation of KRG to treaties, preventing KRG's for participation in anti-terrorism in Paris Conference to counter ISIS (Shafaq news, 2015). While KRG at the beginning remain alone to face ISIS after the escape of the Iraqi army in the battle of Mosul. Canada wants to develop the provinces while Iraq seeks to reducing the provinces, due to the existence of real federalism in Canada, while Federal system in Iraq to satisfy the parties in political participation. Federalism in Iraq is a victim of the consensus and harmony between the doctrines and nationalities. So what produce in Iraqi federalism only disintegration and separation.

When felt Federal territories that the Federal System's inability to protect the rights or inadequacy of the laws that aids the development of their cultures and economic, resorting to joining international agreements. It has earned the Federal Unit have right to speak for itself at international forums on matters related to its responsibilities. We conclude from this that international developments also the international treaties organize environmental, health,

communication, employment, transmission items, debate over land use planning, and cultural issues, are all fields that usually fall under the jurisdiction of Federal Union. Provinces right to joint it regardless to central government it is acceptable within the scope of international law As long as these treaties is not for political purpose.

1.5 PARTICIPATION FEDERAL UNITS IN INTERNATIONAL LOANS AND TRADE

Economically, Quebec has a special plan to revive its economy without prior consent of the central government as it collaborated with the state of New York and signed business agreement to build a high-speed train system, a Cross-frontier. NAFTA, FTA and APEC have a great role to improve Quebec's trade activity, it was not easy for Quebec to reach this phase since it was the product of the failure in the agreement signed by the central government and some international institute without the initial approval of the province of Quebec unlike that of the CCFTA (Dent, 2007; Fink & Molinuevo, 2008). Although federal government consult with the provinces after the Tokyo Round project (Global affairs Canada). Sixty bilateral agreements have been signed between Quebec and France, Created in 1965, the (CPCFQ) backed 74 projects in 2005 involving researchers, artists, There are 161 Québec businesses in France employing more than 13000 people (Quebec's International Policy, 2006, p13-32). U.S have more than 6,000 agreements with Canadian provinces (KINCAID, J, P.19) Ratio of Quebec Exports to GDP are 52.8%, in 2005, and there Total Exports Goods and services In 2005: 145,2 billion dollars, Japan imported \$1.1 billion of Quebec goods, in China, Quebec have more than 150 business and institutional representatives. In addition Quebec exports to Africa and the Middle East amounted to \$1.41 billion for Increasing Foreign Investment. Its consider world leader in the management of energy transmission networks and in the integration of various energy sources into these networks, protection and conservation of forests and ecosystems, the Government will also support the development of new energy technologies, including cleaner burning fuels (including fuel-ethanol), geothermal and solar energy and hydrogen. Through these measures, Quebec is taking concrete actions to reduce greenhouse gas emissions (Kincaid, J, P 48-51). Moreover Quebec and New York provinces are signed Contract along the North-South corridor; they planned to another trade project to connect them by high-speed train system based on FTA. Some time Quebec's role change from borrowing to offering Aid and humanitarian issues in international arena. Since 1997 Quebec has contributed more than CAN \$11 million in humanitarian aid and in grants for development projects in Haiti (Kincaid, J, .p.96)

In addition multilateral, Sub-Federal environmental cooperation is the Great Lakes Charter between Ontario, Quebec, and eight American states. for loan issues (for instance, Morin's discussion of the 1955 Nova Scotia-Netherlands land settlement agreement, whereby Dutch immigrants could receive loans for farms in the province,)(Ert, G, p.1097). Quebec access to international loan from US and other foreign counterparts to establishments their project which will definitely aides the region's economic development (Van Ert, 2001). For instance, Quebec has a prominent role in using international Loans as a protective means for his territory (Lachapelle & Paquin, 2003; Paquin & Lachapelle, 2005a & 2005b). It exports to the United States amounts to \$158 million per day so it have the largest waterways in North America that is connected to the United

States. It ranks among the top ten trading partners of the U.S. It was reported earlier that Quebec have ability to produce hydroelectric energy of nearly 4500 megawatts and production wind energy of nearly 4000 megawatts . **Mega projects** is a hydroelectric projects have had financial backing from the **Wall Street** as the government perpetually and daily engages the investors and end up registering its loan seeking intentions in their mind. Whilst KRG gave a project loan from (UKEF) for support water in both provinces Erbil and Sulaymaniyah, the cost of Project is USD 34.8 million with out peior permission form Fedral Government(Bälz,K&Hodgson,S).KRG declares borrow \$ 150 million from Turkey (AL-Mahluma press, 2016).There is huge significance of the intervention through the government incentives programs that eventually helped Quebec to extend its natural gas pipeline networks into the provinces of Quebec by increasing it from 2764Km in 1984 to 6853 km in 1993 with an average growth rate of 10.1% (Bernard J., et. al. 2002). The need to meet public spendings and paying-off associated debts resulting from investment in infrastructure developments among others, the study by Somers & Vaillancourt (2014) highlighted the two notable forms of debt and risk premia peculiar to Quebec. These debts are classified as those currently issued by the government of Quebec and the one currently issues by Canada to finance projects that partly benefit Quebec, e.g. national infrastructure partly in Quebec. Certain questions are sure to arise with the two categories of debt: for the Quebec government-issued debt, the cost of servicing the debt and the possibility of Canada providing a bailout in the near future are among the prospective questions. On the other hand, the Canada government-issued debts are expected to be associated with questions like, how much risk premium will Quebec be charged relative to the counter-factual in which Canada continues to issue the debt? Dated back to 31 March 2012, the gross market debt of the Quebec government was \$159 billion. Irrespective of the classification of debt, Boothe and Harris (1991) maintained that the choice of division formula should depend on the principles of transparency, equity, and hopefully minimization of negotiation costs. Although the Vienna Convention which was not formalized by Canada, but the document suggests a workable and equitable sharing of the general debt between successor states in cases similar to the Quebec and Canada scenario.

