

**“CONFRONTATION OR CONCILIATION?”
KIRKUK QUESTION AS THE TIGHTEST KNOT IN IRAQ AND
IRAQI KURDISH POLITICS TO RESOLVE IT THROUGH
COMPROMISE**

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Abstract

Kirkuk, the oil-rich northern governorate of Iraq with symbolic meaning, has been sitting at the epicenter of inflammatory nationalist debates between all the stakeholders regarding the future of the region. The difficulty in the accommodation of the different political objectives has exacerbated the complexity of the problem. Kurdish officials argue that violence will increase in Kirkuk if a resolution is not reached immediately and have called for the swift implementation of Article 140 of the Iraqi Constitution, calling it critical for peace in Kirkuk. In contrast, Baghdad has concerns regarding the likelihood of violence if a resolution for Kirkuk is forced too soon. These two competing approaches suggest the possibility of escalating tensions between the Iraqi Kurds and Baghdad.

The most appropriate solution for Kirkuk is a compromise that allows all stakeholders to attain a portion of their objectives. This paper suggests compromise as both pragmatically and normatively the most desirable solution for Kirkuk. The objective of this paper is to accurately address the contested status of Kirkuk and to determine whether current Kurdish politics in Iraq are, in fact, capable of resolving this problem thorough compromise.

Key Words

Kirkuk, Iraqi Kurds, the UNAMI Report, Oil, Iraqi Kurdish Politics.

* Monterey Institute of International Studies, Monterey, CA, USA. Disclaimer: All opinions expressed are those of the author alone and do not represent the views of any institution or organization the author has been associated with.

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1. Introduction

There are five sources of conflict between the Kurdish Regional Government (KRG) and the central government in Baghdad:

- the problem of Disputed Internal Boundaries (DIBs), including Kirkuk;
- economic issues, such as the share of the revenues from oil and natural gas;
- the type and extent of the federalist structure;
- the handling of foreign affairs; and lastly
- the status of the armed forces and the handling of security.¹

Staffan de Mistura, the ex-head of the UN Assistance Mission for Iraq (UNAMI),² termed the problem of Disputed Internal Boundaries (DIBs) including Kirkuk as “the mother of all crises” between the KRG and Baghdad.³

Unfortunately, there has been no consensus on the boundaries of the Kurdish-populated region in northern Iraq since the foundation of Iraq in 1932.⁴ More importantly, the efforts to negotiate a political and geographical autonomy between the Iraqi Kurds and Baghdad were unsuccessful and led to conflicts in 1963 and 1970–74. Since the adoption of the Iraqi

¹ Lydia Khalil, “Stability in Iraqi Kurdistan: Reality or Mirage”, *The Working Paper from the Brookings Institution*, 7 June 2009), available at: <http://www.cfr.org/publication/19569/> [last visited 23 June 2009].

² In accordance with Security Council Resolution 1546 signed in 2004, the mandate of the United Nations Assistance Mission for Iraq (UNAMI) was initiated “in implementing, as circumstances permit, their mandate to assist the Iraqi people and government. See UNSC Resolution 1546, available at: <http://www.iamb.info/pdf/unsc1546.pdf> [last visited 23 June 2009]. Please also see the official web site of the UNAMI, available at: <http://www.uniraq.org/> [last visited 13 July 2009].

³ Interview with Staffan de Mistura, at <http://www.bloomberg.com/apps/news?pid=20601087&sid=aQOVnZuH7k4U&refer=home> [last visited 10 May 2009].

⁴ The 11 March 1970 Manifesto, a tolerant document signed by Saddam Hussein and designed to encourage the participation of the Iraqi Kurds in the governance, and the 11 March 1974 Law for Autonomy in the Kurdish region, as two most significant documents in the history of Iraq which defined the status of region, did not specifically address the boundaries of the Kurdish region. Amir Iskander, “Saddam Hussein: the Fighter, the Thinker and the Man”, *Al-Moharer News Agency*, May 2006, available at: http://www.al-moharer.net/saddam/amir_iskandar_p2c10e.pdf [last visited 23 June 2009].

Constitution in 2005, neither the KRG nor Baghdad has wanted to suffer the political cost of eroding their antagonistic ‘my way or the highway’ rhetoric. Neither has endorsed any compromise on this problem to date.

The April 2009 UNAMI Report on DIBs⁵ categorizes those disputed territories into two groups. While the first one includes the Ninewa, Salahadin and Diyala Governorates, the latter includes only the Kirkuk Governorate. The city of Kirkuk, and the districts of Dibis, Hawija and Daquq, are considered to be under the Kirkuk Governorate.⁶ This Governorate, the crown jewel of the disputed territories, captures the attention not only from Baghdad and the KRG, but also from Turkey, Iran, the Gulf States, Jordan and Syria, and the United States. Therefore, the peaceful resolution of the Kirkuk question carries a special importance.

This paper aims to accurately address the historical and legal context of the Kirkuk question in the post-2003 period and analyze the current dynamics in the Kurdish politics to determine to what extent the current Kurdish political environment is ready for a compromise.

Since resolving the Kirkuk problem is more contingent upon the KRG’s attitude rather Baghdad’s, this paper plans to ignore the behaviors of the central government in Baghdad. Nonetheless, Baghdad’s handling of the Kirkuk problem and the structural challenges which affect Baghdad would be a good topic for another paper. Similarly, the other disputed territories such as Ninewa, Salahadin and Diyala are beyond the scope of this paper.

⁵ UNAMI submitted the report on the disputed internal boundaries to initiate dialogue on the DIBs. UNAMI stressed that this deeply-researched report, prepared for more than one dozen disputed districts, are analytical, not prescriptive and does not undermine the sovereignty of Iraq. News Center of the UN, available at: <http://www.un.org/apps/news/test/story.asp?NewsID=31102&Cr=unami&Cr1=mistura> [last visited 20 June 2009]; the outline and two chapters of the report were delivered by Peter Bartu to the author during a conversation held on June 23, 2009 in Berkeley, San Francisco, CA, USA. Peter Bartu is currently the political advisor to the head of UNAMI on Disputed Internal Boundaries (DIBs) problem between the KRG and Baghdad.

⁶ Please see the annexed maps which show the provincial division of Iraq and DIBs.

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2. Why is Kirkuk important?

Kirkuk, as a city of more than 850,000,⁷ sits on oil fields holding roughly 15% of Iraq's proven reserves.⁸ Moreover, Kirkuk is surrounded by some of Iraq's richest agricultural land and serves as a bread basket that helps feed Baghdad. Kirkuk is a geostrategic hub, binding all trading routes between Baghdad and northern Iraq. Kirkuk also protects Baghdad from any military attack coming from the north as the last reliable territory for the defense of the Baghdad flatlands.

At the individual level, the peaceful and immediate resolution of the problem is of the utmost importance for the people living in the Kirkuk Governorate, regardless of their ethnic and religious/sectarian origin. The Kirkukis — whether Kurd, Turkmen, Arab or Assyrian-Chaldean and being Christian, Sunni Muslim, or Shiite Muslim — are seeking a solution that would allow them to peacefully coexist.⁹ Nonetheless, the administrative competition between Baghdad and the KRG has for years been hindering the Kirkukis ability to obtain basic services such as clean water, electricity, health care and education. The contested status of the local branches of the federal ministries in Kirkuk has caused a disconnect from the federal system, resulting in underdevelopment. The city is controlled by the Kurdish-led security forces and encircled by the 12th Division of the Iraqi National Army in the south and 10th *Peshmerga*¹⁰ Brigade in the north.¹¹ It has been a source of tension for the people – regardless of their ethnicity – when they enter and exit the city. The current limbo in the security and judiciary when dealing with crimes has also been a source of tension, which makes living in Kirkuk

⁷ Sandra Mackey, *Coming Clash Over Kirkuk*, New York Times, February 9, 2005, available at: <http://query.nytimes.com/gst/fullpage.html?res=9906E0D71F3BF93AA35751C0A9639C8B63> [last visited 01 October 2009).

⁸ Yücel Güçlü, "Who Owns Kirkuk? ", *Middle East Quarterly* (Winter 2007), pp. 79–86.

⁹ In the UNAMI report, it is asserted that the UNAMI encountered a strong Kirkuki Identity in its field missions. The people living in Kirkuk, regardless of their ethnic background, asked them to be treated as a whole during the process, as the people of Kirkuk Governorate. The UNAMI Report Explanatory Paper, Article 34.

¹⁰ Literally defined as "one who faces death." The general term is used to define the Iraqi Kurdish militia who fight against the central regimes in Baghdad.

¹¹ Please see the annexed Map of Security Forces in/around Kirkuk.

hard. Al Qaida in Iraq (AQI) and other terrorist organizations aptly exploit this current dilemma in the security situation.¹²

Kurdish authority is visible everywhere in the city. The absolute Kurdish control of not only the provincial council and command of the police but also the *Asayeesh*, the undercover secret service of the KRG, has been a source of great tension.¹³ The uncontrolled and prejudiced activities of *Asayeesh*, which only reports to the dominant Kurdish parties,¹⁴ is involved in the transportation of prisoners from the Kirkuk Governorate to the other prisons under the absolute control of the KRG.¹⁵ Allegations of the *Asayeesh* hiding the evidence of Iraqi Kurdish crimes in any inspection of scenes of attack¹⁶ are examples of the abuse of the minority rights in Kirkuk. There have been many reports that claim that the Kurds – by using the *Asayeesh* intelligence service and other proxy units – have been strengthening their positions, mainly in Kirkuk and in other disputed territories, by pressuring Arabs and Turkmens to leave. This is a demonstration of a systemic policy of expelling non-Kurds from Kirkuk.¹⁷ Likewise, some allege that the Kurdish control over the security forces enable them to use this advantage for political purposes.¹⁸ It should also be noted that execution-type killings in Kirkuk have increased since 2006. Importantly, more than four hundred murders, whose victims have predominantly been important persons of the tribes, ethnic groups, and religious sects, have taken place in or around Kirkuk since 2006.¹⁹

¹² The last terrorist attack on July 20, 2009 in predominantly Shiite Turkmen populated Tuz sub-district of Kirkuk, which is located nearly 20 km. south of the city of Kirkuk, caused the death of 80 people.

¹³ Richard A. Oppel Jr., *Kurdish Control of Kirkuk creates a Powder Keg in Iraq*, NY Times, August 19, 2008, available at: <http://www.nytimes.com/2008/08/19/world/middleeast/19kirkuk.html> [last visited 12 October 2009].

¹⁴ Human Rights Watch Report, “Caught in the Whirlwind: Torture and Denial of Due Process by the Kurdistan Security Forces”, July 2007, available at: <http://hrw.org/reports/2007/kurdistan0707/> [last visited 02 June 2009].

¹⁵ UNAMI Report, Explanatory Paper, Article 31.

¹⁶ Richard A. Oppel Jr., *Kurdish Control of Kirkuk creates a Powder Keg in Iraq*.

¹⁷ CRS Report for Congress, “The Kurds in Post-Saddam Iraq”, 2007, available at: <http://www.fas.org/spp/crs/mideast/RS22079.pdf> [last visited 02 June 2009].

¹⁸ Richard A. Oppel Jr *Kurdish Control of Kirkuk creates a Powder Keg in Iraq*.

¹⁹ Operation Iraqi Freedom, Official Web site of Multinational-Force-Iraq, available at: [http://www.mnf-](http://www.mnf-iraq.com/index.php?option=com_content&task=view&id=5440&Itemid=211)

[iraq.com/index.php?option=com_content&task=view&id=5440&Itemid=211](http://www.mnf-iraq.com/index.php?option=com_content&task=view&id=5440&Itemid=211) [last visited 02 June 2009].

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At the intra-state level, the peaceful resolution of the disputes in Kirkuk is imperative for the stability of Iraq. Kirkuk is a divided city, in ethnic and sectarian terms, in which all stakeholders rival for power, resources, cultural identity and political status.²⁰ Due to their ethno-religious heterogeneity, multiethnic societies in general are more fragile and have a higher risk of conflict. In the worst case, such conflicts can cause the breakdown of these societies. The former Yugoslavia and East Timor are two recent examples of this violent type of breakdown. Furthermore, the forced mixture or coexistence of ethnically-different populations might be the reason for the outbreak of nationalistic and racist tendencies, which over the years can become so strong that they are able to destroy a multiethnic society.²¹ Therefore, a political agreement, based on the full political participation of all communities, mutual power sharing and territorial integrity of the governorate, between all political movements should be fostered before the implementation of any proposed solution.²² It is also worth noting the 'spoiling effect' of the Kirkuk problem in the relationship between the KRG and Baghdad. Being the most polarized issue, any problem between Baghdad and the KRG – including revision of the constitution, security and armed forces, federalism, and sharing oil and natural gas – is predominantly influenced by the contested status of Kirkuk. Article 24 of the Provincial Election Law of Iraq, for instance, recognized that provincial elections in the Kirkuk Governorate would be delayed until administrative positions are apportioned on an equal and fair share among Turkmens, Kurds, Arabs and Assyrians, but this has been an unresolved problem, blocking the effective implementation of provincial elections in Iraq. The Kirkuk problem during the recent provincial elections, held on January 31, 2009, was resolved by the exclusion of Kirkuk from the elections and creating a commission to handle the problem.

