

# An Ethnic Tug-of-War? The Struggle Over the Status of Kirkuk

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In post-war Iraq, sectarian divides continue to plague Iraqi society. With a diverse population of Shia, Sunni, Turkmen, Kurds and various Christian groups, reaching a consensus that satisfies all groups is often difficult. And for the Kurds in the Autonomous Region of Kurdistan who have achieved a greater degree of independence from the central government, the agenda of Baghdad often conflicts with their own. One of the greatest points of contention between the two capitals has been control over the Kirkuk Province, a governorate sitting on as much as 10 million barrels of oil located to the south of the Kurdistan Region and to the north of the rest of Iraq.<sup>i</sup> Kurds, Arabs, Turkmen and Assyrian Christians have lived peacefully in Kirkuk for centuries, and all have claimed that this governorate, and particularly Kirkuk City, is rightfully theirs. Although divisions between the various ethnic groups living in the governorate were almost non-existent prior to the 2003 war, political rifts and political party rivalry instigated a polarization of the population—and thus a struggle for control of Kirkuk. This is a sensitive issue because the dispute touches not only on territorial integrity and governance, but also on the nature of federalism, prospects for provincial elections and the management of oil wealth.<sup>ii</sup>

This paper, which will explore the status of Kirkuk, seeks to answer the following questions: What are the motivations of each ethnic group to maintain control of the province? How can the Kurds best use the current political climate in Kirkuk to their advantage in order to achieve their goals? Can they compromise with the Turkmen and the central government and collaborate with the United States in order to ensure a prosperous, developed and more secure Kirkuk for all?

In addressing the above questions, this paper will be divided into five parts: the history of Kirkuk, ethnic narratives, issues of governance and legality, the current status of legislation pertaining to Kirkuk, particularly Article 140 of the Iraqi Constitution, and possible solutions to the Kirkuk issue.

## A HISTORY OF THE DISPUTED TERRITORY<sup>1</sup>

Throughout the long history of Kirkuk, various tribes and ethnic groups disputed the oil-rich territory.<sup>iii</sup> Even its founding by the Hurrians in 2400 BC is a point

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<sup>i</sup>This first section provides a basic summary of modern history of the Kurds in Kirkuk. For a more detailed version, see Liam Anderson and Gareth Stansfield. *Crisis in Kirkuk*. Philadelphia : University of Pennsylvania Press, 2009.

of contention among the city's current residents because the Kurds say they descended from the Hurrians whereas the Assyrians claim that Arrapha, the original Kirkuk, was first and foremost an Assyrian town. The Arabs came to Kirkuk with the Islamic conquest of Mesopotamia followed by the Turkmen, who served as soldiers in Iraq in the seventh century.

Under the Ottoman Empire, families of Turkic origins rose to the highest socioeconomic class and held the senior bureaucratic positions, but it was the powerful Kurdish nobles who were entrusted with securing the eastern border of the Persian Empire. In the eighteenth century, Kirkuk became the capital of the Ottoman sanjak (county or sub-district) of Sehrizor, comprising the areas of Kirkuk, Erbil and Sulaimaniyah, and the city, because of its diverse population, transformed into a valuable recruitment pool for Ottoman civil servants and gendarmes.<sup>iv</sup>

Kirkuk's value as a petroleum hub became evident in the late nineteenth century when the Ottomans expressed interest in the oil contained in the Mosul vilayet. The first exploration in Iraq took place in 1902 in the present-day city of Diyala, with the formation of the Turkish Petroleum Company (TPC) following ten years later. The TPC, dominated by British institutions, with the British-owned Turkish National Bank owning 50 percent of the shares, hoped to acquire all claims to oil fields in Mesopotamia.<sup>v</sup> The British, who relied on the United States, a potential imperial competitor, for oil, developed a strategy whereby they would incorporate oil-rich regions into their empire, and as a result, they altered the Sykes-Picot agreement so that they could gain control of Mosul, Baghdad and Basra. To the dismay of the Kurds, this also meant that because of their oil interests and their suspicion of the Shia population of the south, the British halted their support of an independent Kurdish state.

Once the borders of Iraq were delineated in 1925 and the drilling of the first oil well occurred in 1927, the disputes over Kirkuk began to escalate, and the term "Kirkuk" came to have different meanings as its size and shape changed frequently throughout the century. The Kurds considered Kirkuk to have been part of their Kurdish homeland for centuries, but the bourgeoisie Turkmen rejected this territorial claim.

After the deterioration of the relationship between the Kurdish leaders and Iraqi President Abd al-Karim Qassim in 1961, Mullah Mustafa Barzani, leader of the Kurdish nationalist movement and the Kurdish Democratic Party (KDP), declared a Kurdish Revolution against the government in Baghdad in 1961. The Kurdish forces, or *peshmerga* (meaning "those who face death" in the Kurdish dialect of Sorani) achieved multiple victories against the Arab Iraqis. Once the Ba'ath regime came to power after overthrowing President Qassim, Barzani expected the Ba'ath government to formally recognize Kurdish autonomy, but his demands were met with opposition because he included Kirkuk and Mosul in Kurdish-claimed

territory. In an effort to eliminate the peshmerga, the central government began repressing these Kurdish fighters.

### Seventy-five years of Arabization

As stated above, the territory of the Kirkuk Province today has different territorial dimensions than the province of the twentieth century. In the 1930s, the size of Kirkuk was about 20,000 km<sup>2</sup> whereas today it is 9,679 km<sup>2</sup>, less than half of its original size.<sup>vi</sup> Kurds and Turkmens inhabited most of these lost lands. Ethnopolitics was the driving factor behind these frequent changes because the Iraqi government hoped to deliberately offset the ethnic balance in Kirkuk. With gerrymandering—in this case, conducted via the addition of predominantly Arab districts and sub-districts to Kirkuk, Baghdad changed the population size and ethnic distribution of the governorate through its multi-phased Arabization policies which attempted to “melt down the ethnicity of the Kurdish people.”<sup>vii</sup>

The first phase of Arabization, initiated by the central government to protect Kirkuk's oil, occurred from Iraq's independence until the rise of the first Ba'ath regime (1925-1958). With the rise of Kirkuk as the center of Iraq's oil industry, the province became key to the development of the Iraqi economy. This led to social change in Kirkuk, with migrations of labor and the construction of new neighborhoods in the oil quarters to support these new laborers. Instead of using local labor, oil companies hired Iraqi Arabs, thereby leading to the socioeconomic marginalization of the Kurdish community compared to others, particularly the Turkmens, who maintained their high-status business positions in the Ottoman Empire. Ethnicized tensions (to be discussed in greater detail in the following section) developed between the Kurds on one side and the Arabs and Turkmens on the other. These tensions arose from disparities in wealth and access to well-paying employment opportunities.<sup>viii</sup> As a result of these differences, fighting erupted between the Kurds and Turkmens in July 1959, leading to the deaths of 28 Turkmens and four Kurds.<sup>2</sup> Following this event, if they had the ability to do so, Kurds would leave Kirkuk due to fears of deteriorated security and persecution by both the Turkmens and Baghdad. Their fears were legitimate for it was at this time that the government suppressed Kurdish political organizations like the KDP and transferred Kurdish employees from Kirkuk to southern Iraq.