CHAPTER TWO: LEGAL FRAMEWORK FOR SOVEREIGN DEBT IN KRG

Territories has International Personality such as explained previously, in here I want to knock of KRGs authority for International borrowing. after ouster of former Iraqi regim, in Article 52, 53 Confirm that Iraqi System is Federal , confess KRG such a formal region in Iraq and have right to sovereignty of their lands under his Control before March19,2003(Iraq's Transitional Administrative Law,2004). furthermore in Article 117 on Iraqi Constitution , repeated for recognize KRG as a Fedral Region.inaddition in Article 115 explained the extra authority for the regions which is not stipulated in the exclusive authority of the Federal Government belongs to the authorities of the regions. As well as, in Article (121) gave the authority to KRG to amend any Federal Law in his territory in the case of contradiction with KRGs Law. Also in Article (121) Iraqi Government have been exclusive authority and limited his jurisdiction, other authorities' leaves to the Federal Units (Iraqi Constitution2005). As a principle in International Law there is no any legal drawback for Regions to get International Loan except if there is restricting constitutionally. Emanates from the Iraqi constitution, it cleary gave the right to KRG to have an own Constitution in Article (120). It bears mentioning in article (105) focusing to establish a committee for ensure the Regions to participate in international Meeting and putting their embassies and diplomatic missions.Firstly, Constitutionally

KRG have right to get International Loans whenever and whatever. Article (120) gave right to KRG to have own Constitution if we came back for the draft of KRGs Constitution in Article (9) explicitly without any different interpretation confirm that the KRG have right to getting International Loan. Iraqi Constitution in Article (110) Only **debt “policy” is a Federal issues** but the debt transaction is not going to federal jurisdiction as well, while is a subject inside the General allocation of Regions authority. Borrowing policies it's a General Framage for Governments Policy, it's not mentioned and did not exclude or prevent the regions for international borrowing. This explanation is consistent with the decisions the Iraqi Supreme Court in the field of taxation, which consider the **Tax “policy”** is only Federal Governments authority, while the governorates may levy Specific taxes (Bälz, K& Hodgson, s). In **35/ Supreme/2008**, Federal Supreme Court, it said According to the letter of the Basra Governorate Council that asked the court whether the province has the right to put the taxes and fees. Whereas The Iraqi constitution confirms that the tax policy is the sole prerogative of the Federal Government. The court clarified the legality and validity of the province of Basra by enacting laws to impose taxes and duties and regulate financial and administrative affairs in accordance with the principle of administrative decentralization, pursuant the article 115 of the Constitution (Iraqi Federal Supreme Court).

In short the Tax policy and Debt policy both are them within the executive authority of Federal Government, if the Regions have right to take Taxes it means the ability of Regions to take Loans too as stated by supreme court .some researchers believed the KRG don't have right to borrowing internationally because there is the Federal Debt Law was prohibit KRG for borrowing, but they forget there is Article (121) in Iraqi Constitution take right to KRG that all Laws issued by Federal Government are not applied in KRG except if have been endorsed by the Kurdistan Regional Parliament. Although laws enacted by Iraq are routinely endorsed for application in the Kurdistan Region, there is no such endorsement in relation to the Federal Debt Law. On the balance of the arguments, This debate was come to end after passed **Kurdistan Debt Law in 2015**. its a key and legal armor for emphasize the clear legal framework for sovereign borrowing, the Federal Government is not in charge of for any obligations incurred by applicable this Law . It is impartial to conclude that nor Federal Debt Law and the provisions of the Iraqi Constitution able to stop KRG from entering into international borrowing.

2.1 KRG AND INTERNATIONAL DEBT

Finance Committee in KRGs parliament told that after discussion between KRG and Central Government, Federal Government show his consent to take KRGs Loans conditionally must repay it by them. Therefore up on WB report that the KRG under heavy debt which is estimate in 2015 more than 20% of the GDP amonge \$10 to \$17 billion, with another \$5 billion is indeed a heavy but necessary burden. KRG have no choice except resort for borrowing internationally because Iraqi Governmnet not apply Article 106 to distribution Loan between provinces and territories when he get any Loan and grants spend it impressionability with out sharing with his provinces, while according to Constitution its Iraqi duty to resolve all provinces fiscal issue (Iraqi Constitution). While in German when both Regions Saarland and Bremen under heavy debt , in 1992, the Federal Constitutional Court ruled that the Federal Union should provide financial bailouts for the Saarland and Bremen, Undoubtedly the fiscal problems of territories are related to the Federal Government, because the accumulated debt levels in Bremen and Saarland were unsustainable, and