At the regional level, the fate of Kirkuk has been closely monitored by Turkey, Iran and the Sunni Arab states. The territorial disputes in Kirkuk are among the most complex in world.²³ Turkey has not only been cautious about the security of the Turkmen presence and preserving Turkmen heritage

²⁰ Liam Anderson, Gareth Stansfield, *Crisis In Kirkuk*, University of Pennsylvania Press, 2009, p. 9.

²¹ International Online Training Program On Intractable Conflict, Conflict Research Consortium, University of Colorado, U.S., available at: <http://www.colorado.edu/conflict/peace/treatment/extintvn.htm> [last visited 08 June 2009].

²² From the conversation with Peter Bartu, held on June 23, 2009 in Berkeley, CA.

²³ Liam Anderson, Gareth Stansfield *Crisis In Kirkuk*, p. 9.

but also has great concerns that the annexation of Kirkuk by the KRG would destabilize her internal socio-political fabric by aggravating the Turkish citizens of the Kurdish origin. On the other hand, the types of attacks in Kirkuk, and the equipment found after those attacks, indicates that the hands of Iran are in Kirkuk. The pro-Iran and Sadr-led *Mehdi* army has resided in the city since 2006 and has significant support from the Shiite Arabs and Shiite Turkmen (half of the Turkmen population is Shiite) living in the city as well as the ones expelled by the Kurds.²⁴ It is also noteworthy that Sunni Arab states such as Syria and the Gulf states do not want to see a political solution for contested Kirkuk resolved in favor of a Shiite-Arab led government in Baghdad.²⁵

Kirkuk is a region capable of the extraction of 400,000 barrels of oil per day. It reportedly contains 15% of Iraq's total oil reserves.²⁶ Furthermore, while the extraction cost of one barrel of oil is approximately \$4 -\$5 in Kirkuk province, mainly due to the proximity of the oil reserves to the surface, the cost of extraction of one barrel of oil in off-shore drilling would be \$40-\$45 in Canada or Russia.²⁷ Thus, the flow of low-cost and less politicized Kirkuk oil to the global markets would favorably affect the price of oil. If so, the destiny of Kirkuk, which has roughly twenty billion barrels in oil reserves,²⁸ carries utmost importance not only for Iraq but also for the global energy markets.

²⁴ Soner Cagaptay and Daniel Fink "The Battle of Kirkuk: How to Prevent a New Front in Kirkuk", *The Washington Institute for Near East Policy*, January 16, 2007, available at: <http://www.washingtoninstitute.org/templateC05.php?CID=2552> [last visited 12 June 2009].

²⁵ Please see the full interview of Massud Barzani held by London-based Asharq-Al Awsat Newspaper, available at: <http://www.aawsat.com/english/news.asp?section=3&id=16060> [last visited 17 June 2009].

²⁶ Neil King Jr., Wall Street Journal, New York, July 9, 2008 (Eastern edition). A.1.

²⁷ From the interview of Mehmet Serpil, the CEO of General Energy company, currently one of the big energy companies in the energy market of northern Iraq, available at: <http://www.taraf.com.tr/makale/5931.htm> [last visited 02 April 2009].

²⁸ CRS Report for Congress, "The Kurds in Post-Saddam Iraq", available at: <http://www.fas.org/spp/crs/mideast/RS22079.pdf> pp.5 [last visited 02 June 2009].

3. Kirkuk in the post-2003 period

On March 1, 2003, the failure of the resolution in the National Parliament of Turkey to allow the U.S. 4th Division to pass through Turkey to northern Iraq and open up a second front in the north, not only strained relations between the U.S. and Turkey, but also offered the Iraqi Kurds an opportunity to prove their loyalty to the U.S. *Peshmergas* were to play an important role during 'Operation Viking,'²⁹ which was implemented to engage the Iraqi 13th Republican Guard Division that was deployed over the Green Line. The timing of the engagement of these enemy divisions was very critical for U.S. forces for two reasons. First, there was an immediate need to secure Mosul and Kirkuk, and second, not to let them disengage and fortify the ongoing war in the south. The failure to pass the resolution allowing passage for the 4th Division through Turkey meant four additional weeks for the U.S. Central Command to send this division back to southern Iraq.³⁰ However, according to the Rumsfeld Doctrine, which proposed winning the war in Iraq with the cooperation of local fighters and mobile, self-sufficient U.S. troops (supported by supreme air support),³¹ the front in the north would be opened by the *Peshmergas* and the U.S. 10th Special Forces Group. Consequently, Operation Viking ended with the elimination of the *Ensar-ul Islam*³² group in Halabja and the seizure of the Mosul and Kirkuk region in April 2003.³³ This joint operation of local *Peshmerga* militia and the elite U.S. troops had some important consequences. First, during the implementation of this operation, conducted with the participation of 70,000 *Peshmergas* and 5,200 U.S. troops from Viking Task force,³⁴ the U.S. forces had difficulty controlling and commanding the *Peshmerga* forces.

²⁹ Isaac Peltier, "Surrogate Warfare: The Role American Special Forces", School of Advanced Military Studies, 2005, p. 24, available at: [http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA436109&Location=U2&doc=GetTR_Doc .pdf](http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA436109&Location=U2&doc=GetTR_Doc.pdf) [last visited 10 October 2008].

³⁰ Michael Smith, *The Killer Elite*, New York, St. Martin Griffin Press, 2008, p. 254.

³¹ Wikipedia, http://en.wikipedia.org/wiki/Rumsfeld_Doctrine [last visited 10 October 2008].

³² *Ensar-ul Islam*: A wahhabist radical movement which was popular among Sunni Kurds in northern Iraq, specifically in Halabja region. Their biggest attack was 2004 Suleimaniyah PUK administration building bombing which was resulted with a hundred deaths including prominent Kurdish leaders mainly from the PUK.

³³ Linda Robinson, *Master Of Chaos*, New York, Publicaffairs Press, 2005, p. 299.

³⁴ Isaac Peltier 'Surrogate Warfare: The Role of American Special Forces'.

This lack of control led to the expansion of the control of *Peshmergas* to the south of Green Line.³⁵ Mainly due to the “chaotic” environment in the north in the period of March-May 2003, the U.S. forces were ordered to shoot looters and those who violated the rules.³⁶ The most viable instance of the absence of order in the north during this period was in Kirkuk, in which many human right abuses were experienced.³⁷ In his interview, Major D. Jones, then the operation officer of 3th Special Force (SF) Battalion of 10th SF Group, stated that the fall of Kirkuk on April 9, 2003, surprised them since they did not expect this to happen so early.³⁸ The insufficient numbers of U.S. troops on the northern front in the period of March-May 2003 and specifically the inability of the U.S. troops to control the *Peshmerga* forces and maintain the order in Kirkuk in the period of April 09-20, 2003, led the *Peshmerga* to consolidate their military and political power in Kirkuk³⁹ and extend their authority to Chamchamal, Taze and some other districts south of Kirkuk.⁴⁰ It is also noteworthy that the U.S. 173th Airborne Brigade officially took the control of Kirkuk on April 20, which meant eleven chaotic days after the fall of Kirkuk. As an elite U.S. officer in a critical position during the campaigns in the north, who should be highly aware of the history and decades long-contested status of Kirkuk, Major Jones stated that:

Kirkuk for a long time had been a Kurdish city, so the Kurds quickly went back in and took over their homes. They linked back up with families they hadn't seen in years. It was kind of like returning to a long lost home. So everybody was pretty happy at that point.⁴¹

But the interesting point was that during that influx of people *returning to a long lost home*, there were not only Kirkukis of Kurdish

³⁵ Linda Robertson, p. 330.

³⁶ Ibid.

³⁷ Newsmedia, available at:

http://www.usip.org/newsmedia/releases/2003/0428_NBiraq.html [last visited 23 June 2009].

³⁸ Interview of Major D. Jones conducted by John McCool in Combat Studies Institute Fort Leavenworth, Kansas, on November 9, 2005, available at:

http://cgsc.cdmhost.com/cdm4/item_viewer.php?CISOROOT=/p4013coll13&CISOPTR=116&CISOBX=1&REC=18 [last visited 23 October 2008].

³⁹ Richard A. Oppel Jr. *Kurdish Control of Kirkuk creates a Powder Keg in Iraq*.

⁴⁰ The interview of Major Jones.

⁴¹ Ibid.

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origin, who had been the victimized and displaced by the Arabization policies of the previous regime, there were also the administrative staff of the KRG and the *Peshmergas* fighters to consolidate the Kurdish authority in Kirkuk. The Kurdish officials monopolized political and administrative power in Kirkuk rather than share it, and they directed reconstruction funds toward Kurdish villages and neighborhoods, leaving others to wallow in neglect.⁴² More importantly, during these heady and chaotic days in the spring of 2003, the U.S. forces in Kirkuk who had assumed the authority thirteen days after the fall of Kirkuk, intentionally or unintentionally, allowed and legalized this “de facto”⁴³ consolidation of the authority of the KRG for the administration and security in Kirkuk. The de facto Kurdish control of the administrative branches and the security forces in the Kirkuk has continued since.⁴⁴

4. Kirkuk in the Legal Context

Article 58 of the 2004 Transitional Administrative Law (TAL)⁴⁵ and Article 140 of the current Iraqi Constitution justify the recognized need for exceptional management of the Kirkuk Governorate in the post-2003 era.

According to Article 140 of the Iraq Constitution,⁴⁶ the executive authority was to take every necessary step to appropriately implement the “normalization” process of Kirkuk and the other disputed territories. After the conclusion of the normalization process, a referendum was to be conducted in those territories to determine the will of the people, but the deadline of this referendum was to be not later than December 31, 2007. Article 140 of the Iraqi Constitution sets a three-step sequence for Kirkuk

⁴²Joost Hiltermann ‘Kirkuk and the Kurds: A Difficult Choice Ahead’, *Al Hayat*, May 22, 2007.

⁴³International Crisis Group (ICG) Middle East Report No: 88, *Iraq and the Kurds: Trouble Along the Trigger Line*, p.10.

⁴⁴International Crisis Group (ICG) Middle East Report No: 88, *Iraq and the Kurds: Trouble Along the Trigger Line*, p.10.

⁴⁵Article 58 of TAL, which precedes Article 140, explains how to handle the “normalization” process in Kirkuk. Article 58 TAL outlines a process for reversing the consequences of the former regime’s policies, including the return of the displaced, the recovery of their homes and properties, the resettlement and compensation of those that were newly introduced to the disputed areas and remedying the change of administrative boundaries done for political reasons.

⁴⁶Iraqi Constitution, available at: http://www.uniraq.org/documents/iraqi_constitution.pdf [last visited 10 December 2009].

and the other disputed territories: normalization, census and referendum, but the dilemma in the article is that it does not clearly define the “disputed territories” or explain what type of referendum this should be.

To clarify TAL 58 and Article 140 collectively, Iraq should continue the implementation of the normalization process, which may require a significant period of additional time, and the “permanent resolution of DIBs, including Kirkuk” should only be addressed after the completion of the normalization process and the census. Whereas the December 2007 deadline came and went, the UNAMI mediated delays and deferred the “referendum” – the swift implementation of which was uncompromisingly proposed by the KRG. Due to the suspension of the referendum, the Kurdish leaders were exposed to vocal criticism from the grassroots and nationalist Kurdish media.⁴⁷

The problem with Article 140 is that it does not clearly define the term “*referendum*” and what would be the question(s) to be asked in this referendum. This deficiency of a clear definition, which caused different interpretations, has been the epicenter of the current political debates on the future status of Kirkuk.