The second phase of Arabization, which took place under the second Ba'ath regime (1963-68), occurred just as the peshmerga gained strength, and in the eyes of the Kurds, the 1960s constituted a turning point with their relationship

<sup>2</sup>The Turkmens commonly refer to this incident as the Kirkuk Turkmen Massacre. It should also be noted that of the 28 Kirkukis executed by the government for their involvement in this uprising, 24 were Turkmens and four were Kurdish.

with Iraq. During this time, the central government tried to weaken Kurdish influence in Kirkuk and protect pipelines running from Kirkuk and the areas surrounding them. The Ba'ath regime replaced Kurds living near the pipelines with Arabs and expelled Kurds working in the province's oil industry. They changed the names of schools from Kurdish to Arabic, militarized the province and brought in Arabs to the local police force. Additionally, 27,705 Arabs of Hawija were incorporated into the Kirkuk province, thereby diluting the percentage of Kurds in the population.<sup>ix</sup>

The third phase (1968-1974) began after the Ba'ath Party regained power in 1968. The Party encountered some difficulty in countering the Kurdish revolution, so the Arabization process continued. The regime prevented the selling, buying and renovating of property, practically forcing Kurds, Turkmen and Christians to live in dire poverty. The government also paid tens of thousands of Arab families to move to Kirkuk and provided employment and housing benefits for them, while also offering financial incentives for Kirkuki Kurds to move to central or southern Iraq. The Iraqi government also built a settlement of 600 houses in Kurdish quarters near Sulaimaniyah with an adjacent army camp, followed by the construction of an additional 500 houses.

It was during this period that the Kurds and Iraqi government signed the "March Agreement" (1970). This agreement, "the most comprehensive [one] ever presented to the Kurds," recognized the autonomous Kurdish region, allowed for education in Kurdish and governance by the Kurds, allotted funds to the Kurds for development, granted them a vice presidential position and recognized the Kurds as one of two nationalities that make up the Iraqi people.<sup>x</sup> This agreement, of course, did not incorporate the disputed Kirkuk governorate into the Kurdistan Region. After having signed it, the Kurds felt that the Iraqi government had reneged on its promises. The Autonomy Law for Iraqi Kurdistan (1974) legalized the existence of the Kurdistan Autonomous Region, excluding Kirkuk and including only half of the lands claimed by the Kurds. Because of disputes over the status of Kirkuk, the KDP rejected this agreement, and a conflict between the peshmerga and Iraqi military forces commenced.

The fourth phase of Arabization (1975-87) was the most brutal because it hardened communal identities and led to the codification into law of many of these policies. For instance, when Turkmen or Kurds relocated, the government invalidated their property decrees and nationalized their lands<sup>3</sup>, and when Arab families moved to Kirkuk, the state recognized them as legal residents. By the late 1970s, the government had evacuated 250,000 Kurds from areas near the Turkey and Iran border areas and built settlements for them. And by 1979, over 2,000 new

<sup>3</sup> Signed on 10 August 1977 by the Revolutionary Command Council, Resolution 900 called for the confiscation of parcels of land from Kurdish citizens and the registration of their land in the name of the governorate.

houses were built in Kirkuk, with 4,000 added later.<sup>xi</sup> The central government also continued its policies of reshaping Kirkuk's territorial boundaries during this time. With the final phase of Arabization (1987-2003) came one of the most ardent proponents of the policy—Ali Hassan al-Majid, or “Chemical Ali,” the cousin of Saddam Hussein and the man who ordered the gassing of thousands of Kurds in Halabja in 1988.<sup>4</sup> During the 1990s the United States and the United Kingdom imposed a no-fly zone over Kurdish areas north of the Green Line while the Iraqi government tried to maintain its hold on Kirkuk. The regime continued expelling Kirkuki Kurds to the Kurdistan region<sup>xiii</sup> and established a new policy whereby it distributed “ethnic identity correction” forms to Kurds, Turkmen and Christians that required them to register themselves as Arabs.<sup>xiii</sup>

Throughout this eight decade-long policy of Arabization and its overall repression of the Kurds, Turkmen and other minorities the regime displaced thousands of Kurds (120,000 from Kirkuk between 1991 and 2001 alone) and killed thousands more.<sup>5</sup> By attempting to homogenize Kirkuk's population, the regime alienated the Kurds, Turkmen and Assyrians and exacerbated the already tense relationship among these three groups. As census results from the past fifty years show, the population of Kirkuk significantly changed throughout the duration of these policies.<sup>6</sup> In 1957, the population division was as follows: 48 percent Kurd, 28 percent Arab and 21 percent Turkmen; in 1977, 38 percent Kurd, 45 percent Arab and 17 percent Turkmen; and in 1997, 21 percent Kurd, 72 percent Arab and 7 percent Turkmen.<sup>xiv</sup> The population of Kirkuk nearly doubled in size from about 389,000 in 1957 to about 753,000 in 1997 due to an influx of Arabs to the governorate.<sup>7</sup> This history of turmoil and displacement, combined with the value of Kirkuk's oil reserves, has contributed to the crisis over Kirkuk that exists in Iraq today.

## MINE OR YOURS: THE ETHNIC NARRATIVES OF THE STAKEHOLDERS

One of main issues revolving around Kirkuk for the Kurds has been the reversal of the Arabization policies of the twentieth century. Under the guiding principles of Article 140 (see Appendix 1) of the Iraqi Constitution which mandates normalization, a census and a referendum on the status of Kirkuk, the Kurds

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<sup>4</sup> On March 16, 1988 Ali Hassan al-Majid dropped bombs and chemical weapons on the border town of Halabja, killing more than 5,000 Kurds as a result of these attacks.

<sup>5</sup> According to Elizabeth Ferris and Kimberly Stoltz at the Brookings Institution, during the years of Arabization the Ba'athist regime displaced 250,000 Kurds and other non-Arab minorities and replaced them with Arabs from southern and central Iraq.

<sup>6</sup> The 1957 census is agreed to be the most statistically accurate of the three.

<sup>7</sup> Although the percentage of Kurds living in Kirkuk decreased significantly, their actual numbers did not. In 1957 there were approximately 188,000 Kurdish Kirkukis whereas in 1999 there were 156,000. The reason for the percentage changes arose from the immigration of Arab settlers to the province. In 1957 there were less than 110,000 Arabs living in Kirkuk, but in the final stages of Arabization, there were an estimated 545,000 in 1997.

are looking to restore the Kurdish majority of the governorate and incorporate it into the Kurdistan Region. But their plan of restoration has been met with much opposition from the Turkmen, Assyrians and Arabs alike.