both Regions declared that they faced fiscal "emergencies," their debt amounting to 17 billion DM. calling on the Federation to provide special funds to pay down their debt (Rodden, J, p21-25). On the contrary there is Iraqi Federal Government who saw the KRG under heavy Debt decided to sever his budget. KRGs peoples are Iraqi people how to survive and manage their fiscal issues, so resorting to International borrowing its legal right under necessary principle. worth mentioning Federal System requires some characterize and conditions, one of them cultural, political, democratic awareness and believe to coexistence such as principle. Also respect for minorities. Otherwise it has failed to continue. especially today the success of any Federal System is based on availability of economic resources not just for Central Government but for Federal Units also capable to stand on his Feet, particularly in Iraq after the terror wars, crises, and the progress of technological expansion of services, limited the Federal Government's ability just to endure burden of defense and security without raises of people capacity, Social welfare, and raising domestic production of Regions.

Although the concept of federalism is a strange concept of Iraqi political culture, it is a requirement of the Kurdistan parliament since 1992. At the present time, Iraq is unable to deal with this concept, because a Lesson in Deeds, not Words. Iraqi Federal System lack for impressionability and credibility, as mentioned above, there are several constitutional articles that gave the KRG to open foreign relations abroad, develop its cultural and economic relations, receive foreign guests, etc.... However, there is no any development in KRG with out objection in Federal Government and accused him it's a step for secessions, for instance signing an investment contract, exchanging letters with US, drilling for oil, passed Law for borrowing, etc..

Federal Government forgot the prominent role of KRG to defence on Iraqi land and return his sovereignty. there is a historical fact must be studied for next generations if there was not Peshmerga there is no safe land in Iraq as a whole. Forget the role of the KRG to receive the IDPs and Refugees; actually KRG replaced the Iraqi State. When the Iraqi army fled from Mosul and handed a heavy weapons to ISIS, who is stop ISIS? And defend the civilians and Religions, nationalities without discrimination. Look for victims of Peshmerga more than 2000 martyr and a large number of wounded, who fought terrorists not only instead of Iraq but instead of the world. But how the Federal Government reply to the KRGs, It continued to sever budget of KRGs employee and Peshmerga, the Iraqi federalism Unmatched in the World. it's a clear indication there is no intention in Iraqi Government for cooperation and partnership in Federal process.

On the other hand, the grants and Loans which is received by Iraq requires giving the share of KRG because its confirm in Iraqi Constitution Article (106) it came aboard shall be established prove the fair distribution of grants, aid, and international loans pursuant to the entitlement of the regions, Until now no one see this committee in practical and theoretical, also did not give the KRGs ratio in loans and grants, just in Madrid Conference Oct, 23-24 nearly \$33 billion in grants and loans collective to Iraq, while after WW2 under Marshal Plan US allocated just \$11 billion for rebuilding 18 European countries in Western Europe, now the western Europe is a lender while Iraq is a borrower, no one understood this equation except Iraqi Federal Government. So KRG resorting to borrowing it's the last option also based on Legal Article and defacto, dealing Federal Government with KRG in Lonely example in this Centuries, it became a lone, no one see the harsh deal between Federal Government and his territories, who is can give one example to unjust deal between them I will gave him hundred revers example.

2.2 LOAN AND DEBT TERMS OF IRAQ AND KRG

The country of Iraq especially dated back to the period before 1980 was that the country has been without foreign debt burden and was at that time reported to have an accumulated foreign reserves of \$35 billion. The enormous wealth which was quite enough for it about over twenty million (about twenty million) people was exhausted at the early stage of war between the country and its usual enemy-like neighbor, The Islamic Republic of Iran. What ensued during the war era was an excess spending on arms which was reported to be \$52 to \$102 billion and this largely accounted for the short-term debt of \$35 to \$45 billion from western creditors making the country the highest debt burden, i.e. highest debt to GDP or debt to export (Sanford, 2003). Without any regional exclusion, Iraq total debt which has seen become a concern especially its external debt immediately after war of 2003 is put together as; external financial debt of about \$127 billion, debt accumulated from pending contracts is \$57 billion, \$27 billion is owed due to compensation to victims of the Iraqi invasion to Kuwait with additional \$17 billion owed to Kuwait, \$30 billion was owed to Gulf states, while Russia is owed about \$12 billion in debt Looney (2003). But the study by Barton & Crocker (2003) further put the Iraq's financial burden as an estimate of \$383 billion, an estimate that includes external debt, compensation claims and pending contracts. This debt burden and the huge challenge of development and reconstruction across the country are responsible for the call for debt renegotiation and reduction especially during the post 2003 war era. The economy of the KRG has remained largely, reasons for this is on the account that agencies like the IMF, WB among others provides general information on Iraq and the budgetary integration of the KRG (Leezenberg, 2015). The Kurdistan region is entitled to 17% (seventeen percent) of Baghdad's oil revenue, but the region's budget has increased sharply since the 2003 war and hence leaving the region with sparse resource to meet the immediate need and economic demand of its people. Further study by Leezenberg (2015) also revealed that a minor part of the United State's budget of 18 (eighteen) billion dollars for the reconstruction of post-war Iraq was allocated to the KRG. Also, Iraq's debt reduction plan is shown to have affected the KRG. The \$120 billion debts amassed by Iraq as at 2003 due to war with Iran and the 1991 Gulf war was reduced through part cancellation or rescheduling by the Paris Club, China and others to \$60 (sixty) billion or 27% (twenty-seven per cent) of the country's GDP by the end of 2012 (Leezenberg, 2015). Although, the KRG has potential but the recent economic facts and the political instability of the entire country is having an adverse effect on KRG. The Iraq's oil production is put at 2.95 to 3 million barrels per day in 2012 and 0.23 to 0.25 million barrels per day oil production is recorded for KRG, leaving the KRG with a production of about 8.5 percent of Iraq's total oil output. Although there is not indication that the KRG share part of the Iraq government's responsibilities especially on debt servicing or rescheduling (Leezenberg, 2015), the fact that the 27% (twenty-seven per cent) of the entire country's GDP is the amount of foreign debt owed as at 2014 makes the KRG indirectly committed to the debt payment. The sparsely unavailability of statistical data commonly used for publication for relating to the economies of other countries like the monthly or quarterly time series data covering GDP, industrial production, capacity utilization, fixed asset investment, employment among other things, make it difficult to provide details of the cost of loan repayments by the KRG (DeWeaver, American University of Iraq). Report shows that Central government of Iraq payments fell from \$14.3 trillion in the first quarter (1Q) of 2013 when they accounted for 77% of the KRG's revenues to \$1.1 trillion in the first quarter (1Q) of 2014 and eventually getting to zero in succeeding periods. This greatly compounded KRG economic woes in 2004 (the post war era) which made the region to fall far short of the additional amount needed for state-sector investment projects and the repayment of debts including the