From the perspective of the Kurds, Article 140 of the Iraq Constitution, which was officially approved by 80% of the Iraqis and was legitimized both domestically and internationally, should be implemented immediately to solve the problem. When the deadline for the implementation of this article passed, the KRG made sacrifices, such as giving a six-month extension. The involvement of the UN in the problem was designed to speed up the process. By now, the normalization process should have been completed and a referendum should have been conducted.⁴⁸ As for those who are eligible to vote in the referendum, the Kurdish officials assert that only those who were registered as residents of Kirkuk in the 1957 census,⁴⁹ which was the last official census in this area, or their descendants should be

⁴⁷ Liam Anderson, Gareth Stansfield, *Crisis in Kirkuk*, New York, University of Pennsylvania Press, 2009, p. 3.

⁴⁸ Shaman Shali, “Article 140 and the Future of Iraq,” delivered at a conference organized by the Washington Kurdish Institute on March 9, 2008, available at: <http://www.kurd.org/> [last visited 02 June 2009].

⁴⁹ According to Brendan O’Leary, the official results of 1957 Census were as follow:
Population in the Kirkuk Governorate: Kurds: 48.3% Arabs: 28.2% Turkmen: 21.4%
Population in Kirkuk city center: Kurds: 33.3% Arabs: 22.5% Turkmen: 37.6%

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eligible to vote.⁵⁰ Meanwhile, the inflammatory rhetoric of the Kurdish leaders regarding Kirkuk tempted some to believe that they already knew the result of the referendum. For instance, Jalal Talabani, current President of Iraq, claimed that Kirkuk "is the Jerusalem of Kurdistan,"⁵¹ an unhelpful metaphor that appears to equate God with oil.⁵² Additionally, Barzani claims that Kirkuk is exclusively a Kurdish city⁵³ and should be the capital of the Kurdish region.⁵⁴ Both claim that the oil fields of Kirkuk unquestionably belong to Kurdistan.⁵⁵ Massoud Barzani has also reaffirmed his claims that Kirkuk belongs to the Kurdish region in his most recent interview with *Newsweek* on August 3, 2009.⁵⁶ Brendan O'Leary argues that in the October 2005 constitutional referendum, the people living in Kirkuk governorate endorsed the Constitution by a clear majority: 63% percent voting "yes" and 37% voting "no" with a 79% turnout. Consequently, according to O'Leary, this clearly proves that by voting "yes" and endorsing the Constitution and its Article 140, the local voters also endorsed the mandatory referendum to enable the Kirkuk governorate to join the KRG region after the "normalization" process.⁵⁷ According to Kurdish officials, the question to be asked in the referendum to the Kirkukis must be "To which authority would you like to be annexed, Baghdad or the KRG?"⁵⁸ Moreover, Kurdish officials have assessed that the political maneuvers necessary to defer the implementation of the referendum are the main cause of the continuation of the problem, which has made the lives of thousands of people depressing and

⁵⁰ Brendan O'Leary, Presentation, *Kirkuk & the Disputed Territories*, available at: http://www.kurd.org/doc/OLeary_SLIDES.pdf. [last visited 02 April 2009].

⁵¹ Jalal Talabani, "No Grounds for Relations with Baghdad", *Middle East Quarterly* (Winter 2002), pp. 19-23.

⁵² Joost R. Hiltermann, *To Protect or to Project? Iraqi Kurds and their Future*.

⁵³ Turkish Daily News (Ankara), July 17, 2002.

⁵⁴ International Herald Tribune, June 21, 2004.

⁵⁵ Middle East Economic Survey, June 14, 2004.

⁵⁶ Lerry Kaplow, Newsweek interview with Massoud Barzani, August 17, 2009, available at: <http://www.krg.org/articles/detail.asp?lngnr=12&smap=02010200&rnrr=73&anr=30820> [last visited 07 July 2009].

⁵⁷ Brendan O'Leary, *Article 140: Iraq's Constitution, Kirkuk and the Disputed Territories*.

⁵⁸ Joost Hiltermann, "Kurdish Elections: Implications for Iraq and the Region", *Carnegie Endowment for International Peace Event*, Washington DC, August 6, 2009, available at: <http://carnegieendowment.org/events/?fa=eventDetail&id=1380> [last visited 02 June 2009].

has also degraded the Iraqi Constitution.⁵⁹ They also mention their sacrifices in liberating Iraq and the consequences of the Arabization process of previous brutal regimes and assert that “the U.S. has an important moral obligation to use its authority”⁶⁰ to force the central government to implement this article to help Iraqi Kurds in Iraq.

On the other hand, for the Arab leaders in Baghdad, the option to immediately implement Article 140 to resolve the Kirkuk problem has already died.⁶¹ Peter Bartu, political advisor to the head of UNAMI on disputed territories including Kirkuk, explicitly argues that the immediate implementation of the Article 140 would cause conflict and also asserts that unilateral annexation of Kirkuk by the KRG is currently outside the political agenda of Iraq.⁶² Likewise, according to the International Crisis Group: “No Iraqi government could ‘give’ Kirkuk to the Kurds and hope to survive, in view of broad popular opposition in Arab Iraq.”⁶³ Therefore, for Baghdad, the immediate implementation of Article 140, the political cost of which would be heavy, is not currently on the agenda. Consequently, the political cost of renouncing Kirkuk would be so destructive that both the central government in Baghdad and the KRG assess it as an ‘existential’ issue. Thus, the utmost aim of both is to apply burden-shifting strategies during the negotiations so they are not exposed to carrying the burdens of this existential threat. Nonetheless, currently, the involvement of UNAMI raised the expectations about the probability of applying burden-sharing strategies to justly share the political cost of compromise during the negotiations.

The UNAMI Report has been the most viable platform for negotiations on DIBs so far. The report proposes the implementation of Article 140 and the referendum as the last steps to resolve the Kirkuk problem, which also means that the report fully embraces Article 140. Whereas UNAMI contends that a referendum is an essential part of the

⁵⁹ Saman Shali, the President of Kurdish National Congress in North America, *Article 140 and Future of Iraq*, Presentation of Article 140 and Future of Iraq Conference held by Washington Kurd Institute, May 9, 2008, available at: http://www.kurd.org/doc/Remarks_Shali.pdf. [last visited 02 June 2009].

⁶⁰ Quote from the Saman Shali’s remarks, available at: http://www.kurd.org/doc/Remarks_Shali.pdf.

⁶¹ Liam Anderson and Gareth Stansfield *Crisis In Kirkuk*, p. 186.

⁶² Peter Bartu, from the conversation held on 23 June, 2009 in Berkeley, San Francisco, CA.

⁶³ The Report of International Crisis Group (April 19, 2007), available at: http://www.crisisgroup.org/library/documents/middle_east___north_africa/iraq_iran_gulf/64_iraq_and_the_kurds_resolving_the_kirkuk_crisis.pdf [last visited 02 May 2009].

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process of resolving Kirkuk's status, the referendum envisaged in Article 140 should be a "confirmatory referendum" held after a broad, consensus-based political agreement has been reached, not the hostile one proposed by the KRG.

The report proposes four solutions to the Kirkuk problem. Those are:

- a) To achieve a political agreement on reformulating Article 140 and make it unambiguous and more detailed by means of a constitutional amendment;
- b) To achieve political agreement on a constitutional amendment by which Kirkuk would remain a governorate that is not organized into a region, as with the other Iraqi governorates;
- c) To achieve a political agreement between the KRG and Baghdad, and after being endorsed by the people of Kirkuk after a confirmatory referendum, to link Kirkuk, as a governorate, to both Baghdad and the KRG;
- d) To establish Kirkuk as a governorate or region with "special status," by which Kirkuk could be granted a high degree of administrative self-rule.⁶⁴

In particular, the UN seemed to prefer a combination of the third and fourth options. It means a special status with flexibility on how much control both Baghdad and the KRG would be allowed to exert.⁶⁵

More importantly, the report does not propose an option of unilateral annexation of Kirkuk by the KRG. Peter Bartu contends that there is an immediate need for a *transitional period* to resolve the problem and adds that this transitional period would allow enough time for existing tensions to cool off and also make the KRG more realistic on the issue to prepare its population for the proper solution. He also concludes that the confirmatory referendum, which would be applied when the consensus-based political agreement is achieved, would not only mean the implementation of Article 140 but would also take away all demographic and political manipulations, both in the pre-2003 and post-2003 period, but it needs to be given time for this process. That is why a cooling-off period is extremely important to

⁶⁴ UNAMI Report, Discussion Paper, Article 9.

⁶⁵ International Crisis Group (ICG) Middle East Report No: 88, *Iraq and the Kurds: Trouble Along the Trigger Line*, p. 8.

constructively initiate the process.⁶⁶ Consequently, the UNAMI report, which makes no reference solely to Article 140, calls for a generic UN-formulated process for resolving the dispute with a cooling-off period. This disappointed the Iraqi Kurds, who had staked their entire approach to Kirkuk on this article.⁶⁷

5. The Morphological Analysis of the KRG

This study concurs that any option, but for the unilateral annexation of Kirkuk by the KRG, requires the resolution of the Kirkuk question through compromise. Any option, such as the four proposals of the UNAMI, which necessitate intense bilateral negotiations, a consensus on the power sharing in the governance of Kirkuk between Baghdad and the KRG, and the consent of the Kirkukis of all ethnic and sectarian origin could be a resolution through compromise.

To better frame the question as to what extent Kurdish domestic politics are capable of obtaining a resolution of the Kirkuk question through compromise, this section intends to analyze the evolution of the Iraqi Kurdish politics with a Kirkuk-centric approach.

To achieve this aim, this section presents the evolution of the governing institutions in the decision-making process of the KRG. Second, it examines the management of the current Iraqi Kurdish political system and the functions of the constituent parts of the KRG. Last, it sorts out the structural and organizational challenges that the Kurdish decision-makers should address if/when they are willing to resolve the contested status of Kirkuk through compromise with Baghdad.

This methodology serves several purposes. First, it illustrates the unique political structure of the KRG and the existing variables that shape it. Second, it provides grounds for the forthcoming analysis of the structural challenges which the KRG could face when addressing the question of Kirkuk. Last, since the KRG has undergone many structural changes since its foundation, the analysis of the structure of the KRG and the prospective challenges in resolving the question of Kirkuk through compromise could then allow sufficient insights into what the KRG would develop.

⁶⁶ Peter Bartu.

⁶⁷ Lydia Khalil, "Stability in Iraqi Kurdistan: Reality or Mirage?", p. 16.

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a. The Evolution of the Kurdish Politics Since 1992

In the period of 1992–1998, the political landscape in northern Iraq was more a ‘chaotic’ one than a ‘stable’ one. The *Peshmerga* commanders, who have both tribal affiliations and party lineages, were in charge of providing security, justice and access to essential services for each town or district in their territories.⁶⁸ After the signing of the Washington Treaty in 1998, the political landscape of the KRG turned out to be divided equally between the KDP and the PUK, which was workable but an extremely fragile type of shared governmental organization, dependent upon the preservation of a balance of power between these two political parties.⁶⁹ Nonetheless, while the KDP was fully in charge of the local governance and the security in the governorates of Dahuk and Irbil, Suleimaniyah was under the control of the PUK, which meant that neither of the two parties could exceed the borders of their defined territories in political, military and socio-economic terms.⁷⁰ Moreover, these governorates were governed by committees predominantly comprised of members of the same party so that each governorate was controlled by a particular political party.⁷¹ The aim of the power sharing and respect for the local executing authority of the other party in the territory it controlled was to achieve a division of power between the KDP and the PUK in all government offices throughout the Kurdish region. When the balance of 50:50 power-sharing in the KRG – summarized as a mutual recognition and respect for the other’s rule in its territory – destabilized, the system could become unworkable and could led to confrontation and conflict. The Kurdish infighting in the period of 1994–1998, specifically over the control of Irbil, was proof of this.

The absence of the constitution has not only created enough political space for the KDP and the PUK to govern the region under the pretext of the KRG, but it also severely degraded the credibility of the Kurdish Parliament in Irbil. More importantly, the preferences of Massoud Barzani and Jalal Talabani to stay out of official positions within the KRG for years —

⁶⁸ David McDowall, *A Modern History of the Kurds*, New York, St. Martin`s Press, 1996, p. 382.

⁶⁹ Gareth R.V. Stansfield *Iraqi Kurdistan: Political Development and Emergent Democracy*, Routledge Press, June 19, 2003, p.122, available at: <http://www.books.google.com>.

⁷⁰ Joost Hiltermann, *To Protect or to Project? Iraqi Kurds and Their Future*.