### The Turkmen

The Turkmen, who argue that Kirkuk is a historically Turkmen city, feel that they have a rightful claim to Kirkuk.<sup>xv</sup> Firstly, as was mentioned above, they feel that they played an important role in the Ottoman Empire and were important leaders in Iraqi history. Secondly, they felt that they suffered at the hands of the Kurds and the Iraqis. And finally, they express a general sense of injustice.<sup>xvi</sup>

The Turkmen have long resented the Kurds' plan to incorporate the Kirkuk Governorate into the Kurdistan Region (if the Turkmen are not fairly treated and represented in the Kurdistan Regional Government). A driving factor behind this opposition is the belief that a territory called "Turkmeneli," (literally "land of the Turkmen") which includes Kirkuk and Mosul and runs from the borders with Turkey and Syria diagonally to Iraq's border with Iran, lies within Turkmen land. They still carry with them their legacy from the Ottoman Empire, a time during which they were widely considered an extremely industrious people. In the minds of the Turkmen, they were the historically privileged in the Ottoman Empire, with a higher social and economic status than the Kurds of northern Iraq.<sup>xvii</sup> In general, they attribute their differences with the Kurds to ones of class and social status. The Kurds, in the eyes of the Turkmen, are rural migrants who settled in Kirkuk to better their status. The Turkmen also feel that the original Kirkuki Kurds are exaggerating their history in the governorate.<sup>xviii</sup>

The Turkmen also have a general sense of resentment toward the issue of expansion and have looked instead to the Sunni and Shia Arab nationalists and Turkey to help them resist the ambitions of the Kurds. The Turkmen saw the twentieth century as a period of terror and conspiracy whereby the Kurds and the central government sought to expel them from Kirkuk, especially after the massacre of 1959, which was "the moment that their relationship with the Kurds changed from one of coexistence to one of ethnic-based competition."<sup>xix</sup> Like the Kurds, the Turkmen were subject to the Arabization policies of Saddam Hussein's regime and were victims of arbitrary arrest, internal deportation, exile and confiscation of personal property.<sup>xx</sup> And in terms of absolute numbers, the censuses show that more Turkmen than Kurds were affected by Arabization, particularly because the president and security forces targeted them with decrees that, for example, deported specifically Turkmen officials. Many Turkmen believe that Kurds have portrayed themselves as the ultimate victims of state-sponsored oppression in the eyes of the international community, often at the expense of Turkmen narratives of their own

suffering at the hands of various Iraqi regimes. After the formation of the Kurdistan Region in 1991, the Turkmens saw the Kurds as an existential threat to their survival, particularly after 2003 when they believed that the process of Kurdification began.

Today, the Turkmens have been trying to use their main political party, the Iraqi Turkmen Front (ITF) to pursue their agenda in Kurdistan and Kirkuk, but the current relationship between the ITF and the KDP has deteriorated and become more tense. The Turkmens have lost the influential role they once had in Kirkuk, particularly because they have a highly dispersed population that lives in a large swath of territory and are the minority in all of them, so they have no broad popular backing in any area. An even bigger problem is the fact that the Turkmens themselves are divided into multiple political parties, including the Turkmen People's Party, in addition to the larger aforementioned ITF. Moreover, they feel that they have lost an important ally, Turkey, because Ankara has increased its economic involvement with the KRG.

### Arab Iraqis

The situation of the Arabs differs greatly from that of the Kurds and Turkmens due to the fact that the Kurds see the Arabs as the beneficiaries of the Arabization policies. Moreover, the Arabs are not a uniform group. There are Sunni nomadic families, Tikritis,<sup>xxi</sup> who have been in Kirkuk since the seventeenth century, and wafideen Arabs (or newcomers), mostly poor Shia who resettled in Kirkuk because of benefits offered by the government. Because of these divisions, particularly between the Sunnis and Shia, Arabs have been unable to formulate a strong, unified argument in their favor. For example, some Shia parties have agreed to engage in discussions about federalism with the Kurds whereas various Sunni groups refuse to even entertain the idea of federalism.

The Arabs, like the Turkmens, have grievances of their own. Firstly, they feel that the debate over the status of Kirkuk is moot because the city has a long history of being Iraqi, with all ethnic groups living together in relative peace prior to the founding of the Iraqi state and the discovery of oil. Secondly, Sunni Arab families have lived in the southwest and southeast of the province for centuries, so not all of the Arabs living in Kirkuk were wafideen. Thirdly, for many of these resettled wafideen Arabs, moving to Kirkuk was involuntary, so the Kurds' process of Kurdification is unwarranted.

The Arabs have three reasons for wanting to keep Kirkuk as an Arab governorate. Firstly, like the Kurds and the Turkmens, they have had a long history and presence in Kirkuk. Secondly, they, like the Turkmens, believe that the Kurds are overstating their suffering and exaggerating the number of displaced Kirkuki

Kurds. And thirdly, Arab Iraqi nationalists see a strong, autonomous Kurdistan with a Kurdish-controlled Kirkuk as a threat to Iraqi integrity and statehood.<sup>xxii</sup> Sunni Arabs in particular loathe the idea of living under the authority of the Kurdistan Region.

### The Kurds

Although the Kurds hope to incorporate the Kirkuk governorate into the broader Kurdistan Region, Kirkuk has never formally been part of the KRG except for a few days in 1991. Kirkuk, unlike other disputed Iraqi territories such as Sinjar, Khanaqin and Makhmour, has both sentimental and economic value for the Kurds. According to Professor Michael Kelly of Creighton University, the “Kurds have an attachment to the city. And overlay that visceral attachment with the universally held belief that they were wronged.”<sup>xxiii</sup> The symbolic power of Kirkuk stems from the fact that the city has been the center of Kurdish nationalist aspirations for over fifty years. It is the only major Kurdish-population area that the Kurds have never held, so its possession has a “mythical status” because incorporating Kirkuk into the Kurdistan Region would “be the ultimate proof that they have finally succeeded in their question for meaningful autonomy.”<sup>xxiv</sup>

According to various academics, Kirkuk’s oil reserves are of secondary importance to the Kurds. Although these reserves could contribute to the Kurdish economy, there are logistical problems with refining, selling and exporting the oil. Peter Khalil of Eurasia Group explains that “even if the Kurds had Kirkuk, how will they get all that oil out of a country which is [largely] landlocked? Through the south [of Iraq]? Through Turkey?”<sup>xxv</sup> Acquiring the territory would be beneficial for the Kurds, not only for revenue purposes, but also for leverage. Michael Knights of WINEP claims that the Kurds do not necessarily want control of the oil reserves. “Their positioning in Kirkuk seems aimed at demonstrating a threat to those resources, a bargaining chip to gain concessions from Baghdad and deter federal military action against them.”<sup>xxvi</sup> And the Kurds could also use Kirkuk as a way to increase their bargaining power over the future of KRG oil. Furthermore, with Kirkuk under the umbrella of the KRG, Kurdistan may have the economic might to push for greater autonomy and may not have to depend so heavily on Baghdad and its surrounding neighbors.<sup>xxvii</sup> Despite the fact that the Kurds have yet to provide a completely convincing argument regarding the benefits of the accession of Kirkuk into the Kurdistan Region, the Kurds, since the fall of the Ba’ath regime in 2003, have made Kirkuk one of their focal points, particularly with the 2004 Transitional Administrative Law (TAL) and the constitution of 2005.

## KIRKUK POST-2003: ISSUES OF GOVERNANCE AND LEGALITY

### The fall of the Ba'ath Party

When Kirkuk fell on 10 April 2003, 10,000 PUK peshmerga entered the city where thousand US troops were stationed and charged with the task of governing the province.<sup>8</sup> The United States created a 24-member council with the seats divided evenly among the four ethnicities due to the fact that there had been no reliable census data for years. But despite these even divisions, when the Ba'ath regime fell, the Kurds emerged as the leaders of Kirkuk due to their reliable security forces and decade's worth of experience running a government.<sup>xxviii</sup> The United States also began relying more on the Kurds than on other ethnic groups out of sheer necessity, not preference. The complex struggle for power that ensued, which Colonel David Gray described as "an amalgamation of a knife fight, a gun fight and three-dimensional chess," permeated multiple levels of society.<sup>xxix</sup> On the local level all four ethnic groups competed for some level of control in the city's government. Regionally, both the PUK and the KDP hoped to maintain Kurdish control. On the national level, Arabs and Kurds fought against each other. And internationally, the struggle involved the Middle Eastern states with Kurdish populations—mostly Turkey, but also Iran and Syria. And the United States itself had a stake in all four levels of this conflict.