equivalent of \$8 billion owed to local lenders, \$3 billion to international oil which comprises of the almost \$ 1 billion owed to DNO.

2.3KRG AND PROCESS OF BORROWING

Focusing in Kurdistan Debt Law in 2015, understanding that this law has some attribute, first of all the rate of interest, the rate requested by the financial institutions stood at 12%, far above Iraq's 8%.KRGs Laon are not subject to the 7% interest rate cap under the Iraqi Civil Code (Iraqi Civil Code NO.40 of 1951).Exempt from any stamp duty and tax, and in application if there is arise any conflict between parties can be settled through arbitration. So KRG have achance to survive him and getting loan via:

First: A committee to passing Bond in International market.

Pursuand on Article 5 and 6 in Kurdistan Debt Law, KRG have right for borrowing directly and

There are no restrictions that prevent the KRG from borrowing in international markets.

Those Markets don't have a particular financial center, but they become closer to a kind of market-network spread all over the world.could get it either through long-term(International stocks and bonds), short-term (commercial securities) and bank assets such as deposits and loans. Which is a shortage of liquidity to face the expansion of investment projects, resorting to external financing through the issuance of bonds to be put on the international financial markets through banks and international institutions? A bond is a security that reflects the obligation of the debtor to a creditor, in return for the creditor placing money at the disposal of the debtor.

There are innovations in the capital markets, it has become difficult to distinguish between international and domestic financial markets.there is some International Market every Markets are different from others, such as

- 1- Foreign exchange market and European loans, It consists of a group of banks providing long and medium term loans in foreign currency.
- 2- International bond market, those bonds issue by International Financial bodies and industrialized countries, for instance US issued 100 bonds, the British 134 Japanese institutions 416 bonds, and the international institutions 100 bonds.
- 3- International Stock Market, This market was officially established in 1983. Unlike international bonds, international shares represent the ownership of the investor or purchaser of these shares to a share of the issuing company. The distribution is carried out by an international body composed of banks. Individuals and banks can invest their money in this market. International shares are a certificate that entitles the holder to a certain part of the company issuing the share, and international stocks are registered in financial centers such as Wall Street

- 4- International Financial Centers, convergence place of international cash and financial flows and redistributed to the world by international and local institutions. Located on Wall Street, New York, London, Zurich, Singapore, Hong Kong, Panama, Bahrain, Luxembourg,
- 5- International Financial Assets, Movable values issued by legal persons, whether public or private, resulting in a debt on the issuing authority, dealing with cheque and bill of exchange (Jabbar, M, p5-15). Saarland and Bremen, could pass Bond in International Market because most of those Regions Debt came through bonds after establishing a network of commercial banks, in nutshell the central government is unable to place restrictions on the borrowing behavior the Regions. Fulfilled both German Regions and obtain for their borrowing needs throughout Schuldschein markets, but they barred from issuing debt in currencies other than the Deutschmark. Those Regions occasionally issue DM bonds, which are typically managed by the Landesbank. This Bank is not quoted on any exchange but can be transferred to third parties by way of a written assignment. The advantage of this process is more popular with its low cost, flexibility, discretion with which the terms can be agreed. Another Idea can be useful to KRG by structured new forms of debt securities to attract international investors. Which was applicable in Saarland In 1993 there was a spate of long-dated DM issues, by several of the Federal Units led by foreign investment banks? Additionally KRG through Banks able to begin to look to international sources of capital as well. By beginning to issue Eurobonds and hold substantial capital in foreign currencies (Rodden, J, 28). shortly KRG lack to pass a new Law under name Law Loan Bonds in KRG beside Kurdistan Debt Law in 2015 to participate to International Financial Market.