⁷¹ *Ibid.*, p. 123.

combined with the 50:50 control of the KRG by the two parties has led to the isolation of these two heavyweights of the Kurdish politic.⁷²

Each member of the ‘politburo’ members in the KDP and the PUK, and high profile *Peshmerga* commanders, still have the ability to exercise veto power on the political decision-making mechanism in the KRG.⁷³ A good example of this is the newly-emerged opposition *Gorran* (change) List, which dominantly comprises old *Peshmerga* commanders with PUK lineage and achieved remarkable success — specifically in the PUK-controlled Suleimaniyah Governorate — in the July 25, 2009 Parliamentary elections.

b. Kurdish Parliament – The Legislation

The Kurdish Parliament is a unicameral legislature branch composed of 111 representatives elected by closed party or coalition list rather than by individual candidates. Of the 111 representatives, one hundred seats are open to general lists and eleven seats are reserved for particular ethnicities: five seats for Chaldeans and Assyrians, five seats for Turkmens, and one seat for Armenians. All legislation passed by the Kurdish Parliament must be ratified by the President to be enacted into law.

The first election for the Kurdish Parliament⁷⁴ was held in 1992. No elections were held for the next thirteen years until the 2005 parliamentary elections. In the Parliamentary elections held on December 15, 2005, the coalition of KDP-PUK won 104 seats (89.55%), and the Iraqi Kurdistan Islamic Group won 6 seats (4.86%).⁷⁵

The third and the last parliamentary elections were held on July 15, 2009, which coincided with the presidential elections. In this election, while the participating Kurdish coalitions competed for 100 seats in the Parliament, the Turkmens contested the 5 seats reserved for them, Assyrian Chaldeans for 5 seats, and the Armenians competed for the one seat reserved

⁷² Gareth R.V. Stansfield *Iraqi Kurdistan : Political Development and Emergent Democracy*, p. 124.

⁷³ Ibid.

⁷⁴ Prior to the new Kurdistan Election Law passed in March 2009, the body was referred to as the Kurdistan National Assembly (KNA).

⁷⁵ Please see the official results of the 2005 elections from the official website of the Kurdish Parliament to compare them with the July 25 elections. Election results available at: <http://www.kurdistan-parliament.org/default.aspx?page=sitecontents&c=Parliament-History2005> [last visited 20 August 2009].

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for them (total of 111 seats to be elected to a four-year term).⁷⁶ The number of total registered voters was 2,518,229 in the region with 898,735 voters registered in Irbil, 1,058,189 in Suleimaniyah, and 568,849 in Dahuk. The turnout was 80% (Irbil 79%, Suleimaniyah 74%, and Dahuk 85%).⁷⁷ Whereas 41 parties ran for the parliamentary elections, the elections centered among three main coalitions: the Kurdistan List headed by the KDP-PUK alliance,⁷⁸ the *Gorran* list headed by Nawshirwan Mustafa's movement,⁷⁹ and the Service and Reform List composed of four political parties.⁸⁰ According to the official results disseminated by the Independent High Electoral Commission of Iraq (IHEC), the Kurdistan List of the KDP-PUK won 57.38%, the *Gorran* List won 23.75%, and the Service and Reform List won 12.8% of the total votes. According to these results, the Kurdistan List gains 59 seats, the *Gorran* List 25 seats, and the Service and Reform List 13 seats in the Parliament.⁸¹ Comparing the results of the 2005 elections and the recent elections, it is evident that the coalition of KDP-PUK has drastically been weakened by a loss of 45 seats in the Kurdish Parliament (a loss of 30.17% of votes).

⁷⁶Please see the results of July 25 Elections in the official web site of the KRG, available at: <http://www.krg.org/articles/detail.asp?rnr=223&lngnr=12&smap=02010100&anr=30895> [last visited 11 August 2009].

⁷⁷Election Statistics available at: <http://www.ekurd.net/mismas/articles/misc2009/7/independentstate2976.htm> [last visited 28 July 2009].

⁷⁸Official website of the PUK, available at: <http://www.puk.org>; KDP, at <http://www.kdp.pp.se/> [last visited 02 June 2009].

⁷⁹Nawshirwan Mustafa was born in 1944. He is a prominent Kurdish politician, the owner of the Wisha media company, author of more than twenty books and historian. Many members of the Change List are ex-PUK members, who not only openly criticize the nepotism and mass corruption in the KRG but also discontent over the lack of internal political and economic reforms. Their main argument is to separate the KRG from the influence of the KDP and the PUK, two political parties which control all political cadres of the KRG. Wisha media outlets controlled by Nurshirwan Mustafa has been severely criticizing the KDP and the PUK since 2006. Please see the official web site of the movement, available at: <http://www.gorran.org>.

⁸⁰This list mainly focused on the prevalent corruption during the election campaigns. The main parties in the list: Kurdistan Islamic Union (<http://www.kurdiu.org>), Islamic Group of Kurdistan (<http://www.islamicgroup.net>), and Kurdistan Socialist Democratic Party (<http://www.psdkurdistan.com>), and Future Party.

⁸¹KRG official website, Press Release, Election result on June, 25, 2009, available at: <http://www.krg.org/articles/detail.asp?rnr=223&lngnr=12&smap=02010100&anr=30895> [last visited 10 August 2009].

c. The Office of Presidency and the Cabinet- The Execution

(1) The Office of Presidency

The Presidency of the Kurdish Regional Government was selected by the Kurdistan National Assembly in 2005 and Massoud Barzani won this post. The president of the Kurdish Region has the highest executive authority in the KRG. The president is also the commander-in-chief of the *Peshmerga* Forces. He is elected by secret ballot in a popular vote every four years and can stand for election for a second term. According to the Law of the Presidency, the President of the Region will have a Deputy President. Kosrat Rasul Ali, the notorious *Peshmerga* commander with PUK lineage and a highly-influential individual in Kirkuk who currently seems to support *Gorran* movement, was picked as the Deputy President.

The law set out the relationship between the President and the prime minister. All applications for special appointments and promotions will be submitted to the President. After the President's approval through Regional Decrees, the applications will be returned to the Council of Ministers. The law also stipulates the relationship between the President and the Presidency of the Kurdish Parliament. Any laws passed by the Kurdish Parliament must be ratified by the President before they are enacted. The President has the power to return any law passed by the Parliament for further debate. This must be done within ten days of the passage of the law. The decision of the Parliament after the referral is final.⁸²

The results of the July 25, 2009 Kurdish Presidential Elections is also likely to deeply affect Kurdish politics in the future. Massoud Barzani, who has never participated in a direct election before, was the candidate of the Kurdistan List in the presidential elections. He was elected President of the Kurdish Region by the Parliament in June 2005 and has been in the office since. The surprise result of the presidential elections was Kamal Mirawdeli, a presidential candidate allegedly supported by the *Gorran* List, who gained roughly 23% of the total votes. His well-known stance against the KDP and the PUK leaders and harsh criticisms of the ruling class in the Kurdish

⁸² Official website of the Presidency, available at: <http://krp.org/eng/krp/default.aspx?gid=4&sm=10> [last visited 02 August 2009].

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region is worth mentioning.⁸³ Moreover, it is also worth recalling that the Diaspora Kurds, most of whom support the *Gorran* List, could not vote in the elections.⁸⁴ Nonetheless, they are eager to see the political reforms in the KRG and thus will aggressively ask for the *Gorran* movement to push for reforms. Thus, it is likely that the political influence of the Diaspora could enhance in the KRG, and the *Gorran* movement could be their mouthpiece in the Kurdish parliament.⁸⁵

It is hard to know whether Massoud Barzani assessed the July 25 elections as a defeat or a victory. Nonetheless, it is evident that while the PUK was dissolving, the KDP retained its political power and influence in Irbil and Dahuk. His total of 69.6%⁸⁶ of the votes justified that his legacy in the region continues. Since he has been directly elected by the people and gained a great percentage of the total votes, it is likely that he will rely on his 'personal legacy' and could be more assertive when dealing with any hot political issues such as Kirkuk. He will be more comfortable when negotiating with Baghdad and his cards will be more powerful against the Kurdish Parliament.

(2) Prime Minister and Cabinet of Ministers

Shortly after the Kurdish National Assembly convened, a council of ministers was created with the power-sharing agreement of the KDP and the PUK in 1992, and each ministerial position which was held by a member of one party would have a deputy minister representing the other. Mainly due to the reluctance of either party initially to concede power to the other, there has been a substantial political deadlock within the KRG. There was no clear

⁸³ Please see the articles of Kamal Mirawdeli on the increase of the honor killings in northern Iraq, and his accusation of the PUK officials for the killing of Layla Ali, a journalist who had mysteriously died just after her interview with Jalal Talabani, available at: <http://www.ekurd.net/mismas/articles/misc2009/2/independentstate2698.html> [last visited 03 August 2009].

⁸⁴ Please see the speech of Rebwar Fatah delivered in the British Parliament Building before the elections, available at: <http://www.kurdmedia.com/article.aspx?id=15863> [last visited 03 August 2009].

⁸⁵ Please see the speech of Rebwar Fatah delivered in the British Parliament Building before the elections, available at: <http://www.kurdmedia.com/article.aspx?id=15873> [last visited 03 August 2009].

⁸⁶ KRG official website, Press Release, Election Result on June, 25, 2009, available at: <http://www.krg.org/articles/detail.asp?rnr=223&lngnr=12&smap=02010100&anr=30895> [last visited 03 August 2009].

executive authority empowered as the ultimate decision maker.⁸⁷ The intra-Kurdish fighting in the period of 1994–1998 has polarized Kurdish politics in northern Iraq. Although there was a seated government during this period, executive authority was exercised through the unofficial political mechanisms of the two parties' political bureaus and local *Peshmerga* commanders with party lineages in their respective regions. The renewal of the KRG positions could not be achieved until 2005 since there were no elections held due to the political frictions between these two parties. The Prime Minister serves as the head of the Council of Ministers. He is chosen by the majority party or coalition in the Kurdish Parliament and shares executive responsibilities with the President. From 1999 until the end of September 2009, Nechirwan Barzani, the nephew and son-in-law of Massoud Barzani, was the prime minister of the KRG. On September 16, 2009, Barham Salih, a prominent Kurdish politician with PUK lineage, was ratified as new prime minister, and Azad Barwari, ex-politburo member of the KDP, was ratified as the deputy prime minister, by the Kurdish National Assembly.⁸⁸ On October 1, 2009, Barham Salih and Azad Barwari were formally asked by President Massoud Barzani to form the sixth Kurdish regional government.⁸⁹

The cabinet, whose executive authorities are delegated to them by the President, is drawn from among the members of the Kurdish Parliament. The Prime Minister nominates the members of the cabinet, whose selection is then ratified by the president. The ministers have fairly broad powers to act within the scope of their ministerial portfolios.

⁸⁷ James Danly, "The 2009 Kurdish Elections", July, 23, 2009, available at: <http://www.understandingwar.org/files/KurdishElections.pdf> [last visited 02 October 2009].

⁸⁸ Official website of Kurdish Parliament, Press Release, "Kurdistan Parliament names the KRG Prime Minister and his Deputy", available at: <http://www.kurdistan-parliament.org/Default.aspx?page=articles&c=News-News&id=6265> [last visited 02 October 2009].

⁸⁹ Official website of Kurdish Region Presidency, Press Release, available at: <http://krp.org/eng/articles/display.aspx?gid=1&id=2276> [last visited 02 October 2009].

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6. The Structural Challenges of the KRG when addressing Kirkuk:

a. The Ambiguity in the Separation of the Executive and Legislative Power

The answer to the following questions carries utmost importance when addressing the Kirkuk question. Who has the last word over the question of Kirkuk in the Kurdish politics, President Massoud Barzani or the Kurdish parliament? Who will be in charge of the implementation of the negotiations of the Kirkuk question with Baghdad, the newly-elected Prime Minister Barham Salih and his cabinet or a non-partisan committee from the Kurdish Parliament? Last, in case of any political dispute between the president and the parliament –considering the absence of a constitution and a supreme court in the current political system – how could the Kurdish domestic politics resolve this dispute?

Since 1992, the KRG — intensely politicized by the inter-party politics — has seemed to be the political extension of the KDP and the PUK. The KRG officials, including ex-Prime Minister Nachirwan Barzani, have undermined the Parliament in Irbil and tried to keep it in a puppet-like position.⁹⁰ Any important decision about finance, budget, security, domestic issues/foreign affairs has been made by the KRG-President combination and without the confirmation of the Parliament or even with enough discussion in Parliament.⁹¹ Interestingly, the July 25 elections, while leading to the emergence of an opposition for the first time over the course of the history of the parliament, have also strengthened the political stance of the directly-elected President Massoud Barzani. It is likely that the new relationship between Massoud Barzani and Prime Minister Barham Salih will not be as good as the one that he achieved with his nephew and son-in-law, Nechirwan Barzani.