The main questions that arose from this debate were the following: How should Kirkuk be governed? And more importantly, by whom? The Kurds, seeing themselves as the natural leaders of Kirkuk, submitted a bill to Baghdad in December demanding the recognition of a federal Kurdistan Region including Kirkuk. Ten thousand Kirkuki Kurds marched in support of this proposal, but the Turkmens and Arabs responded with a rally against the Kurds. At this time the Turkmens and Arabs, in a pragmatic manner reminiscent of the age-old adage "the enemy of my enemy is my friend," were developing an alliance to combat their alienation by the Kurds. Muqtada al-Sadr also took advantage of this situation by organizing anti-Kurd and anti-US opposition movements. And the council established by the United States proved to be powerless because "the primary purpose of its creation was not to govern the city efficiently but to put in place something broadly representative of the city's complex ethnic mix as soon as possible in order to stabilize a potentially volatile postwar environment. In this, the council was probably counterproductive." Other consequences of the division of power included increasing violence in Kirkuk, general mistrust of the Kurds and the formation of alliances against them. This forced governance of Kirkuk to be streamlined through new laws.

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<sup>8</sup> This was a unilateral move planned by the PUK without any coordination with the United States or the KDP.

## Kirkuk and the Transitional Administrative Law

When the interim Iraqi constitution, or the Transitional Administrative Law (TAL), was drafted in 2004, the Kurds demonstrated their political will and strength when they succeeded in incorporating articles relating to federalism into the law. The main question for them at this time was whether or not they would benefit by fully rejoining Arab Iraq.<sup>xxxii</sup> They set forth a list of demands that would “drive [L. Paul] Bremer [Administrator of the Coalition Provisional Authority] mad,”<sup>9</sup> one which was a referendum in Kirkuk whereby Kirkukis could vote to join the Kurdish region.<sup>xxxiii</sup> Although many of the issues that were important to the Kurds were vaguely incorporated into the TAL, they managed to push through two articles which would prove beneficial to them in the future—Articles 58 and 61(c). Enshrined in Article 58 of the TAL is a vague process for the reversal of the Arabization policies of the Ba’ath regime.

“The Iraqi Transitional Government, and especially the Iraqi Property Claims Commission and other relevant bodies, shall act expeditiously to take measures to remedy the injustice caused by the previous regime’s practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work and correcting nationality.”<sup>xxxiii</sup>

The TAL did little to alleviate the tensions and resolve the problems in Kirkuk, particularly because the law implied that a referendum would be the solution to the various issues, thereby making the article favor the Kurds. As subsection C states:

“The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent constitution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories.”<sup>xxxiv</sup>

This section delineates a three-step process for the resolution of the status of Kirkuk and other disputed territories: “normalization,” to be followed by a census and finally a referendum “to determine the will of their citizens.”<sup>xxxv</sup> And in a critical victory with Article 61(c), the Kurds ensured themselves veto power over the new constitution. “The general referendum will be successful and the draft constitution ratified if a majority of the voters in Iraq approve and if two-thirds of the voters in three or more governorates do not reject it.”<sup>xxxvi</sup> This gave the Kurds the power of leverage over the status of Kirkuk in the permanent constitution be-

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<sup>9</sup> Other demands included supremacy of Kurdish laws in northern Iraq, shared control of local oil resources with the national government and retention of the peshmerga.

cause with control of three governorates—Erbil, Sulaimaniyah and Dohuk—which comprise the autonomous Kurdistan Region, they could easily obtain the two-thirds veto.

To help settle property disputes and carry out the steps of Article 58, the CPA established the Kirkuk Property Claims Commission, but due to a lack of funding, a shortage of qualified personal, violence and heightened ethnic tensions, the government failed to reconcile competing interests and property claims in Kirkuk. xxxvii

### The 2005 elections and constitution-writing process

Both the provincial and national elections of 2005 were victories for the Kurds, who took almost 26 percent of the national vote and 60 percent of votes in Kirkuk (partly due to a Sunni boycott of the provincial elections and a spike in voter registration). Overall, the elections gave the various Kurdish parties control of five of the eighteen Iraqi governorates.<sup>xxxviii</sup> On a national level, the Kurds now had the opportunity to play a major role in the drafting of the permanent Iraqi constitution.

During the formation of the Kirkuk Provincial Council (KPC), the Kirkuk Brotherhood List, an alliance between the KDP and PUK, divided the 26 seats of the council as follows: 20 Kurds, three Arabs, two Turkmen and one Christian. Disputes about power-sharing ensued as both the Arabs and the Turkmen called for a distribution based on population percentages rather than election results. There were even difficulties between the two main Kurdish parties, the KDP and the PUK, as they disagreed over multiple issues including the regional division of power between them and the party affiliation of the governor of Kirkuk.

As stated above, the articles of the TLA addressing governance were vague. For example, although governorates had the jurisdiction to impose taxes to raise revenue, they did not have the administrative capacity to do so, further delaying the implementation of Article 58. The federal government also allocated minimal funds to help with infrastructure and returning Kirkukis.<sup>10</sup> Furthermore, the Council and the federal government disagreed over who had the authority to appoint and dismiss officials.

During the constitution-writing process, federalism and the management of oil supplies became two of the most controversial issues. With the regards to the first issue, Article 140, “arguably the product of a larger bargaining process between the Kurdish and Shi’a blocs in parliament,”<sup>xxxix</sup> states:

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<sup>10</sup> Allocation of the provincial budget by the federal government continues to be an issue in Kirkuk today.

First: The executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law.

Second: The responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law shall extend and continue to the executive authority elected in accordance with this Constitution, provided that it accomplishes completely (normalization and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31st of December 2007.<sup>xi</sup>

Despite the fact that Article 140 stipulates that a census and referendum take place before December 2007, the status of Kirkuk continues to be an issue because neither has taken place.

### THE CURRENT STATUS OF ARTICLE 140: PROBLEMS WITH IMPLEMENTATION

In a speech made in 2007, former KRG Prime Minister Nechirvan Barzani announced,

“In a peaceful and democratic way, within the framework of the Iraq constitution, we ask for the return of the rights which were taken from us forcibly. In 2003, we had the opportunity to solve this problem by other means if we had wanted to. But we willingly asked that the citizens of Kirkuk be given the democratic and legal right and opportunity so they can decide on their own future.”