Second: bilateral loan agreement: KRG gave a project loan from (UKEF) for support water in both provinces Erbil and Sulaymaniyah, the cost of Project is USD 34.8 million without prior permission from Federal Government (Bälz, K&Hodgson, S). KRG declares borrow \$ 150 million from Turkey (AL-Mahluma press, 2016). KRG can borrow internationally from countries, private people, banks and foreign bodies under the Constitution of Iraq and in Defacto, as long as the Federal Government has severed the budget of KRG, Federal Government has borrowed from the Central Bank of Iraq and the withdrawal of foreign reserves is in violation of Central Bank Law issued under CPA Order No. (56). in paragraph (1) (26) which is came under the title (Prohibition of lending to the government). Now the Iraq's foreign reserves is \$ 49 billion, while in 2015 it is \$ 68 billion. The WB threatened Iraqi government to put in blacklist if Iraqi borrows from central bank (Rasool, A, p8). The central bank must be independent from the government without any intervention. its dangerous step for the Iraqi people as a whole, for the benefit of a sectarian group. but objected KRG which is borrowing under a permanent constitution while KRG was forced to resort international borrowing its Urgent solution to survive his Region..

CHAPTER THREE: DEBT AND OUTSTANDING ISSUES IN POST WAR COUNTRIES: THE CASE OF IRAQ AND KRG

3.1 INTERNATIONAL LOAN COMMITMENTS

3.1.1 Iraq War Situations

Sack (1927) is best known for his formalization of the odious debt doctrine in his work *Les effets des transformations des Etats sur leurs dettes publiques et autres obligations financières* (Effects of the transformations of the states in their public debts and other financial obligations), published in Paris in 1927, when he taught law at the Institute of Political Studies. Alexander Sack synthesized the concept of odious debt based on precedents from the 19th century, such as the Mexican government rejection to pay debts acquired by the emperor Maximilian I, and the rejection by the USA, once annexed Cuba, to pay the debts acquired when it was a Spanish colony. Differentiation among debt incur as private or sovereign entity and a regional or multilateral financial institution. International law recognizes the need to take into account the nature of the regime that contracted the debts, and the use of the fund. This implies the direct responsibility of the creditors, such as private bodies or the IFI.

3.1.2 Post Conflict Situation

The era immediately after every war-ravage state is commonly embellished in losses due to wastage of national resources on purchase of hi-tech and expensive military hardware, destruction of national assets and leading to accumulation of heavy debts. In most cases, the question of 'odious' debt is brought to limelight in a post war era. Eric Toussaint and Damien Millet (2010) defined Debt as odious

- a. If it has been incurred by a dictatorial and despotic regime, with a view to strengthening its rule
- b. It has been incurred not in the interest of the people but against its interest and/or in the personal interests of the rulers or persons close to the regime
- c. The creditors knew (or were in the position to know) the odious use of the loans.

Damien Millet and Eric Toussaint (2004) made several arguments in International laws that can be invoked as legal justification for unilateral cancellation of the external debt. The cases of 'Force Majeure' and 'Necessity' were observed for detail explicit research as regard possibility of debt cancellation in post war situation.

The case of force majeure- Force majeure can be invoked when a government or public body finds itself, due to external circumstances beyond its control, unable to fulfil its international obligations, including the repayment of a debt.

The case of necessity- This is characterized by a situation where the existence of the state is endangered, that is, its economic or political survival. In cases like Cuba in 1898, Costa Rica in 1922, Namibia in 1995 and Mozambique in 1999, the state debt becomes the personal debt of those responsible during the dictatorship, hence cannot engage the financial resources of the state thereafter. Robert Howse (2007) reported in a study that prior to the overthrow of the Government of Saddam Hussein, Iraq was reported to have accumulated over \$125 billion of unpaid debts. It was based on the fact that this accumulated Iraqi debt should be classified as 'odious' as augured by several commentators (Adam, 2004, & Jayachandran and Kremer, 2005). Jayachandran and Kremer (2005) argument was based on the United States congressional initiative that instituted a bill that would expectedly aid rebuilding of Iraq. In a supportive comment by the Undersecretary of Defense Paul Wolfowitz in testimony before the Senate Armed Services Committee, he noted that much of the money borrowed by the Iraqi regime had been used "to buy weapons and to build palaces and to build instruments of oppression.

Contrastingly, these observations and arrangements has generated several opposing notions as equally noted by Buchheit L. et al. (2006) that the present doctrine of odious debt is not in par with Sack (1927) original statement of the odious debt concept and it loan-by-loan analysis.

However, debt relief was granted to Iraq not with references to its legitimacy but instead for reasons of "debt sustainability".

3.2 PRESENT SITUATION OF IRAQ

The post Iraqi war has subsequently led to the emergence of another prevailing issue of the state. President Massoud Barzani announced September 25th, 2017 to be the date they will hold a historic referendum on Kurdistan's independence from Iraq. its a crucial date for the much-awaited referendum that could eventually paved way for the KRG is an indication of yet another series of questions (Presidency of the Kurdistan Region, 2017). Since the establishment of the no-fly zones following the Gulf War of 1990–1991, the Kurds had established their own autonomous region administered by the KRG. Concerns would be expectedly centered on issues of who should be responsible or accountable for the accumulated recurrent state debts that include the reported seven (7) million employee triggering number (Wikipedia, 2016). Who to assume ownership of state-owned assets especially the state energy companies and assets or in what proportion should such affiliations is shared if at all it should be, between the KRG and the Federal Government of Iraq state? As regard internal debt issues, which 'government' should be responsible and which is to be called creditor or debtor?