In the same vein, it is also likely that the newly-formed parliament will not be as submissive as the previous one. President Massoud Barzani,

⁹⁰ Amanj Khalil, "Halabja Protesters May Face Death Penalty", Ekurdnet News Agency, March 24, 2006, available at: <http://www.ekurd.net/mismas/articles/misc2006/3/kurdlocal128.htm> [last visited 01 October 2009].

⁹¹ Ayoub Barzani, "How Can the Coming Prime Minister be Credible?", December 12, 2007, available at: <http://www.kurdmedia.com/article.aspx?id=14369> [last visited 02 October 2009].

however, will be more comfortable exercising and asserting his strategic choices, mainly due to his personal legacy and his position as a directly-elected president.⁹² Moreover, the absence of a constitution to regulate the distribution of power and responsibilities among the branches, and the absence of a supreme court to resolve the structural crisis within the system, are likely to exacerbate this dilemma. Hence, the Kirkuk question seems to be the first and foremost political challenge in the region in terms of the relationships between the parliament, the president and the prime minister within the political structure of the KRG.

b. The Militarized and Politicized *Peshmerga* Culture in Kurdish Politics

After the Gulf War, the administrative bodies of Baghdad and the security forces of the Iraqi National Army withdrew from north of the 36th parallel, which led to a unique opportunity for the Iraqi Kurds to administer the predominantly Kurdish-populated northern governorates of Irbil, Dahuk and Suleimaniyah. This unique opportunity to govern, which was endowed by the external political dynamics and not through organic processes in Iraq, was an alien term for the KDP and the PUK. Throughout the whole history of Iraq, the Iraqi Kurds were in an unending armed struggle against Baghdad, and the *Peshmerga* forces were at the epicenter of this armed struggle. The KDP and the PUK did not need the patronage of the state to survive; instead they heavily relied on the military protection of the *Peshmergas*. In the post-1991 period, highly militarized and politicized *Peshmerga* cadres of the KDP and the PUK have filled the posts in the KRG and in the provincial councils, which means that *Peshmergas* have assumed the absolute authority to govern.⁹³ Since the *Peshmerga* culture,⁹⁴ which represents the militarized guerilla spirit of the KDP and the PUK, is very apt at destroying infrastructure such as roads, bridges and electricity facilities, it is unlikely to argue that this culture is ready to rebuild the infrastructure and

⁹² Kamal Said Qadir, "The Barzani Chameleon", *Middle East Quarterly*, Spring 2007, pp. 87-88, available at: <http://www.meforum.org/1681/the-barzani-chameleon> [last visited 14 October 2009].

⁹³ Nawshirwan Mustafa, "Reform in Kurdistan: We and Them – What are the reasons for our disagreements?" February, 8, 2009, available at: <http://www.kurdmedia.com/article.aspx?id=15446> [last visited 22 December 2008].

⁹⁴ Michael G. Lortz, *Willing to Face Death: A History of Kurdish Military Forces —The Peshmerga—from Ottoman Empire to Present Day*, Master Thesis, The Florida State University, 2005, p. 2, available at: <http://etd.lib.fsu.edu/theses/available/etd-11142005-144616/unrestricted/003Manuscript.pdf>. [last visited 02 June 2009].

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the administration of the region. Jalal Talabani identifies the crux of initial problems by stating “[w]e came from the mountains, we were trained as fighters and now we had to run the cities.”⁹⁵

This unique system of governance has raised many questions about the probability of success of the KRG in terms of democracy, pluralism, political participation and order in northern Iraq. For instance, when examining the Kurdish predicament in Iraq, Michael M. Gunter begins his analysis by asking “[h]ow did everything go so wrong?”⁹⁶ The answer to this question could be that the initial governance of the region has been exercised through the *Peshmerga*-controlled political parties to date. Qubad Talabani, the son of Jalal Talabani and representative of the KRG to the U.S., explicitly announced that the political movement represented by the KDP and the PUK is a “revolutionary movement designed to overthrow a regime, and thus, the current structures of the KRG may not be designed to govern an area.”⁹⁷ He also calls for the need to shift from a revolutionary past to a more modern movement designed to govern.⁹⁸ Nonetheless, Michael G. Lortz explicitly presents the importance and still ongoing influence of the highly militarized and politicized *Peshmerga* culture in Kurdish politics by stating:

The history of the [*Peshmergas*] is essential, however, to discovering fully the history of Kurdish nationalism in Iraq. The role of the [*Peshmergas*] would become an essential piece in defining what the Kurdish struggle has been and what it will continue to be.⁹⁹

In the same vein, Charles Tripp argues that *Peshmergas* inevitably influence the composition of the balance of power within the KRG. He also asserts that the *Peshmergas* “...tend[] to lessen its [the KRG’s] commitment

⁹⁵ Gareth R.V. Stansfield *Iraqi Kurdistan : Political Development and Emergent Democracy*, p. 123.

⁹⁶ Michael M. Gunter, *The Kurdish Predicament In Iraq*, Palgrave Macmillan ,March 15, 1999, p. ix, available at: <http://www.books.google.com>.

⁹⁷ Please see 42:20 of the Event Video of “Kurdish Elections: Implications for Iraq and the Region” in Carnegie Endowment on August 26, 2009 with the participation of Qubad Talabany, Joost Hiltermann, Henri Barkey and Aliza Marcus, available at: <http://www.carnegieendowment.org/events/?fa=eventDetail&id=1380> [last visited 02 June 2009].

⁹⁸ *Ibid.*

⁹⁹ Michael G. Lortz.

to radical reforms as it become more closely associated with a pan-Kurdish struggle. Its [the KRG's] activities would be increasingly governed by the logic of guerilla warfare."¹⁰⁰

A good example of the influence of the *Peshmergas* in the history of Iraqi Kurds is the casual mechanism that led to the *Anfal* Campaign and the Halabja gas bombing of the Saddam regime and the role of *Peshmergas* during the Iraq-Iran War. Joost Hiltermann points out:

After all, while Saddam Hussein unequivocally was guilty of crime against humanity by sending his bombers to drop their poisonous load on a Kurdish city, the Kurdish parties [the KDP and the PUK] played a role that can not be ignored—one that is actively being questioned by people in Halabja and beyond. For the rest of Iraq, it was Iraqi Kurds, who voluntarily chose to ally themselves with Iran during the existential Iran-Iraq War, and it was they who guided the Iranian troops into Iraqi territory to wipe out the Iraqi forces and liberate Halabja region. However, justified the wartime alliance may have given the Iraqi regime's extreme brutality, the *Peshmergas* made a gamble, knowing full well that what the regime was capable of doing, and would do, in reprisal against the defenseless townspeople.¹⁰¹

That is why there has been an everlasting dissent and outrage in the Halabja region against the Kurdish politicians and *Peshmerga* commanders. For instance, on March 16, 2006, local people from Halabja set fire to the KRG monument to commemorate the Halabja victims. They did this because of their anger at the cynical exploitation of their plight by Kurdish politicians.¹⁰² During the street protests, local people protested bad governance and corruption, and alleged that the donations for Halabja had never reached them.¹⁰³ During the three-day riot, the *Peshmerga* forces

¹⁰⁰ Charles Tripp, *A History of Iraq*, New York, Cambridge University Press, 2007, p. 157.

¹⁰¹ Joost Hiltermann, *To Protect or to Project*.

¹⁰² Amanj Khalil, "Halabja Protesters May Face Death Penalty", March 24, 2006, available at: <http://www.ekurd.net/mismas/articles/misc2006/3/kurdlocal128.htm> [last visited 10 October 2009].

¹⁰³ Lydia Khalil, "Internal Divisions Threaten Kurdish Unity", *The Jamestown Foundation Report, Terrorism Monitor* Volume : 5 Issue : 5, March 16, 2007, available at: http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=1042 [last visited 12 September 2009].

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opened fire on the protesters, which ended with the killing of one protester and the wounding of eight others.¹⁰⁴

It is also worth noting that the *Peshmerga* units, operating as the regional guards of the KRG, have been responding to their respective KDP and PUK commanders and are entrenched in positions they intend to defend along the border of disputed territories.¹⁰⁵ Specifically, in the northern part of Kirkuk, the *Peshmergas* operate as part of the 10th Regional Guard Brigade under the command of PUK's General Sherko.¹⁰⁶ The KDP and the PUK have their own elite security and intelligence units other than *Asayeesh*. Additionally, the KRG-contracted foreign security companies have been active for years.

As dangerous confrontations of the *Peshmergas* and the Iraqi National army in Kirkuk, Ninewa and Khanaqin have shown, the tense face-off could inadvertently spark broader conflict in the absence of swift and accurate communication and strong political leadership.¹⁰⁷ Kyle Madigan states:

Kurdish [*Peshmerga*] forces, also tied to the parties, operate with impunity as well. Kurds quietly speak about [*Peshmerga*] forces seizing goods imported by the few humanitarian organizations operating in Kurdistan for their own personal use. As the [*Peshmerga*] cruise across the region in new pickup trucks and land cruisers — all sans license plates — their authority is not questioned. The political and security apparatuses are further complicated by tribal loyalties that impede the establishment of the rule of law.¹⁰⁸

Then, how will the *Peshmerga* commanders, notoriously known for their hawkish and nationalist rhetoric over Kirkuk, react to the changing political landscape in the Kurdish region? Are they currently ready for a

¹⁰⁴Patrick Cockburn, "Hundreds Protest as Kurds Remember Halabja Attack", March, 17, 2006, available at: <http://www.independent.co.uk/news/world/middle-east/hundreds-protest-as-kurds-remember-halabja-gas-attack-470206.html> [last visited 12 September 2009].

¹⁰⁵ International Crisis Group Report No: 88, *Trouble Along the Trigger Line*, p. 13.

¹⁰⁶ Ibid. Please also see the Kirkuk Map.

¹⁰⁷ Ibid.

¹⁰⁸ "Iraq: Corruption Restricts Development in Iraqi Kurdistan," Radio Free Europe/Radio Liberty, Apr. 29, 2005, available at: <http://www.rferl.org/content/article/1058690.html> [last visited 12 September 2009].

compromise, which could be seen as a sign of weakness by their grassroots constituents, over Kirkuk? Could they play another ‘gamble,’ which would perfectly fit their dreams but not fit the realities on the ground? Could President Barzani politically mobilize the *Peshmerga* commanders to influence the Kurdish parliament and to push for Kirkuk more aggressively?

c. Political Rivalry between the KDP and the PUK for the advantage in Kirkuk

Kirkuk is not only a problem between Baghdad and the KRG; it has also been a great source of conflict between the KDP and the PUK since April, 2003, the starting date of the de facto control of Kirkuk by Iraqi Kurds. For instance, Linda Robertson conveys an anecdote from Colonel Charles Cleaveland, then the commander of the 10th Special Forces (SF) group of the U.S., who was surprised by how quickly tensions escalated during the coordination meeting for the control of Kirkuk in April 2003 – his surprise turned to shock when he saw Massoud Barzani leave the meeting room, and the *Peshmergas* from the KDP and the PUK pointed their rifles at each other, determined to shoot one another.¹⁰⁹ In the same vein, according to Hosyar Zebari, an Iraqi Kurd with PUK lineage and the current foreign minister of Iraq, entry to Kirkuk on April 9, 2003, was a unilateral move of the PUK.¹¹⁰ Massoud Barzani, meanwhile, expressed irritation at the PUK’s distinct violation of the agreement with the U.S., asserted “[w]e complied and did not enter so as not to damage Kirkuk’s identity. But the entry made me apprehensive about the city’s future.”¹¹¹ There is no need to guess why Barzani became apprehensive about the future of Kirkuk when the PUK entered the city. Michael M. Gunter argues that it would have been “a big political victory for whichever Kurdish group [KDP or PUK] brings it [Kirkuk] into the Kurdish region...[but] it will also upset the balance of the North” between the two parties.¹¹² Liam Anderson and Gareth Stansfield assert that the KDP pursued a harder line on bringing Kirkuk into the KRG.¹¹³ They also, agreeing with Gunter, mention the existing tension

¹⁰⁹ Linda Robinson, p. 332.

¹¹⁰ Liam Anderson and Gareth Stansfield, *Crisis In Kirkuk*, p. 92.

¹¹¹ *Ibid.*, p. 93.