And the way to achieve these goals, he believes, is the implementation of Article 140 within the framework of Iraqi law.<sup>xii</sup>

#### Resolution of property disputes

Saddam Hussein uprooted over 100,000 Kurds and killed thousands more between the 1970s and 2003, and today they are looking to restore their status, reverse Arabization and reclaim old land and housing.<sup>xiii</sup> The implementation of Articles 58 and 140 has been slow and, for some of the article subsections, non-existent. Firstly, the Commission for the Resolution of Real Property Disputes (CRRPD) that replaced the IPCC of Article 58, was established in order to address property rights violations that occurred between 17 July 1968 and 9 April 2003.<sup>xiiii</sup> To the dismay of Kirkukis, the mandate of the CRRPD only covers confiscation of property, not property destruction. Additionally, the Ministry of Finance appeals all decisions that result in a financial loss to the government. According to a recent

Brookings Institution report, “At the current pace, it is estimated that it will take the Cassation Commission close to thirty years to finish its projected caseload.”<sup>xliv</sup>

### The census and referendum

A second issue revolves around the fact that neither the census nor the referendum mandated by the constitution has taken place. The last census to have taken place in Iraq occurred in 1987, but the most recent one mandated by the constitution has been postponed on multiple occasions, most recently in early December of 2010. The reason behind this delay has been partly because of contested areas in northern Iraq, like Kirkuk and Nineveh, that border the Kurdistan Region. Along this line, another problem arises from the Kurds’ possible boycott of the census due to the fact that the government is considering omitting a question on ethnic identity.<sup>xlv</sup> Turkmens and Arabs are also considering boycotting the census out of fear that the entirety of Article 140 will be implemented and the Kurds will emerge as the majority population, thereby making it easier for the Kirkuki governorate to become part of the Kurdistan Region when time comes for a referendum.

The main difficulty revolving around the census (most often cited by Arabs), has been the process of Kurdification, whereby the Kurdistan Regional Government is paying Kurds to move back to Kirkuk in order to restore their pre-Arabization majority in the city for when the census takes place. Masroor Barzani, director of Security and Intelligence in Kurdistan, denies claims of forced Kurdification. “We are not sending [Kurds back to Kirkuk] if they do not want to.”<sup>xlvi</sup> But to the Arabs, Turkmens and Christians, the Kurds are trying to offset the ethnic balances to ensure that they are the majority. The BBC describes the experience of Sheikh Abdulrahman al-Aasi, an Arab Kirkuki who received threatening letters from an anonymous Kurdish source: “Kirkuk belongs to the Kurds; the letters say, threatening Arab residents to leave the city or face the consequences. The local Kurdish authorities deny any knowledge of, or involvement in, this kind of intimidation. They say they were the original victims of injustice under Saddam Hussein, when tens of thousands were forced to flee the city.”<sup>xlvii</sup>

David Romano, an expert on Kurdish affairs at the University of Missouri, explains that although Kurdification is “happening, it is not pervasive.”<sup>xlviii</sup> It is the Arab media that is describing this phenomenon, he explains. Additionally, this is most probably not ordered by top-level government officials and is more likely to be occurring from the mid-level on down.<sup>xlix</sup> The Iraqi government, in addition to the KDP and PUK, have been paying Kirkuki Kurds who were displaced under the Ba’ath regimes to return to their homes in Kirkuk. The

government also pays *wafideen* Arabs to leave Kirkuk, but many of them take the money and stay in their homes or use the money to move to another part of the governorate, making the situation precarious, Romano claims.

The third and final step (following normalization and a census), as outlined by Article 58 of the TAL and Article 140 of the Iraqi Constitution, calls for a referendum to determine whether or not the residents of Kirkuk wish to join the Kurdistan Region. The census must take place before the government carries out the referendum, but as certain analyses show, the result of the referendum and the reaction of Kirkukis to the outcome are unclear. “While some see the decision as a black and white choice to either join the Kurdish region or to stay under Baghdad’s control, others envision multiple options for voters, including the option of a stand-alone federal region and even the possibility of special status for Kirkuk (formerly Ta’mim)<sup>11</sup> governorate or Kirkuk City.”<sup>1</sup> For others, the “specter of a referendum over Kirkuk risks provoking interethnic clashes that could easily spread beyond Kirkuk and almost certainly erupt in Mosul, a city that is rife with interethnic conflict.”<sup>ii</sup> Another concern comes from the non-Kurdish residents of Kirkuk, particularly the *wafideen* Arabs, who feel that as a minority, the government will treat them unfairly or force them to leave.<sup>iii</sup>

There are also institutional and bureaucratic roadblocks to carrying out the referendum. Like Article 58 of the TAL, Article 140 uses vague language and provides no specific steps or requirements detailing the execution of the referendum. The first question that arises deals with voting boundaries: Would there be a province-wide referendum in the Kirkuk governorate or would referenda be held on a district-by-district level? The answer to this question could change the division of power after the results are released. For example, depending on how the referendum is conducted, the Kurds could gain control of certain districts or they could win control of the entire governorate. The second logistical difficulty is voter eligibility. Who will be allowed to vote in the referendum? Will Kurdish Kirkukis who were displaced by the regime vote? Will the *wafideen* Arabs who came to Kirkuk recently be excluded? A disagreement over voter eligibility or registration “could prevent a vote for years, if not indefinitely.”<sup>iiii</sup> The third hurdle revolves around the results of the referendum. David Romano explains that one of the reasons that the details of the referendum have not been discussed arises from the fact that Baghdad has no intention of actually carrying out the referendum. Kurdish parties have also not discussed what the results would mean. “For instance, does a 50 percent plus one ‘yes’ result in a governorate mean accession to the Kurdish region? If so, does the entire governorate become part of Kurdistan? It would not serve anyone’s interest to force large numbers of people to become part of Kurdis-

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<sup>11</sup> In English, the word ta’amim translates to “nationalization.”

tan against their will. The Kurds, of all people, should understand very well what forced inclusion into another group’s political system entails...”<sup>liv</sup> Herein lies the problem—how do the various political parties work together to resolve these issues, particularly when some ethnic groups refuse to partake in both the census and referendum?

## PROPOSED SOLUTIONS TO THE KIRKUK QUESTION

A key point that all of the stakeholders in this issue need to keep in mind is that resolving the Kirkuk issue is not a zero sum game. Each ethnic group has its own grievances. The Kurds, Turkmens, Christians and even some Arabs all suffered at the hands of the regime and its Arabization policies. And although the Kurds often fault the Arabs for shifting the demographics of the city, many of the *wafideen* Arabs are poor Shia from the south of Iraq who were forced by the regime to leave their homes and come to Kirkuk. The decision to move was not always voluntary. It is highly unlikely that one group will be able to successfully achieve its ideal outcome without upsetting one or more of the other competing ethnic groups or political parties.

Because the Kurds hold such a position of influence in Kirkuk, trying to resolve the issues relating to the census and referendum before they occur may be in their interest. “Negotiations over possible results, prior to the referendum, could offer assurances to important groups of people who do not want to become part of Kurdistan. For instance, agreeing that subdistricts of a governorate that vote ‘no’ would not become part of Kurdistan, even if the overall governorate majority votes ‘yes,’ would effectively leave out places like Hawija<sup>12</sup> and Tal Afar.”<sup>lv</sup> This way, the Kurds would better cater to the interests of the minority parties in Kirkuk, particularly because most of them oppose Kurdish control of the province. And if, for instance, the Turkmens and Arabs boycott either the census or the referendum because they disagree with the delineated terms, an outbreak of violence in inevitable.

Multiple solutions to the Kirkuk issue have been proposed in recent years. The United States Assistance Mission for Iraq (UNAMI) has offered numerous recommendations including:

1. Granting Kirkuk province a status similar to that of Baghdad province (i.e. legally barring it from joining a multiprovince region like the KRG),
2. Establishing a dual-nexus status that administratively links Kirkuk to both Baghdad and the KRG,
3. Assigning a “special status” that gives Kirkuk unique administrative powers different from any other province in Iraq.<sup>lvi</sup>

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<sup>12</sup> Hawija is a predominately Sunni Arab towns whereas Tal Afar is a majority Turkmen town.