The fact that countries like Montenegro, Kosovo and Northern Ireland had at a time in similar circumstances with that of the present situation of the Kurds in Iraq is a clue that Iraqi's situation which already have a "shared sovereignty" (Philip S. H. 2015). is far from being an exemption.

In this light, an independent Kurdish state would expectedly not be a financial burden on the international community. The large oil reserves in the Kurdistan region could adequately support the

country economically as has obviously the case since the establishment of the semi-autonomous and self-governing government of the KRG after the Cold war of the nineties. A clue from the United States commitment to helping Kosovo function as an independent state through tremendous financial aid since their post war era (Nicholas Kulich and is an indication and possibility of a financially and debt-free KRG (Chivers C.J., 2008). Of course, such benefit and the supposedly tender relation of KRG with the United States would not be surprising considering the dire need by the US to have a more reliable ally in the Middle East because of the KRG territory's close proximity to Iran, Syria, Iraq and also Turkey who is perceived by US to be unreliable for such purpose. With the possibility of having a new military base in the KRG territory after the non-cooperative perception of the Turks, it is believed in some quarters that Strong U.S. support of Kurdish statehood would advantageously help restore America's image in the international community and garner the support of a new ally in a strategically significant area after the fallout from the overthrow of Saddam Hussein (Nick Childs, 2007).

3.2.1 Specific and Useful Clues for Iraq and KRG

Citing handful examples, it is commonly observed that in most cases of country or territorial division, the hard-to-resolve issues of asset acquisition or forfeiture, investment harmonization between the warring groups, debt imbalances or reluctance to accept debt responsibilities among other notable issues are always long-lasting. Examples are Ethiopia-Eritrea and recently Sudan-South Sudan in Africa, Cyprus-North Cyprus in Europe and Korea-South Korea in Asia just to mention but few. Typically, Northern Cyprus (presently known as Turkish Republic of Northern Cyprus, TRNC) remained self-governed territory after 1983 proclamation (proclamation of an independent territory) by leader of Turkish Cypriots. This was the aftermath of the July 1974 civil war between the Greek Cypriot (presently occupying the southern part of Cyprus officially recognized as Cyprus) and the Turkish Cypriot occupying the Northern region. The lesson here remain that both region has failed repeatedly in having permanent resolution even with several international interventions for so many reasons with the strongest being the asset acquisition forfeiture issues.

Iraqi government and the KRG would need to learn from Cyprus (which is the only country in Europe with a divided national capital) as to avoid make similar mistake.

Rather, positive clue could be learnt from the Koreas. In avoiding wastage and abandonment of national assets, North and South Korea until now still operates joint assets and investment management over several handful of companies belonging to the former Korea and with their nationals working together in harmony and accrued revenues shared amicably. Of course, this was only achieved under the supervision of international organizations through workable resolutions like the establishment of the Korea Demilitarized Zone (DMZ) with the signing of the armistice (Wikipedia).

Significantly, with better improvement on resolution plans adopted for the Sudan-South Sudan crisis and especially post-war situation, the Iraqi government and the KRG could successfully have a post war crisis-free debt, asset, and humanitarian management issues among others. In handling the Sudan-South Sudan border issues which were responsible for thousands of deaths, the Comprehensive Peace Agreement (CPA) which was internationally constituted had suggested referendum in Abyei and Blue Nile and South Kordofan that would determine the choice of the people in joining either of the sides (Jon Lunn & Gavin Thompson, 2012). Following secession of the

South on 9th July 2011, 75% of oil production in Sudan was passed to South Sudan and with the North still maintaining the pipelines trunks through which exportations were made and the revenue received is retained by the government for the purpose of sharing. These mechanism adopted were thoroughly adopted by CPA, the African Union Peace and Security Council among other concern international organizations and interest bodies.

A research of significant input by Lauren Ploch Blanchard (2012) opined that both governments agreed on financial deal between August and September 2012 was expected to facilitate resumption of oil exploration after long period of halt in production. This agreement was arrive at to avoid huge financial gap and burden of the two governments. As that time, the Khartoum government has repeatedly 'admitted' an estimated debt of more than \$40 billion (which was claimed to be mainly from the oil disputes) which the Juba government in the South consistently refuted and has refused to assume part of the debt (Lauren Ploch, 2012). Although, the united State Government and some western alike were reluctant in implement debt relief packages for Sudan, its traditional financiers which includes the Gulf States and China were at hand to ease the debt burdens of Sudan and indirectly setting South Sudan free of expected financial obligation.

3.2.2 Further Implications

Report from the study by Philip S. H. (2015) indicated that few years after Iraq invasion, an estimated 2.4 million people were internally displaced (with a further two million refugees outside Iraq), four million Iraqis were considered food-insecure (a quarter of children were chronically malnourished) and only a third of Iraqi children had access to safe drinking water. These humanitarian crises are obviously among the lingering issues confronting both the Central government in Iraq and the KRG. Offering to the world and the international community an international position unique in a Federal Units ,when assimilation of refugees and IDPs, more than 2 million displaced Iraqis and Syrian refugees.its unprecedented and historical attribute with a blockade his budget by the Federal Government which is a humanitarian responsibility that proves the ability of a region to assume international responsibilities.However, while Iraqi government has not provided the necessary assistance to the KRG except building four camps in Erbil and Dahuk. In the eventuality of the re-integration of KRG back to the Central government of Iraq (although not a popular call from the Iraqi Kurds) or the aspired and much-expected independence for the Kurds, the International communities comprising of foreign nations, non-governmental and responsive agencies would expectedly give a soft-landing and pose to provide cushion.