¹¹² Michael M. Gunter, “Intra-Kurdish Disputes in Northern Iraq”, *Terrorism Monitor*, Volume 5, Issue 9 (May 10,2009), The Jamestown Foundation, available at: http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=4148 [last visited 12 September 2009].

¹¹³ Liam Anderson and Gareth Stansfield, *Crisis In Kirkuk*, p. 93.

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within the leadership of these two parties and their grassroots. Namely, while the Kurdish leaders are trying to keep the political balance, the grassroots are keen to enter Kirkuk before the other party can.¹¹⁴ Lydia Khalil states that the political rivalry of the KDP and the PUK over Kirkuk is to extent that these parties continuously change the color of the bridges in Kurdish-populated districts of Kirkuk to demonstrate their power.¹¹⁵ It is evident that when the issue becomes the political control of Kirkuk, there is an internal partisan stress between the party leaders and the grassroots which could destabilize the Kurdish politics.

d. The Continuation of Two-Headedness in Governing¹¹⁶

The intra-Kurdish war in the period of 1994–1998 still reflects the multiple fault lines that exist in Kurdish politics. The political rivalry between rural and urban areas, between tribal and more traditional associations represented by the KDP and socialist references represented by the PUK, not only illustrate the territorial divisions but also include the socio-economic and political divisions in the Kurdish political identity. Therefore, the question of how two political parties, which are evenly matched in terms of military strength and popular support, could coexist in one small region, requires attention. As Gareth Stansfield explicitly lays out “[i]f there is one clear lesson to be learned in the 1990s, it would be that the KDP and the PUK have difficulty coexisting peacefully when asked to work closely together. Mistrust continues to be palpable, and competition underlies the entire relationship.”¹¹⁷ He also asserts “[t]he future stability of the Kurdish region, therefore, depends upon accommodating both parties within a political structure that does not encourage them to compete.”¹¹⁸ By pointing out the lingering divisions within the KRG, Michael M. Gunter asks this question: “Can the KRG really become an independent actor, or will it

¹¹⁴ Ibid., p. 54.

¹¹⁵ The green is the color of the PUK and the yellow is the color of the KDP. Lydia Khalil, “*Stability in Iraqi Kurdistan: reality or Mirage?*”, p. 20.

¹¹⁶KRG official website, “KRG Unification Agreement”, available at: <http://www.krg.org/articles/detail.asp?nr=223&lngnr=12&anr=8891&smap=02010100> [last visited 12 December 2009].

¹¹⁷ Gareth Stansfield, *The Future of Iraqi Kurdistan*, University of Pennsylvania Press, 2006, p. 205.

¹¹⁸ Ibid., p. 206.

remain basically a front for the KDP and PUK? For now, it is clear that the two parties still hold the ultimate power.”¹¹⁹

To prevent the ‘two-headedness’ in the governance and turning the KRG into an independent actor, the Unification Agreement was signed between the KDP and PUK in 2006. According to this agreement, the position of vice president was established for the PUK (Article 1).¹²⁰ Moreover, it stipulated that the ministries of Finance, *Peshmerga* Affairs, and Interior of the KDP and the PUK should unite within one year (Article 5).¹²¹ However, as of today, the unification of these ministries still has not been achieved and this unification process has been the primary source of conflict between these two parties.¹²² There has been no example of the assignment of a KRG official with PUK association in Erbil or Dahuk province or vice versa. Moreover, the fact that both the KDP and the PUK aim to keep their *Peshmergas* within their regions and refrain from the unification of security forces, is a good indicator of a deep confidence problem between these two leading parties.¹²³ Gareth Stansfield states that:

The vestiges of the two de facto Kurdish statelets [small governments run by the KDP and the PUK] are numerous, leading to several structural problems that [the Kurdish politics] need to manage by a process of extensive reform. These include a grossly overstuffed civil service, conflicting legislation in key areas such as personal status law and foreign investment codes, and different cultural practices between civil servants from Irbil and Suleimaniyah.¹²⁴

Lydia Khalil also suggests that the allocation of financial resources, technical problems (such as different deployment systems and mechanisms of budget allocation), the management of finance, different understandings

¹¹⁹ Michael M. Gunter, *Intra-Kurdish Disputes in Northern Iraq*.

¹²⁰ *Kurdistan Regional Government Unification Agreement*, 21 January 2006, available at: <http://www.unhcr.org/refworld/docid/469cdd7a2.html> [last visited 21 February 2009].

¹²¹ KRG official website, “KRG Unification Agreement”, available at: <http://www.krg.org/articles/detail.asp?nr=223&lngnr=12&anr=8891&smap=02010100> [last visited 12 September 2009].

¹²² Lydia Khalil, *Internal Divisions Threaten Kurdish Unity*.

¹²³ Ibid.

¹²⁴ Gareth Stansfield, “Kurdistan-Iraq: Can the Unified Regional Government Work?” *Arab Reform Bulletin* 4, Issue 5 (June 2006).

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of public services, and the salaries of the *Peshmergas* are the fundamental problems that have deadlocked the unification.¹²⁵

e. The Partisan Structures in the Kurdish Society Prevent the Emergence of Pluralist Political Culture

Not only in politics, but also in the other areas in Kurdish society, such as business and academics, appointment and career advancement are largely determined by party affiliation rather than by merit.¹²⁶ Business deals depend heavily on party affiliation and connections that lead to allegations of corruption in many areas.¹²⁷ According to Rebwar Ali, head of the Kurdish Student Development Organization, he asserts that the two-party monopoly extends out of politics and into the academic field as well and continues: "The region is not a civil society, it is a partisan society. The presidents of the universities, the university councils, the deans and heads of the departments should all be members of one of the major parties. Scholarships are only for the party members."¹²⁸ Specifically in Kirkuk, party members ostensibly dominate public organizations – including those run by the foreigners — with personal appointments and seek to force them to hire party members.¹²⁹ The intelligence apparatus runs deep in the society, and torture by security forces is a common practice.¹³⁰ Partisan control of the free media helps perpetuate these abuses.¹³¹

f. The Rivalry among the Kurdish Leaders of Younger Generation

Both the KDP and the PUK use nepotism to fill the critical party positions. It has been speculated that nepotistic wars for the leadership of KDP could occur, after the demise of Massoud Barzani, between Nechirwan Barzani and Masrur Barzani, the son of Massoud Barzani who is currently the chief of internal security for the KDP.¹³² In the same vein, after the

¹²⁵ Lydia Khalil *Stability in Iraqi Kurdistan: reality or Mirage?*, p. 22.

¹²⁶ *Ibid.*

¹²⁷ Michael Rubin *Is Iraqi Kurdistan a Good Ally?*

¹²⁸ Andrew Lee Butters 'Trouble in Kurdistan', *Time Magazine*, March 17, 2007, available at: <http://www.time.com/time/world/article/0,8599,1174457,00.html> [last visited 12 September 2009].

¹²⁹ *Ibid.*

¹³⁰ Michael Rubin, "Is Iraqi Kurdistan a Good Ally?"

¹³¹ *Ibid.*

¹³² Nawshirwan Mustafa, "Reforms in Kurdistan: We and Them – What are the Reasons for Our Disagreements?"

demise of Jalal Talabani, who has been struggling with many serious medical problems, there could also occur the same kind of war between Qubad Talabani and Barham Salih.¹³³ Moreover, Nawshirwan Mustafa and Kosrat Resul Ali are also two leaders in the *Gorran* who have the potential to assume leadership roles in the KRG.

The future of the KDP-PUK relationship - in terms of a continuation of a very fragile cooperation or rivalry - will depend on how much of a say Massoud Barzani and Jalal Talabani have in determining the future of each party and how long they will be able to exert their influence. More importantly, the future of the KRG is highly dependent on the answer of the question of 'who will be the next president of the KRG.'

Reforms, democratization, the emergence of pluralist political culture and culture of compromise inside the KRG will depend on the behavior of younger leaders who will eventually assume power. By the same token, transferring more power and responsibility to the newer political cadre of leaders, who are less experienced and more nationalistic in their approaches, will be problematic.¹³⁴

g. The Absence of Crisis Management Procedures for the KRG Cadres at the Tactical Level

The dangerous confrontations of Iraqi officials/security forces and *Peshmergas* along the disputed territories have been a reality check for the KRG. The steps of managing any prospective tension at the tactical level, reporting the incident to superiors via effective means of communication, and strong leadership to resolve the problem by easing tensions require effective crisis management at the tactical level. For this purpose, the U.S. military set up Joint Coordination Centers in the urban areas of Kirkuk in May 2009 to promote communication, dialogue, and coordination between security forces. Nonetheless, claiming that the KRG had appointed *Peshmergas* with party lineages as liaison, the Iraqi interior ministry in Baghdad withdrew all its personnel from these centers.¹³⁵ According to the International Crisis Report No: 88

¹³³Yonca Poyraz Dogan, Interview with Col. Mithat Isik, Todayszaman News Agency, available at: <http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=156356> [last visited 12 September 2009].

¹³⁴ Lydia Khalil, *Internal Divisions Threaten Kurdish Unity*.

¹³⁵ International Crisis Group Report No: 88, p.14.

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...while neither side [Baghdad and the KRG] stands to benefit from outright combat, and both probably would seek to avert it, they appear unwilling to proactively put mechanisms in place to avoid inadvertent conflict. Furthermore, the two may even see an interest in advancing their own agendas by taking provocative steps, even if they risk igniting a larger conflict.¹³⁶

The persistence of the high-ranking KRG officials to not establish crisis management procedures at the tactical level or to manage any dispute or conflict in and around Kirkuk in a timely and rational manner creates risks for the security of Kirkuk. Only by means of institutionalizing these procedures at the tactical level can any crisis be prevented from increasing and be kept manageable at the higher levels. Therefore, establishing and institutionalizing these procedures – which necessitate training, swift implementation, effective and fast communication in the chain of command, and alternative means of communications to all stakeholders – into the individual soldier can prevent the unintended consequences of any confrontation.

6. Conclusion

Joost Hiltermann states: “In the coming year [2011], Arab-Kurdish tensions can only escalate.”¹³⁷ Already, the security forces of the Iraqi Kurds and the Iraqi National Army are executing probing and patrolling missions in and around Kirkuk.¹³⁸ The implementation of Article 140 of the Iraqi Constitution has been the epicenter of nationalist and inflammatory rhetoric of all stakeholders. Massoud Barzani reiterated one more time in a recent meeting with Ad Melkert, the new head of the UNAMI, that “evading the implementation of this article will only complicate the issue further. If the UN is for an alternative to Article 140, then there will be no progress on this issue.”¹³⁹ Mainly due to this uncompromising stance of the Kurdish officials, efforts to peacefully resolve the contested status of Kirkuk, and other disputed territories, have stalled. Moreover, a draft federal hydrocarbons

¹³⁶ Ibid.

¹³⁷ Joost Hiltermann *Iraq: Everyone Wants a Piece of Kirkuk, the Golden Prize*.

¹³⁸ Please see the attached map.

¹³⁹ Official website of Kurdish region presidency, press release on Massud Barzani and the head of UNAMI in Irbil, available at:

<http://krp.org/eng/articles/display.aspx?gid=1&id=2187> [last visited 12 September 2009].

law, which is very critical to the production and export of oil and gas from existing oil fields, such as Kirkuk's or from newly-tapped fields, has languished because of deep differences between Baghdad and the KRG.¹⁴⁰ More importantly, it is evident that the U.S. influence is on the wane after the signing of the SOFA Agreement, which means that there is little time left for effective mediation on Kirkuk.

More importantly, the terrorists, fully aware of the vulnerability of Kirkuk in ethnic and sectarian terms, have escalated the intensity of their attacks in and around Kirkuk since 2006 to exploit the existing tensions. The U.S. 2nd Brigade Combat Team (BCT), *Peshmergas*, *Asayeesh*, Iraqi Police, Iraqi National Army and all other parties providing security have been incapable of providing effective security for the Kirkukis. The security forces are not only eager to coordinate and cooperate but also are extremely politicized, which have led to the violation of the unity of command and unjust behaviors of the security forces. In terms of effective administration and providing the essential services such as clean water, education and health care, Kirkuk has been one of the most deprived regions in Iraq, mainly because of its contested status. Kirkukis of all origins immediately want a negotiated, peaceful and consensual solution, as well as dramatic improvements in their living conditions through effective governance and reconstruction.¹⁴¹

Kurdish officials argue that violence will increase in Kirkuk if a resolution is not reached immediately. Therefore, the swift implementation of Article 140 is a must for peace in Kirkuk. To achieve this objective, Kurdish officials have been applying a 'creating facts on the ground' strategy. However, there is more likelihood of violence if a resolution for Kirkuk is forced too soon. There is a high need for a 'transitional or cooling off period' for Kirkuk, which could not only absorb the inevitable shock waves in the phase of final resolution but also allow Iraqi politics to take its course. More importantly, the Kirkukis of non-Kurdish origin fear that the KRG will exercise greater influence in the coming months because of geography, demography, and the presence of its security forces in Kirkuk. They might push more aggressively for the immediate implementation of Article 140 by claiming that the increasing tension in Kirkuk is rooted in not implementing Article 140.

¹⁴⁰ Joost Hiltermann, *Iraq: Everyone Wants a Piece of Kirkuk, the Golden Prize*.

¹⁴¹ *Ibid.*

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Then the question is: could a negotiated, consensual and compromise resolution satisfy the political desires of the Kurdish officials running the KRG?

It is evident that since 2005, there has been a trend of centralization in the decision-making of the KRG. Ironically, the Kurdish officials, who have been aggressively pushing for federalism and a decentralized Iraq, have not considered it for the KRG and not applied it within northern Iraq so far. This means that their adherence to the notion of a decentralized state is strictly limited by the status of their region vis-à-vis the rest of Iraq. If the new Kurdish constitution, which has not officially been made public, endows more power to the president - as some assert - then it means that the parliament would be significantly weakened. This would be a very dangerous development, which means the continuation of the trend toward the centralization of power in the Kurdish politics. The only remedy to halt this trend is the emergence of a healthy and 'real' opposition in the newly-elected Kurdish Parliament. This would address the current problems with Baghdad. The control of the Prime Minister will surely be a main source of conflict between the directly-elected, charismatic President Barzani and the Kurdish Parliament. For the first time in the history of the KRG, a strong opposition could emerge with the *Gorran* movement. The need for an increased role for the Kurdish Parliament in Kurdish politics is also a remedy for the lingering divisions within the KRG. Only by means of the increased role and patronage of the Kurdish Parliament can the KRG become a fully independent actor and balance the power of the KDP and the PUK in the bi-partisan Kurdish politics.

The answers to the following questions not only carry utmost importance for the future of Kirkuk, but also would provide reliable guidance for the democratization of the KRG. How would President Barzani tailor his policies? Will he follow more assertive policies or more lenient policies in the post July 25 elections era? To what extent will the Kurdish Parliament be able to play a leading role in Kurdish politics? Will the emergence of a political opposition for the first time in the history of the KRG lead to a more transparent and accountable government?

Unfortunately, the results of the recent national parliamentary elections held on March 7, 2010 in Kirkuk are unlikely to give clues on these important questions. In the March 7 elections, the Kurdistan Alliance, a coalition of the KDP and the PUK, competed against Al-Iraqiyah, headed by

former Prime Minister Iyad Allawi, which ran on a nonsectarian, nationalist platform in Kirkuk. While the Kurdistan Alliance received roughly 50 percent of the total votes in Kirkuk, the votes of Sunni Arabs and Turkmens – estimated at about 30 percent of the total – went primarily to the Iraqiya slate. Consequently, Al-Iraqiyah and the Kurdish Alliance each picked up six seats in the province.¹⁴² For the Iraqi Kurds, the results of the parliamentary elections in Kirkuk – specifically the percentage of the votes that went to the Kurdistan Alliance – clearly confirms their claims on Kirkuk. “This means the majority believe Kirkuk belongs to Kurdistan,” said Khalid Shwani, an Iraqi Kurds Parliament member.¹⁴³ Similarly, “[w]hatever the results of the election are, we as Kurds will not give away the Kurdish identity for the city of Kirkuk,” Adnan Kirkouki, a candidate with the Kurdish alliance, said. He also contended that the fact that the Kurdish alliance remained united in the elections, despite the difference in opinion between the various parties, proved the symbolic meaning of Kirkuk for all Iraqi Kurds, and concluded: “All of them agree on the Kurdish identity of the city.”¹⁴⁴

On the other hand, the fact that the Al-Iraqiyah coalition appeared as an efficient political power in Kirkuk would mean that the divided Turkoman and Arab populations would have a much louder political voice than before. That, in turn, could complicate Kurdish hopes of one day incorporating oil-rich Kirkuk into their autonomous region. Hicran Kazanci, head of the foreign relations department of the Iraqi Turkoman Front, contends that “[d]espite the fact the Turkomans went into the election with different coalitions, on major and essential subjects they are united. For example, about the future status of Kirkuk, all of them are united in opposition toward annexing Kirkuk into any federation. And they are united in making Turkoman one of Iraq's official languages.”¹⁴⁵ Similarly, Mazen

¹⁴²NY Times, available at:

<http://www.nytimes.com/2010/03/27/world/middleeast/27iraq.html?pagewanted=2> [last visited 05 May 2010].

¹⁴³ NY Times, available at:

<http://www.nytimes.com/2010/03/13/world/middleeast/13kirkuk.html> [last visited 05 May 2010].

¹⁴⁴ Reuters, available at: <http://www.reuters.com/article/idUSTRE62M19H20100323> [last visited 05 May 2010].

¹⁴⁵ Turkish Weekly, available at: <http://www.turkishweekly.net/news/100043/iraq-39-s-kurds-lose-political-dominance-in-kirkuk.html> [last visited 05 May 2010].

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Abdul-Jabbar, who headed the Al-Iraqiyah campaign in Kirkuk, argues that they have "restored equilibrium in Kirkuk" with this election. The emergence of the Al-Iraqiyah coalition as an alternative political power in Kirkuk after the elections "is a blow to Kurdish morale," according to the Global Insight Middle East analyst Gala Riani. Then, she contends that: "The Kirkuk dispute will inevitably deepen with time and as it becomes more pressing to resolve the issue. Basically, the closer push comes to shove, the more intense we can expect the dispute to become."¹⁴⁶

A hotly-debated political issue during the parliamentary election campaigns was the Kurdish constitution. Although not made public, the Kurdish constitution has been alleged to place Kirkuk inside the Kurdish region without reaching a peaceful and consensual resolution.¹⁴⁷ Any attempt like this, however, would mean the foreclosure of the option of compromise in negotiations by the Kurdish officials and also would mean the rise of a new nationalist wind in Iraq. Therefore, Kurdish politicians should refrain from these provocative attempts, which could destroy emerging opportunities for the basis of compromise on the Kirkuk problem.

The attitudes and the political stances of younger leaders in Kurdish politics carry the utmost importance for the future of the Kirkuk question, the resolution of which could take years. The imminent danger is the likelihood of the politicization of the Kirkuk question in this rivalry. Any candidate from the younger generation could exploit the highly sensitive Kirkuk question with his inflammatory nationalist rhetoric and hawkish behaviors and would attack the ones who defend a resolution through compromise as "the traitors" so as to guarantee the popular base in the competition. Moreover, less experienced leaders may be too aggressive in their rhetoric and demands over Kirkuk.

It is also noteworthy that in the tribalized and highly militarized Kurdish culture in northern Iraq, the people usually do not like to forge compromises and are inclined interpret them as a sign of weakness, which means that the culture of compromise has not been the subject of mass politics in the region so far.¹⁴⁸ Additionally, the provocative rhetoric of the

¹⁴⁶ Gala, Riani, Global Insight Middle East analyst, available at:
<http://www.reuters.com/article/idUSTRE62M19H20100323> [last visited 05May 2010].

¹⁴⁷ Joost Hiltermann, "Iraq: Everyone Wants a Piece of Kirkuk, the Golden Prize".

¹⁴⁸ David McDowall, p. 16.

hawkish Kurdish politicians and *Peshmerga* commanders has contributed much to this phenomenon to date. Similarly, federalism is an alien concept for Iraqis of all origins, where the previous regimes have ruled with a strong and authoritarian style. Thus, center-periphery relations and the political culture to negotiate each political issue through non-violent means of diplomacy has been a relatively new phenomenon – but extremely important – for Iraq. Thus, both the education of the masses on the culture of compromise and the refrain from putting symbolic meaning on Kirkuk through the media is of significant importance. Without educating the masses on these issues, it is unlikely there will be a political culture open compromise and dialogue among people, which is a must for the perpetual and consensual resolution of the Kirkuk question.

Currently, it is evident that the Kurdish leaders have the dilemma of applying two different strategies. First is to embrace the nationalist rhetoric by being too assertive with their demands concerning Kirkuk and exacerbating the current tension to be able to bring Baghdad to realize the seriousness of their objectives. The second is to pursue a more lenient strategy through negotiations and seek compromise, at the expense of alienating their grassroots and the Kurdish population in Iraq who have already been frustrated by the leadership's failure to fulfill its promise on Kirkuk. Sooner or later, it will be evident that the Kurdish politicians in Iraq will have to choose between the hardcore nationalist rhetoric over Kirkuk and a compromise accord with Baghdad. Then the question is which one of these two could buy peace for the Iraqi Kurds and the Kirkukis of all origins? The balance of power between the Iraqi Kurds and Baghdad within the context of international domestic dynamics and the kind of strategic policies that the Iraqi Kurds could develop will not only settle the Kirkuk question but will also determine the future place of the Kurds in Iraq.

Some Kurdish politicians who seek compromise have consistently looked to Baghdad as the KRG's long-term partner. The new parliamentary balance in the KRG after the July 25 elections has potentially given more strength to the Kurdish advocates of a compromise with Baghdad. Strong U.S. and international pressure would push towards a federal-KRG deal. These factors combined suggest that there may be hope for the beginning of an Arab-Kurdish compromise in 2010 on Kirkuk. Paradoxically, this dispute also holds the potential for political compromise on the future relationship between the KRG and Baghdad. If the Iraqi leaders can get Kirkuk right,

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there is real hope that Iraq can stabilize into something more closely resembling a governable and democratic state.

On the other hand, unfortunately, some Kurdish officials in the KRG have been playing a dangerous game, which would endanger the security in northern Iraq and pose a direct threat to the stability of the region. While they aim to keep the expectations related to the 'independency' high and popular within northern Iraq and ask for more loyalty and self-surrender to their order from the Iraqi Kurds, in order to achieve it, they, at the same time, have been trying to exploit the threat of "independency" as a political wild card to strengthen their bargaining position against the other players in the game such as Baghdad, Turkey, Iran and Syria. Therefore, their push for the unilateral annexation of Kirkuk with nationalist inflammatory rhetoric has served this objective thus far. According to Joost Hiltermann: "It could be of Kurdish interest to provoke confrontation [on Kirkuk] in order to persuade the Americans that if they abandon the Kurds, the consequences would be dire."¹⁴⁹ If so, the Kurdish officials are on the brink of another risky 'gamble,' in which Kirkuk may be a perfect wild card to strengthen the bargaining position of the KRG against Baghdad. Then, their preference about to what extent they, uncompromisingly, could push for this wild card will be extremely significant for the results of the game. It is likely that this risky political gamble would unbalance the very fragile equilibrium of the stability unless it is tailored very precisely. It is also a historically proven fact that once the fragile equilibrium of stability is shattered, the first victims of these changing dynamics have been the innocent Iraqi Kurds living in northern Iraq, who have been demanding nothing more than security, employment, and access to the basic essential services such as shelter, electricity, sanitation, health care and education. Additionally, historically, when the Kurdish politicians think that their political cards against Baghdad are weakening, they immediately threaten to boycott Iraqi politics, and deadlock the legislative and executive branches of the government in Baghdad. This pattern is not only unhealthy for the future of Iraqi politics but also for the domestic politics in the KRG, since this reflex automatically closes the doors of negotiation, engagement and concession.

¹⁴⁹ New York Times, May 17, 2009, available at:
<http://www.nytimes.com/2009/05/18/world/middleeast/18nineveh.html> [last visited 12 September 2009].

According to Liam Anderson and Gareth Stansfield, the option of ‘compromise’ on the Kirkuk question must address three important issues. First, what is the territorial dimension of whether Kirkuk becomes a part of the KRG or remains outside the boundaries of the KRG? Second, what is the administrative status of Kirkuk, whether or not Kirkuk is awarded a ‘special status’ and whether this status is applied only to the city of Kirkuk or to the Kirkuk governorate (with all its districts)? Third, what is the governance of Kirkuk – is it to be governed by some sort of power-sharing mechanism, and, if so, what type of mechanism will this be?¹⁵⁰ To simplify all these assumptions, four options could be proposed. These are: no special status and inside the KRG, no special status and outside the KRG, special status and inside the KRG and special status and outside the KRG.¹⁵¹

This study contends that the ‘no special status and inside the KRG’ option, the best option of no compromise in favor for the Iraqi Kurds, is a highly risky one since the current Kurdish politics, which still have unsettled structural problems, has no capability to manage the burdens of having Kirkuk. It is likely that this option could lead to a brutal conflict and destabilize both Iraq and the region.

The ‘special status and inside the KRG’ option, the second best option for the KRG, is still risky as long as the current domestic political predicaments presented in the second part of this article are not addressed and settled. Specifically, the current pluralist political culture in the KRG-controlled region has still not been a matter of mass politics. The militarized, politicized and partisan trends at the tactical level could cause many ethnic and religious/sectarian confrontations in Kirkuk.

The ‘no special status and outside the KRG’ option, the most desirable option of no compromise in favor of Baghdad, is also risky since the economic and political stakes of all stakeholders in the game are very high. This option also could destabilize the highly sensitive political equilibrium in the Iraqi politics.

This study contends that the ‘special status and outside the KRG’ option is the most favorable option because it opens door for compromise and could be achieved with the consensus of all the stakeholders.

¹⁵⁰ Liam Anderson and Gareth Stansfield, *Crisis In Kirkuk*, p.190.

¹⁵¹ *Ibid.*, p. 191.

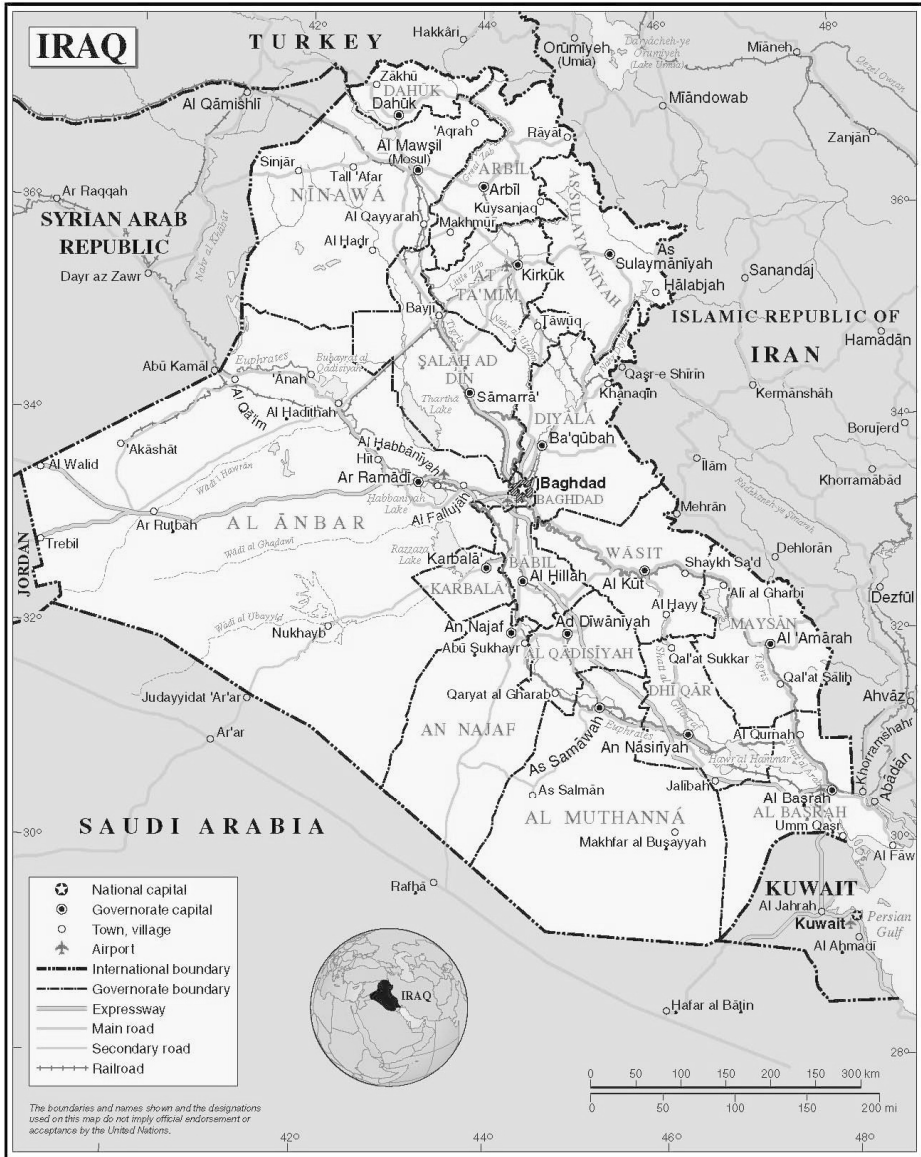
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To implement the last option, the KRG must be helped to get rid of its rigid political system and the influence of the two political parties. Public and international pressure on the democratization of the region and the creation of pluralist political culture could only foster the culture of compromise. The traditional structures and old Kurdish politicians within the KRG should not be allowed to rest on their past accomplishments; instead they should be encouraged to promote political participation.

There is also an immediate need for mediation by third parties to the Kirkuk question. Thus, all stakeholders in the game — specifically the U.S. — should support the efforts of the UNAMI and UNAMI-led process to create a basis for compromise on the Kirkuk problem. Unless it does so, history will judge harshly the capability and willingness of the U.S. to accommodate the 'increased aspirations' of the Iraqi Kurds and the political stakes of Baghdad in Kirkuk — two highly-combustible phenomena rooted in the consequences of the foreign policy decisions of the U.S.

APPENDIX

A. MAP OF IRAQ



Map No. 3835 Rev. 4 UNITED NATIONS
January 2004

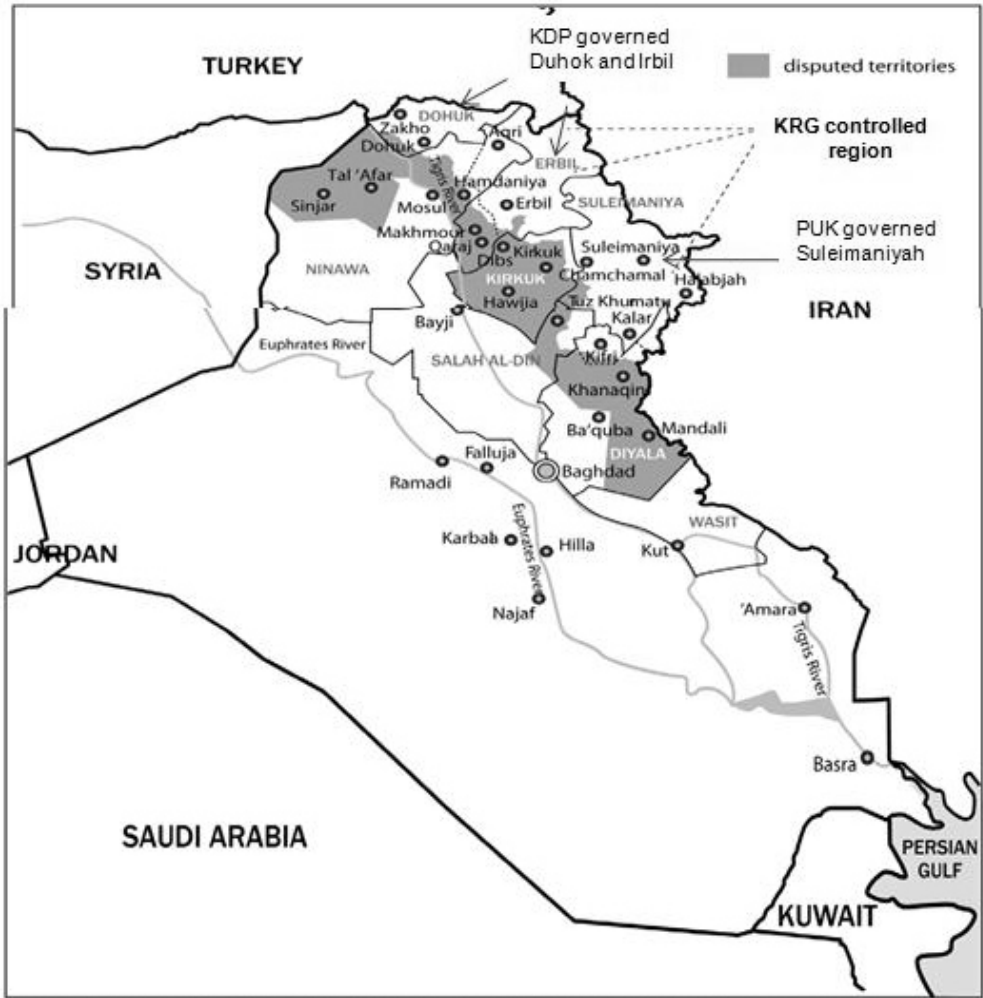
Department of Peacekeeping Operations
Cartographic Section

Figure 1. Map of Iraq that shows the political divisions¹⁵²

¹⁵² From International Crisis Group Report No: 64, *Iraq and the Kurds: Resolving the Kirkuk Crisis*.

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B. NORTHERN IRAQ AND DISPUTED INTERNAL BOUNDARIES



This map has been produced by the International Crisis Group. It is a modified version of a similar map appearing in Crisis Group Middle East Report N°80, Oil for Sale: Toward a Grand Bargain on Iraq and the Kurds (28 October 2006). Only the northern boundary of the disputed territories has been adjusted to add more detail.

Figure 2. Map of KRG controlled northern Iraq and Disputed Internal Boundaries between Baghdad and the KRG.¹⁵³

¹⁵³ From International Crisis Group Report No: 64, *Iraq and the Kurds: Resolving the Kirkuk Crisis*

C. SECURITY FORCES IN/AROUND KIRKUK CITY

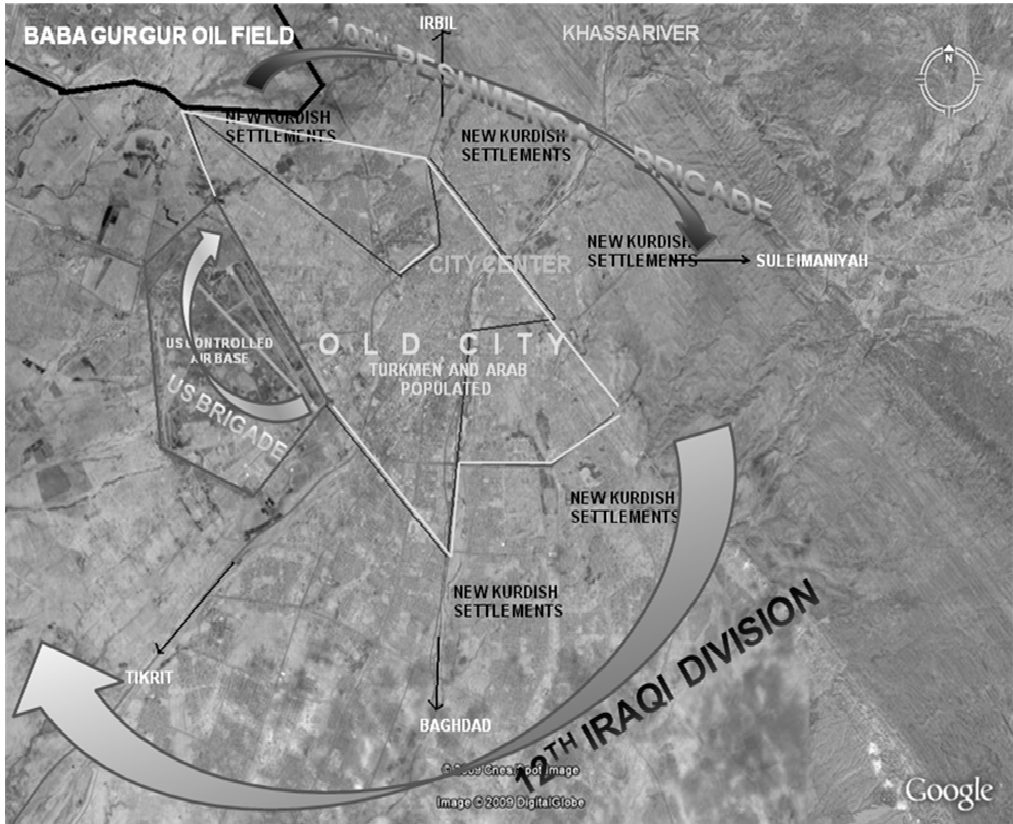


Figure 3. Current Security Forces in/around Kirkuk¹⁵⁴

¹⁵⁴ Prepared by the author.