But as with many solutions, there are roadblocks to implementation. Although decentralization of the province would be ideal, when factoring in finances and reliance on Baghdad, implementing this scenario becomes difficult because these provinces are still the federal government's "poor cousins" on fiscal issues. lvii And regarding the proposed dual-nexus of power sharing, if this system were to be implemented, extensive reforms would need to be made, particularly because a similar system is already in place. Today, Kirkuk is at the mercy of both Baghdad and the KRG, "suffering the worst of all words, with neither Baghdad nor the KRG fully supporting reconstruction of the heavily damaged province."<sup>lviii</sup> This is evident when assessing the available provincial statistics. For example, according to UNAMI, "Out of the 65,143 employees in Kirkuk's government departments, 12,142 (18.6 percent) were appointed by and receive their salaries from the KRG."<sup>lix</sup> The KRG funds "strategic positions" such as Kurdish-language teachers, policemen, Northern Gas Company employees and agricultural officials. And in general, despite the fact that there are funds being allocated to the Kirkuk Provincial Council, its members are not cooperating well and are losing legitimacy in the eyes of Kirkukis. The primary concerns of the residents of the province is not the delineation of governorate boundaries but employment and economic development.<sup>lx</sup>

### The Grand Bargain: An "Oil for Soil" deal

The main solution that has been proposed, outlined by the International Crisis Group, is an "oil for soil deal." This deal calls for a trade of territorial control for the right to exploit mineral wealth. As explained by Joost Hiltermann of the ICG: "The Kurds would accede to Kirkuk's special status as a stand-alone federal region (ie. outside the Kurdistan Region), at least for an interim period; in exchange, they would gain the right to develop and export the Kurdistan Region's oil and gas reserves."<sup>lxi</sup> Even though Arab and Kurdish nationalists rejected this proposal, pragmatists on both sides said that they would be willing to consider the idea. This deal takes into consideration the key needs of the Kurdistan Region and assesses them with the concerns of the Turkmens and Arabs. Although the Kurds want Kirkuk to become part of Kurdistan, what they need most today is protection from a potentially powerful central government and surrounding states, as well as the chance to grow by trading freely with the outside world. If the KRG were to follow the following suggestions, they may be able to achieve these objectives. These objectives are as follows:

1. Delineation of its internal boundary with the rest of Iraq,
2. An advanced degree of political autonomy,
3. Significant economic leverage vis-à-vis the federal government,

4. A decentralized Iraq to prevent the re-emergence of a powerful central state and
5. Peaceful relations with neighbors Syria, Turkey and Iran.<sup>lxii</sup>

The ultimate question is whether or not the KRG would be willing to give up Kirkuk to advance the standing of the Kurdistan Region in general, but this option seems highly unlikely given the emotional attachment to the provinces. According to Masroor Barzani, the Kurds, in “fighting for their identity,” ultimately want to win back Kirkuk, “a symbol of their oppression.”<sup>lxiii</sup>

## KIRKUK AND THE KRG TODAY

Although the West has proposed various possible solutions for the resolution of the status of Kirkuk and other disputed provinces, neither Baghdad nor the KRG has taken heed of these recommendations. Whether or not the Kurds will at some point take the advice of these political experts, one fact remains clear—the Kurds want Kirkuk. They will not and have not wavered on this position.

For the past 20 years the Kurdistan Region has failed to incorporate the Kirkuk governorate into their autonomous territory. The KRG is concerned with three main issues regarding the province: administration, development and security. If the Kurds hope to achieve their dream of having Kirkuk in Kurdistan, they need to act on these concerns in a way that will not isolate the ethnic groups that they will need to compromise with—the Arabs, Christians, and especially the Turkmen.

### Is Kirkuk really a powder keg?

Kirkuk, because of its ethnic makeup, has repeatedly been dubbed a powder keg, “combustible for its mix of ethnicities floating together on a sea of oil.”<sup>lxiv</sup> These descriptions imply that violence may flare up at any moment due to ethnic divisions of the Kirkuki population and that there is an “us vs. them” mentality whereby the Kurds, who favor Kirkuk’s unification with the KRG, are in conflict with the Turkmen, Arab and Christians. Mostly recently, tensions were high in Kirkuk during the last election in 2010 because presumably, most Kirkukis cast their votes along sectarian lines, so, elections in Kirkuk often turn into a “census and quasi-referendum rolled into one.”<sup>lxv</sup> But have these tensions been a characteristic of Kirkuk’s long history? Where does this “powder keg” description come from?

Many of the tensions in Kirkuk in Kirkuk stem from political disputes between various parties and political figures both in the governorate itself and outside of it (Kurdistan and Baghdad). Kurdish, Arab and Turkmen relations are deeply-

rooted, as these ethnic groups have lived together in Iraq for centuries. But after the fall of Saddam Hussein in 2003, the situation on the ground in Kirkuk, and Iraq in general, deteriorated as each ethnic group vied for political power. Additionally, Al-Qaeda transferred some of its operations in Iraq to Kirkuk following the death of Abu Musa'ab al-Zarqawi, finding "the multi-ethnic, religiously-diverse zone to be 'fertile ground for chaos by exacerbating communal tensions.'" <sup>lxvi</sup> According to the Director of the Kirkuk Asayish, the Kurdish security forces in Kirkuk, most of the violence and terrorism comes from groups that are not native to the governorate, predominately al-Qaeda in Iraq (AQI) and affiliated groups like Ansar al-Islam and the Islamic State of Iraq (ISI). <sup>lxvii</sup>

Many Kirkukis often say that any reports of tensions are media exaggerations. Irfan Kirkukli, a member of the Kirkuk Provincial Council and the Turkmen People's Party explains that everyone in Kirkuk is "living in peace. Extreme tensions and disagreements are far from the reality."<sup>lxviii</sup> There may be disputes over power-sharing, but this does not necessarily mean that ordinary Kirkukis are constantly in conflict with each other. Qubad Talabani explains that "there has not been widespread conflict between the Kurds and Arabs. There are some cowardly acts of terrorism but these divisions are not at a people-to-people level."<sup>lxix</sup> Ultimately, whether or not tensions escalate or violence erupts in Kirkuk will most likely depend on the decision-making of the parties involved, especially the Kurds.

### What should the KRG do?

It has been eight years since the fall of Saddam Hussein, and almost four years have passed since the deadline for a referendum set by Article 140 of the Iraqi constitution. The patience of the Kurds with regards to the issue of Kirkuk may be wearing thin, but in general, their approach to its resolution has been "too Kurdish."<sup>lxx</sup> Baghdad is in no rush to address the problem of the disputed territories, but the KRG indeed is because the Kurds of both the Kurdistan Region and Kirkuk have been pressuring them to find a solution. In order to make any gains on the question of Kirkuk, the Kurds must be more conciliatory in their approach. By only favoring the Kurds in Kirkuk (for example, by building roads only in Kurdish areas and securing Kurdish neighborhoods), the KRG is isolating what could be a valuable constituency. By seeking only Kurdish votes, the Kurds cannot guarantee themselves a solid majority. It would be in their interest to also campaign for Arab, Christian and Turkmen votes in particular and show these various ethnic groups that the KRG could be an asset to them. For instance, in every region of Iraq that they inhabit, the Turkmen are a minority, but if Kirkuk were to become part of the Kurdistan Region, the Turkmen could have a much greater representation, and therefore influence, in the Kurdistan Parliament than they currently have in the

Iraqi Parliament. And recently, with the violence against them in Iraq, more and more Christians have been seeking refuge in the Kurdistan Region, so the Kurds can also use this to garner favor with the Assyrians and Chaldeans.