Notably, the United Nations Human Rights Commission has adopted numerous resolutions on the issue of the debt and structural adjustment. adopted in UN, asserts that 'the exercise of the fundamental rights of the population of an indebted country to food, housing, clothing, work, education, healthcare services and a healthy environment, may not be subordinated to the application of the structural adjustment policies or economic reforms generated by debt'.This is because it is reasoned that a state cannot be expected to close its schools, its universities, its courts of law, and to abandon its public services to the point of chaos and anarchy in the community, simply to keep the money for repaying its foreign or national creditors, Directory of the U.N. Commission on International Law, vol.1, 1980.

3.3 DEBT SETTLEMENT STRUCTURE

Researches with illustration to debt information about have shown that acquisition and accessing international loans are not easy to come accomplish. The simplicity or better say rigidity of the loan repayment procedure between states and crediting partners has been a sources of interest to research scholars. The case of Quebec is peculiar in this study, the uniqueness of the case is attributed to the similarity to that of KRG where the ongoing agitation and all necessary pre-secession procedure for statehood has been as a source of recent research interest to scholars around the globe. It is necessary to consider how the basic measure and of debt sharing procedure might play out when Quebec is responsible for both the debt it currently issues and the debt Canada has already issued on its behalf. In its 1980 and 1995 referendum programmes, the Parti Quebecois has already alluded to the division of debt but have to change the plan by announcing a suggestive and alternative plan for a workable agreement with the Government of Canada that could see a fair sharing of the assets and the liabilities of the Government of Canada (Assemblée Nationale, 1995). The proposed plan would see the state of Quebec having a formidable discussion and agreement with the Government of Canada and possibly the Rest of Canada (ROC) in the eventuality of the independent Quebec (Somers & Vaillancourt, 2014). A debt sharing formula between Canada and, or ROC would have covered the Per capita estimates, GDP estimates, Belanger-Campeau and the historical benefits. Debt associated with historical benefits as linked to Mansell and Schlenker is being reported as the most controversial approach by Rowland, (1997). This procedure which is also referred as the division rule will see the seceding state like Quebec (also KRG as the case applies) paying the net benefits received in the past as members of the Canadian Confederation (and Iraq Federation as it applies) (Somers & Vaillancourt, 2014). In the study, Somer and Vaillancourt (2014) detailed this payment to include provincial or regional fiscal balances as it applies to both attributable and non-attributable expenditures. In support of this method of debt settlement, the work of Rault and Vaillancourt (2013) further revealed that federal expenditure in Quebec is observed to be higher than federal revenues drawn from Quebec which is considered to pre-determine the higher share of debt accrued to Quebec. Hence, Somers & Vaillancourt (2014) was able to suggest in their work why Quebec's share of the federal debt could be about 20 to 25 per cent range after sovereignty which is a close estimate to 32 per cent mentioned by C.D. Howe Institute, (1991).

Also, the debt sharing structure using the per capita method is proved to be self-explanatory. This is the case where the federal debt is divided by the total population of Canada or Iraq as the case may be for the KRG so that each province and in this case Quebec or KRG gets its share. It then shows that the debt basis is the individual and not even by region (Somers & Vaillancourt, 2014). Then in the case of Iraq and KRG, it means that each citizen of KRG gets an equal share of the appropriated debt. For Canada, the C.D. Howe Institute (1991) imposed this method to put the Quebec's share of the total federal debt as 25.4 per cent in 1990 and 23.6 per cent in 2011 as against a decrease in estimate observed with GDP sharing formula discussed above.

Lastly, of this Canada-Quebec debt sharing method which is the Belanger-Campeau was first introduced in 1991 shortly before the Commission on the Political and Constitutional Future of Quebec, and commissioned by Liberal Premier Robert Bourassa (Somers & Vaillancourt, 2014). The work of Rowlands (1997) explains this method further as the simultaneous calculation using the division of assets and liabilities which is believed to affect the debt division. The C.D. Howe Institute



(1991) gave a detail and step-to-sep procedure of this method, it emphasized that the method allows Quebec to keep only assets it is interested in controlling or using and proposed Quebec's debt share to be 19.3 per cent. Notably, in this situation, financial assets and government enterprises is measured per province using their historical tax contribution.

CONCLUSION AND RECOMMENDATION

Sub-state have right to join to assent to international agreements especially on issue of treaty entry application that enacts the competence of a province or region. KRG's quest for strength in its bid to be engaged in internationally role is a good gesture that comes with some level of sacrifice. Similar the case of Quebec in joining the international agreements are observed to be applicable to the KRG. The Federal system also in the case of the Government of Canada is saddled with the responsibilities to protect all the minorities, cultures, religion, fiscal policies, human right, and every other thing that affect the lives of the people of the country continue to poses greater challenge to its provinces. This exactly what happen after the fall of Mousl, which led to the total collapse of the Iraqi army and living each region with the responsibility of providing security to its people. Internationally there is no any legal drawback to prevent KRG for getting International Loan. Although the Iraqi constitutions taciturn on the borrowing of the provinces. We get that the KRG could receive loan pursuant to article 115.

Practically, in order to sustain the secession plan of the KRG and enhancing it the region's development like the province of Quebec, the following recommendation should be observed:

- First:** the experience of the province of Quebec as a model should be followed in KRG for developed his economic and trade strength role internationally.
- Second:** passing law that will enable the region join and assent to all necessary international treaties especially those within the KRG's jurisdiction should be a priority. Such is the Law of ratification of international conventions and treaties. and passing law that will enable the KRG to participate in bond stock market issues.
- Third:** Its de facto KRG have right for International Lending, and accession for International environmental Treaties pursuant to the principles of human rights. Because KRG have a contamination environment as a result of use of chemical weapons in Halabja, during the Iranian-Iraq war and the subsequent in-fighting of ISIS within the country has caused environmental pollution, this territory became the closest line of terrorists, devastate this territory by different kind of weapons, although show himself in international Community it is a region capable of bearing international obligations when it hosted more than two million refugees. If there not safe place (KRG) has been the disaster of humanity against the innocent civilians by the ISIS. In addition to the cleaning of the environment which should be properly supervised by the International community, further escalation could also be prevented by enforcing international treaties that seek to address the effects of chemical weapons, radiation and getting international Loan for reconstruction especially man-made disasters with the help of competent authorities and International laws.



Fourth: participation in the World Social Forum and other related international organization meetings that could help in creating an international instrument to protect and promote cultural diversity should be encouraged.

Fifth: it is crucial to attend international forums like that of the World Bank and International Monetary Fund as a ploy to find mechanisms, newest and workable financial plans that seeks to address generic and specific financial crises.

Sixth: it is obvious that the KRG system is infested with corruption epidemic, if corruption is acknowledged to be the bottleneck of development, then mechanisms that are capable to de-corrupt and make the system in KRG corruption-free should be implored.

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ملخص

ان مشاركة الاتحادات الفدرالية في القروض الدولية مرتبط و متوقف الدستور الفدرالي . ليس هناك قدرالية حقيقية اذا كانت العلاقات الخارجية محصور على الحكومة المركزية , الفدرالية لها بعض الخصائص واحد منهم هو اللامركزية المالية لتدير الاقاليم نفسها بطرق مختلفة مثل فرض الرسوم على السلع سواء كانت استيرادا ام تصديرا , القروض الدولية هو الية حديثة بامكان الاقاليم اللجوء اليه عندما هناك حاجة لذلك , في حالة مقاطعة كيبك الجمعية الوطنية في سنة 2002 بالاجماع تبنى المشروع على مصادقة الجمعية الوطنية على جميع الاتفاقيات الدولية المصدقة من قبل كندا المرتبطة بشان كيبك و اختصاصاته بخلاف حكومة اقليم الكوردستان. على الرغم ان فدرالية الكندية معروف بشدة المركزية في عملية صنع القرارات. اللامركزية المالية لها مزايا أخرى الا وهو التخفيض خطر عدم استقرار الاقتصاد الكلي. وكذلك التجارة الحرة بين الدول والعولمة هي من بين العوامل التي شجعت العديد من المقاطعات والأقاليم على الإصرار على سعيها لتحقيق الكفاءة الدولية، ويمكنها أن تعتمد على الحكم الذات وتقليل العبء المالي على الحكومة المركزية. ومن هذا المنطلق اركز على دور البارز المقاطعات في كيفية الحصول على الاقتراض الدولي من وجه نظر القانون الدولي،

ويأخذ بنظر الاعتبار حق الأقاليم الفدرالية إذا كانت هناك عرقلة من جانب الحكومة الاتحادية عندما يكون الهدف من الاقتراض هو تطوي ر الاقليم وإحياء اقتصاده . في حالة حكومة إقليم كوردستان الحق في اللجوء إلى اقتراض الدولي والعلاقات المالية العابرة للحكومات من أجل تعزيز اقتصاد الاقليم والرعاية الصحية والمرافق الاجتماعية اصبح امرا واقعا و مقبولا لدى المجتمع الدولي .



بامكان حكومة اقليم الكوردستان ان تستفيد من تجربة كيبك في حال استقلالها عن العراق عن كيفية تقاسم الديون العراقية فيما بينها . فإن هذه الدراسة تكشف عن أن نصيب تقاسم الديون؛ فإن تقديرات نصيب الفرد من الناتج المحلي الإجمالي، وتقديرات الناتج المحلي الإجمالي، وبيلانجر - كامبيو، والمنافع التاريخية لها آفاق جيدة بالنسبة لحالة إقليم كردستان.

وبما أن نوع تقديرات الناتج المحلي الإجمالي مستمد من القيمة النسبية للناتج المحلي الإجمالي لحكومة إقليم كوردستان مقابل الناتج المحلي الإجمالي للعراق ككل، فإن هذا النوع قد يكون مناسباً لحكومة إقليم كردستان بالنظر إلى مساهمتها في الناتج المحلي الإجمالي الهائل في الخزنة الوطنية.

الكلمات المهمة: فرض الأقاليم , مثال كيبك وحكومة إقليم كردستان، الدين العراقي , تقاسم الديون والديون الخلف.قروض ما بعد الانفصال .