Kurds in Sulaimaniyah began protesting against the “democratic deficit”<sup>lxxi</sup> in February 2011 and called for greater rights and freedoms. Around the same time, President Barzani deployed *peshmerga* troops armed with AK-47s, cannons and a range of small and medium artillery to Kirkuk<sup>13</sup> to “protect Kurds from alleged planned attacks by Al-Qaeda and members of Saddam Hussein’s outlawed Ba’ath party.”<sup>lxxii</sup> Although this could be seen as an attempt by President Barzani to quell the protests in Kurdistan by creating a common, unifying threat to all Kurds, the deployment of the *peshmerga* has alarmed non-Kurdish residents of Kirkuk and “is seen by some as a gambit to bring the city under Kurdish control.”<sup>lxxiii</sup> Or, President Barzani and the KRG may have deployed these 10,000 troops, who pose a “formidable challenge to the Iraqi army,” as a message to the central government in light of the imminent withdrawal of American troops from Iraq.<sup>lxxiv</sup> *Peshmerga* troops have been working in northern Kirkuk with Americans and Iraqi forces at combined checkpoints, but the central government did not authorize this most recent deployment of forces, so Iraqi Prime Minister Nuri Al-Maliki has called for their immediate withdrawal.<sup>lxxv</sup>

For the Kurds, this most recent flare-up has not reflected favorably upon the KRG in its quest for Kirkuk. Taking a more conciliatory approach with regards to this issue is essential, particularly as the strength of the Kurds may decrease at the national level if they continue to be divided and if Arab groups continue to unify and gain strength. In the most recent elections, the number of total seats in the parliament increased from 275 to 325, but the Kurds lost a seat, from 58 to 57, thereby affecting their influence at the national level.<sup>lxxvi</sup> In this political climate, the Kurds need to make friends in the north, not isolate potential allies. Whether Kirkuk will become the northern tip of a unified Iraq or the southern edge of the Kurdish homeland will ultimately depend on the Kurds’ willingness to compromise.

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<sup>i</sup> Lionel Beehner: “The Challenge in Iraq’s Other Cities: Kirkuk.” Council on Foreign Relations. 30 June 2006. <[http://www.cfr.org/publication/11036/challenge\\_in\\_iraqs\\_other\\_cities.html](http://www.cfr.org/publication/11036/challenge_in_iraqs_other_cities.html)>.

<sup>ii</sup> Joost Hiltermann and Michael Wahid Hanna. “Kirkuk and the Grand Bargain.” 1 November 2008. International Crisis Group. <<http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-syria-lebanon/iraq/hiltermann-kirkuk-and-the-grand-bargain.aspx>>.

<sup>iii</sup> Anderson and Stansfield.

<sup>iv</sup> Yücel Güçlü. “Who Owns Kirkuk? The Turkomen Case.” *Middle East Quarterly*, Winter 2007. p. 79-86 <<http://www.meforum.org/1074/who-owns-kirkuk-the-turkoman-case>>, p. 79.

<sup>v</sup> Anderson and Stansfield, p. 19-20.

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<sup>13</sup> In addition to this move, the KRG deployed the *peshmerga* to Kirkuk twice before—once in 1991 after the first Gulf War and the second in 2003 after the collapse of the Iraqi regime.

- vi *Ibid*, p. 30.
- vii Dr. Kamal Kirkuki. In discussion with the author. 5 January 2011.
- viii Anderson and Stansfield, p. 33.
- ix *Ibid*, p. 35
- x *Ibid*, p. 37.
- xi *Ibid*, p. 40.
- xii Directive 32/30/50.
- xiii Directive 6/6/1558.
- xiv *Ibid*, p. 43.
- xv Henri J. Barkey. "Preventing Conflict Over Kurdistan. The Carnegie Endowment for International Peace, February 2009. <[http://www.carnegieendowment.org/files/preventing\\_conflict\\_kurdistan.pdf](http://www.carnegieendowment.org/files/preventing_conflict_kurdistan.pdf)>.
- xvi Anderson and Stansfield, p. 60.
- xvii *Ibid*, p. 59.
- xviii *Ibid*.
- xix *Ibid*, p. 64.
- xx Yücel Güçlü. "Who Owns Kirkuk? The Turkoman Case." *Middle East Quarterly*. Winter 2007, pp. 79-86. <<http://www.meforum.org/1074/who-owns-kirkuk-the-turkoman-case>>, p. 83.
- xxi Tikrit is well-known for being the birthplace of Saddam Hussein.
- xxii Anderson and Stansfield, p. 80.
- xxiii Michael Kelly. In discussion with the author. 11 November 2010.
- xxiv Anderson and Stansfield, p. 77.
- xxv Peter Khalil, quoted in Lionel Beehner. "The Challenge in Iraq's Other Cities: Kirkuk." Council on Foreign Relations. 30 June 2006. <[http://www.cfr.org/publication/11036/challenge\\_in\\_iraqs\\_other\\_cities.html](http://www.cfr.org/publication/11036/challenge_in_iraqs_other_cities.html)>.
- xxvi Michael Knights with Ahmed Ali. "Kirkuk in Transition: Confidence Building in Northern Iraq." Washington Institute for Near East Policy. April 2010. <<http://www.washingtoninstitute.org/pubPDFs/PolicyFocus102.pdf>>.
- xxvii Elizabeth Ferris and Kimberly Stoltz. "The Future of Kirkuk: The Referendum and its Potential Impact on Displacement." Brookings Institution. 3 March 2008. <[http://www.brookings.edu/~media/Files/rc/papers/2008/0303\\_iraq\\_ferris/0303\\_iraq\\_ferris.pdf](http://www.brookings.edu/~media/Files/rc/papers/2008/0303_iraq_ferris/0303_iraq_ferris.pdf)>.
- xxviii Anderson and Stansfield, p. 94.
- xxix "DoD News Briefing with Col. Gray from Iraq." Department of Defense. 21 April 2006. <<http://www.defense.gov/transcripts/transcript.aspx?transcriptid=1264>>
- xxx Anderson and Stansfield, p. 101.
- xxxi Quil Lawrence. *Invisible Nation. How the Kurds' Question for Statehood is Shaping Iraq and the Middle East*. New York: Walker & Company, 2008. p. 235.
- xxxii *Ibid*.
- xxxiii "Chapter 8, Regions, Governorates and Municipalities." Iraq's Transitional Administrative Law. *The Washington Post*. <[http://www.washingtonpost.com/wp-dyn/articles/A39825-2004Mar8\\_5.html](http://www.washingtonpost.com/wp-dyn/articles/A39825-2004Mar8_5.html)>.
- xxxiv *Ibid*.
- xxxv *Ibid*.
- xxxvi *Ibid*.
- xxxvii Elizabeth Ferris and Kimberly Stoltz: "The Future of Kirkuk: The Referendum and its Potential Impact on Displacement" (Brookings, 2008)
- xxxviii Anderson and Stansfield, p. 124-128.
- xxxix Ferris and Stoltz, p.3.
- xl Iraqi Constitution. <[http://www.uniraq.org/documents/iraqi\\_constitution.pdf](http://www.uniraq.org/documents/iraqi_constitution.pdf)>.
- xli Nechirvan Barzani. "PM's statement at reopening of UN office: Baghdad must implement Article 140." KRG Official Website. <<http://www.krg.org/articles/print.asp?anr=21634&lngnr=12&rn=268>>.
- xlii Beehner.
- xliii Ferris and Stoltz, p. 10.
- xliv *Ibid*.
- xlv "Kurds threaten to boycott Iraq census over ethnicity." Al-Arabiya. 20 October 2010.
- xlvi Masroor Barzani. In discussion with the author. 10 January 2011.
- xlvii Gabriel Gatehouse. "Kirkuk ethnic tensions scupper Iraq census. BBC. 6 December 2010. <<http://www.bbc.co.uk/news/world-middle-east-11925686>>.
- xlviii David Romano. In discussion with author. 18 December 2010.

<sup>xlix</sup> *Ibid.*

<sup>l</sup> Ferris and Stoltz, p. 3.

<sup>li</sup> Barkey, p. 18.

<sup>lii</sup> Ferris and Stoltz, p. 5.

<sup>liii</sup> *Ibid.*, p. 3.

<sup>liv</sup> David Romano. "Article 140: Time to talk details." *Kurd Net*. 28 October 2010. <<http://www.ekurd.net/mismas/articles/misc2010/10/kirkuk638.htm>>.

<sup>lv</sup> Romano. "Article 140: Time to talk details."

<sup>lvi</sup> Knights with Ali, p. 20.

<sup>lvii</sup> *Ibid.*

<sup>lviii</sup> *Ibid.*, p. 18.

<sup>lix</sup> *Ibid.*, p. 24.

<sup>lx</sup> Romano. In discussion with the author.

<sup>lxi</sup> Joost Hiltermann. "Iraq: Everyone Wants a Piece of Kirkuk, the Golden Prize." 26 February 2009. International Crisis Group. <<http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-syria-lebanon/iraq/iraq-everyone-wants-a-piece-of-kirkuk-the-golden-prize.aspx>>.

<sup>lxii</sup> "Oil for Soil: Toward a Grand Bargain on Iraq and the Kurds." Middle East Report N°80. International Crisis Group. 28 October 2008. <[http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Iraq/80\\_oil\\_for\\_soil\\_toward\\_a\\_grand\\_bargain\\_on\\_iraq\\_and\\_the\\_kurds.ashx](http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Iraq/80_oil_for_soil_toward_a_grand_bargain_on_iraq_and_the_kurds.ashx)>.

<sup>lxiii</sup> Masroor Barzani. In discussion with the author.

<sup>lxiv</sup> Richard A. Oppel, Jr. "Kurdish control of Kirkuk creates a powder keg." 18 August 2008. *The New York Times*. <[http://www.nytimes.com/2008/08/19/world/middleeast/19kirkuk.html?\\_r=1&sc=1&sq=kirkuk&st=cse](http://www.nytimes.com/2008/08/19/world/middleeast/19kirkuk.html?_r=1&sc=1&sq=kirkuk&st=cse)>.

<sup>lxv</sup> Joost Hiltermann. "Kurds no closer to taking Kirkuk after last Iraqi elections." 8 March 2010. *Foreign Policy*. <[http://mideast.foreignpolicy.com/posts/2010/03/08/kurds\\_no\\_closer\\_to\\_taking\\_kirkuk\\_after\\_iraqi\\_elections](http://mideast.foreignpolicy.com/posts/2010/03/08/kurds_no_closer_to_taking_kirkuk_after_iraqi_elections)>

<sup>lxvi</sup> Ferris and Stoltz.

<sup>lxvii</sup> Halo Najat Hamza. In discussion with the author. 18 January 2011.

<sup>lxviii</sup> Irfan Kirkukli. In discussion with the author. 11 January 2011.

<sup>lxix</sup> Qubad Talabani. In discussion with the author. 18 February 2011.

<sup>lxx</sup> *Ibid.*

<sup>lxxi</sup> Denise Natali. "Stifled Kurdish Opposition." 23 February 2011. *Foreign Policy*. <[http://mideast.foreignpolicy.com/posts/2011/02/23/stifled\\_kurdish\\_opposition](http://mideast.foreignpolicy.com/posts/2011/02/23/stifled_kurdish_opposition)>.

<sup>lxxii</sup> Suadad Al-Salhy. "Iraq PM demands Kurdish forces leave disputed city." 3 March 2011. Reuters. <<http://www.reuters.com/article/2011/03/03/us-iraq-politics-kirkuk-idUSTRE7225JP20110303?feedType=RSS&feedName=everything&virtualBrandChannel=11563>>.

<sup>lxxiii</sup> Yahya Barzanji. "Official: Kurd forces will stay near key Iraq city." 9 March 2011. *Forbes*. <[http://www.forbes.com/feeds/ap/2011/03/09/general-ml-iraq\\_8347103.html](http://www.forbes.com/feeds/ap/2011/03/09/general-ml-iraq_8347103.html)>.

<sup>lxxiv</sup> Jim Loney. "Analysis: Kurds serve warning as US withdrawal nears." Reuters. 31 July 2011. <<http://www.reuters.com/article/2011/07/31/us-iraq-security-kurdistan-idUSTRE76U19V20110731?feedType=RSS&feedName=topNews&rpc=71>>.

<sup>lxxv</sup> *Ibid.*

<sup>lxxvi</sup> Denise Natali. "Are the Kurds still kingmakers in Iraq?" 26 May 2010. Arab Reform Bulletin at the Carnegie Endowment for International Peace. <<http://www.carnegieendowment.org/arb/?fa=show&article=40856>>.

## Appendix 1

### Article 140 of the Iraqi Constitution

First: The executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law.

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

Article 58 of the Transitional Administrative Law (TAL)

(A) The Iraqi Transitional Government, and especially the Iraqi Property Claims Commission and other relevant bodies, shall act expeditiously to take measures to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work, and correcting nationality. To remedy this injustice, the Iraqi Transitional Government shall take the following steps:

(1) With regard to residents who were deported, expelled, or who emigrated; it shall, in accordance with the statute of the Iraqi Property Claims Commission and other measures within the law, within a reasonable period of time, restore the residents to their homes and property, or, where this is unfeasible, shall provide just compensation.

(2) With regard to the individuals newly introduced to specific regions and territories, it shall act in accordance with Article 10 of the Iraqi Property Claims Commission statute to ensure that such individuals may be resettled, may receive compensation from the state, may receive new land from the state near their residence in the governorate from which they came, or may receive compensation for the cost of moving to such areas.

(3) With regard to persons deprived of employment or other means of support in order to force migration out of their regions and territories, it shall promote new employment opportunities in the regions and territories.

(4) With regard to nationality correction, it shall repeal all relevant decrees and shall permit affected persons the right to determine their own national identity and ethnic affiliation free from coercion and duress.

(B) The previous regime also manipulated and changed administrative boundaries for political ends. The Presidency Council of the Iraqi Transitional Government shall make recommendations to the National Assembly on remedying these unjust changes in the permanent constitution. In the event the Presidency Council is unable to agree unanimously on a set of recommendations, it shall unanimously appoint a neutral arbitrator to examine the issue and make recommendations. In the event the Presidency Council is unable to agree on an arbitrator, it shall request the Secretary General of the United Nations to appoint a distinguished international person to be the arbitrator.

(C) The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent constitution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories.