

# **IRAQ AND THE KURDS: THE BREWING BATTLE OVER KIRKUK**

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## IRAQ AND THE KURDS: THE BREWING BATTLE OVER KIRKUK

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

As all eyes are turned toward efforts to stabilise Iraq, the conflict that has been percolating in Kirkuk remains dangerous and dangerously neglected. That struggle is equal parts street brawl over oil riches, ethnic competition over identity between Kurdish, Turkoman, Arab and Assyrian-Chaldean communities, and titanic clash between two nations, Arab and Kurd. Given the high stakes, the international community cannot afford to stand by, allowing the situation to slip into chaos by default. It needs to step in and propose a solution that addresses all sides' core concerns without crossing their existential red lines. The most viable negotiated outcome, which a special UN envoy should mediate between leaders of Kirkuk's communities as well as representatives of the federal government and the Kurdish federal region, would rest on the following provisions:

- postponing the constitutionally-mandated referendum on Kirkuk's status which, in today's environment, would only exacerbate tensions;
- designating Kirkuk governorate as a stand-alone federal region falling neither under the Kurdish federal region nor directly under the federal government for an interim period;
- equitable power-sharing arrangements between Kirkuk's four principal communities; and
- continued reversal of past abuses, including managed return of those who were forcibly displaced by previous regimes; facilities and compensation for those brought by previous regimes (including their offspring) who agree to leave voluntarily; resolution of property disputes via the established mechanism; and a process by which former Kirkuk districts can either be restored to Kirkuk governorate or remain where they are.

To the Kurds, Kirkuk was always a Kurdish-majority region – shared, they readily admit, with other communities – over which they fought and suffered, from Arabisation to forced depopulation to genocide. In their view, the Baathist regime's removal created an

opportunity to restore Kirkuk to its rightful owners. They have done much in the past three years to encourage the displaced to return, persuade Arab newcomers to depart and seize control of political and military levers of power. Their ultimate objective is to incorporate Kirkuk governorate into the Kurdish federal region and make Kirkuk town its capital.

To the other communities, the Kurdish claim is counterfeit, inspired primarily by a greedy appetite for oil revenue, and they view the progressive Kurdish takeover of Kirkuk as an outrage. To the Turkomans, in particular, the growing Kurdish presence has caused deep resentment, as they consider Kirkuk town historically Turkoman (while conceding that the Kurds are a significant urban minority, as well as an outright majority in the surrounding countryside).

The Kurds' rising power has allowed them to create institutional *faits accomplis* that now threaten to bring the Kirkuk conflict to a vigorous boil. Their prominent role in drafting the constitution in 2005 enabled them to insert a paragraph that ordains a government-led de-Arabisation program in Kirkuk, to be followed by a census and local referendum by the end of 2007. However, while the constitution puts them formally in the right, neither any of Kirkuk's other communities, significant parts of the central government nor any neighbouring state supports these procedures. Turkey, in particular, has indicated it will not tolerate Kirkuk's formal absorption into the Kurdish region, and it has various means of coercive diplomacy at its disposal, including last-resort military intervention, to block the Kurds' ambitions.

Within a year, therefore, Kurds will face a basic choice: to press ahead with the constitutional mechanisms over everyone's resistance and risk violent conflict, or take a step back and seek a negotiated solution.

Passions may be too high to permit the latter course but, on the basis of two years of conversations with representatives of all Kirkuk's communities, as well as of the governments of Iraq, Turkey, the U.S. and the Kurdish federal region,

Crisis Group believes a compromise arrangement that meets all sides' vital interests is attainable.

Failure by the international community to act early and decisively could well lead to a rapid deterioration as the December 2007 deadline approaches. The result would be violent communal conflict, spreading civil war and, possibly, outside military intervention. It is doubtful that an Iraq so profoundly unsettled by sectarian rifts and insurgent violence would survive another major body blow in an area where the largest of the country's diverse communities are represented.

## **RECOMMENDATIONS**

### **To the Government of Iraq:**

1. Invite the UN Security Council to appoint a special envoy charged with:
  - (a) facilitating a negotiated solution to the status of Kirkuk as well as other Kurdish-claimed areas;
  - (b) raising donor funds for Kirkuk's rehabilitation and ensuring their use on the basis of need, not ethnicity;
  - (c) monitoring the parties' compliance with any agreements reached; and
  - (d) reporting regularly to the Security Council.
2. Intensify the process of reversing past abuses in Kirkuk, including:
  - (a) the managed return of people forcibly displaced by previous regimes;
  - (b) facilities and compensation for people brought in by past regimes (including their offspring) who agree to leave voluntarily;
  - (c) resolution of property disputes via the established mechanism; and
  - (d) a process by which former Kirkuk districts can either be restored to Kirkuk governorate or remain where they are.

### **To the Government of Iraq, the Council of Representatives, Representatives of Kirkuk's Communities and the Kurdistan Regional Government:**

3. Indicate the intention to resolve the status of Kirkuk and other disputed territories through peaceful negotiations and commit to moderating rhetoric on this matter.

4. Negotiate with the help of the UN special envoy an interim solution for a defined period, perhaps ten years, along the following lines:
  - (a) broaden the negotiations over Kirkuk to include other Iraqi stakeholders, specifically representatives of civil society, including unions, non-profits and women's organisations;
  - (b) during the scheduled constitutional review process, the council of representatives would set aside the idea of a referendum for Kirkuk and instead draft a charter dealing specifically with that governorate;
  - (c) the charter would grant Kirkuk governorate the status of federal region for a defined period of time; and
  - (d) Kirkuk's four communities would agree on equitable power-sharing arrangements.

### **To the Kurdistan Regional Government:**

5. Prepare the Kurdish public for necessary compromises on Kirkuk and Kurdish national aspirations, including acceptance of Kirkuk governorate as a stand-alone federal region for an interim period.
6. Relinquish directorates in the Kirkuk governorate over which the Kurdish parties took control in April 2003 and cooperate with the UN special envoy in redistributing senior posts in the governorate on an equitable basis.

### **To the Government of Turkey:**

7. Commit to the peaceful resolution of the Kirkuk question and lower rhetoric on this issue.
8. Facilitate trade, especially in fuel products, between Turkey and northern Iraq, for example by opening a second border crossing in addition to the one at Khabur, and promote investment with the Iraqi Kurdistan region.
9. Commit not to send military forces into Iraq or to undertake measures of coercive diplomacy, such as shutting down the Khabur border crossing or the Baji-Ceyhan pipeline.

### **To the Government of the United States:**

10. Lend full diplomatic and financial support to peaceful resolution of the status of Kirkuk and other disputed territories, make this one of its diplomatic priorities in Iraq, and persuade all Iraqi

political actors of the need to pursue a negotiated solution to the Kirkuk question.

- (a) Encourage Iraqi political leaders to promote more inclusive and transparent decision-making around the future of Kirkuk by including a broader group of actors in the negotiations.

**To the United Nations Security Council:**

11. Act on an Iraqi request to appoint a special envoy for Kirkuk, supported by a Security Council resolution outlining the envoy's powers in accordance with proposals in this report.

**Amman/Brussels, 18 July 2006**

## IRAQ AND THE KURDS: THE BREWING BATTLE OVER KIRKUK

### I. INTRODUCTION

Contrary to the expectations and fears of many, Kirkuk has remained largely free of violent ethnic conflict since the April 2003 ouster of Saddam Hussein's regime. It has, however, been inherently unstable. The Kurds, emerging victorious after decades of struggle, have pressed for change in Kirkuk and other mixed-population areas in the north, which they claim as part of the Kurdish region and most of which are rich in oil. Using their new political strength in Baghdad, leaders of the Kurdistan Democratic Party (KDP) and Patriotic Union of Kurdistan (PUK) have helped design a constitutional framework that will not only reverse decades of Arabisation but also facilitate these areas' incorporation into Kurdistan. They believe that this, together with their efforts on the ground to roll back the previous regime's policies (by repatriating displaced Kurds, seizing control over the political, administrative and security apparatus and removing Arab newcomers), will enable them to win local referendums that are to determine the status of Kirkuk and other contested mixed-population areas before the end of 2007.

The brewing crisis in Kirkuk and other contested areas may come to a head in the next months in one of two ways. First, should Kurds intensify efforts to take over these areas, by legal means or by force, they almost certainly will be resisted by other communities, by the central government and perhaps by regional actors. The end-result could be civil war and possibly outside military intervention.

Secondly, the question of Kirkuk is likely to emerge as a major stumbling block in the broader, national political process. The new constitution prescribes a federal system allowing any governorate to become a region or join other governorates to become a region. This provision is opposed by many leaders, including in the Shiite community and should be addressed during the constitutional review process. However, changing the constitution requires the Kurds' consent, which they can be expected to withhold unless they obtain satisfaction

on Kirkuk and other territories they claim. Because the Kurds' acquisition of Kirkuk is a red line for most Iraqi Arabs, this issue may well precipitate a constitutional deadlock, leading to a breakdown of the political process.<sup>1</sup>

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<sup>1</sup> Although Iraqis ratified the constitution in a popular referendum in October 2005, Sunni Arabs massively voted against and nearly defeated it. Shiite parties supported the constitution overall but mostly did not agree with Article 140 on Kirkuk (see below).

## II. COMPETING CLAIMS AND POSITIONS

In a wide belt separating Kurdistan from Arab Iraq and running from Sinjar in the north west, via Tel Afar, Mosul, Kirkuk and Tuz Khurmatu to Khanaqin and Mandali east of Baghdad, Arab, Kurd, Turkoman, Chaldean/Assyrian and Shabak communities have coexisted for hundreds of years. Religiously, they include Sunni and Shiite Muslims of various schools, Christians of several denominations and (Zoroastrian) Yazidis. These communities have intermarried but have maintained their distinct cultures and languages. Rural or urban, tribal or non-tribal, they have lived side by side, with occasional inter-communal conflict but largely at peace. An older generation of Kirkukis fondly recall the days (during the monarchy) when the town was populated mostly by Turkomans and Kurds, with significant Christian and Jewish communities: "It used to be beautiful and very peaceful, a real mosaic".<sup>2</sup>

This mixed-population belt also happens to be rich in oil and gas. One of Iraq's largest oil fields, containing 13.5 billion barrels of proven reserves, 12 per cent of the total, is on the north western outskirts of Kirkuk.<sup>3</sup> Following its discovery in the 1920s, Iraqi regimes, especially in the post-monarchy (post-1958) period, launched a series of Arabisation campaigns to dramatically alter the demographic make-up. These brought in tens of thousands of Arabs – mostly poor Shiites from the south – and either drove out non-Arabs or turned them into Arabs through "nationality correction".<sup>4</sup> Kurds were

affected the most, with large population transfers from the countryside and, during the genocidal Anfal campaign in 1988, extensive killings of villagers especially around Kirkuk.<sup>5</sup>

There are no reliable population figures. Iraqis distrust the decennial censuses, which the former regime was known to manipulate. Moreover, non-Arab Iraqis in strategic areas such as Kirkuk were pressed to enter their ethnicity as Arab.<sup>6</sup> Kirkuk's population today is thought to be close to 1.5 million in the governorate, including some 800,000 in the capital.<sup>7</sup> In 1957, before Arabisation, census figures – considered reliable – suggested that Kurds were a plurality in the governorate, though not in Kirkuk town, where Turkomans predominated.<sup>8</sup>

Their history (as they construct it) and recent experiences colour the four main communities' views of their rights in and to Kirkuk.<sup>9</sup>

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<sup>2</sup> Crisis Group interviews, Ibrahim Taha, Amman, 20 June 2006, and Nezir Kirdar, Istanbul, 29 May 2006. Although Kirkuk town also had a small Arab population, most of the governorate's Arabs lived in rural areas, especially towards the west and south.

<sup>3</sup> Kirkuk governorate has six oil fields, only four of which are currently productive. While Kirkuk's oil wealth is substantial, according to a report by Iraq Revenue Watch, "its accumulated production [since 1934] until now has attained 62 per cent of the original reserves existing in the field. That means that this super giant field is at the final stages of its life and that its current daily production capacity, amounting to about 470,000 barrels daily, will plunge to about half of that ten years from now, and to less than 100,000 barrels a day 25 years from now". Kamil al-Mehaidi, "Geographical Distribution of Iraqi Oil Fields and Its Relation with the New Constitution", Revenue Watch Institute, May 2006, at <http://www.iraqrevenuewatch.org>.

<sup>4</sup> Nouri Talabany, *Arabization of the Kirkuk Region* (London, 1999); Tariq Muhammed Saeed Jambaz, *Ethnic Cleansing (Nationality Adjustment) of the Kurds and Turkomans in Kirkuk* (2003, in Arabic); John Fawcett and Victor Tanner, "The Internally Displaced People of Iraq", Brookings,

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Washington DC, October 2002, at <http://www.brookings.edu>; and "Iraq: Forcible Expulsion of Ethnic Minorities", Human Rights Watch, New York, March 2003, at <http://www.hrw.org>. For a collection of Iraqi secret police documents, see Patriotic Union of Kurdistan, *Ethnic Cleansing Documents in Kurdistan*, in three parts (Kirkuk, 2004).

<sup>5</sup> "Iraq's Crime of Genocide: The Anfal Campaign against the Kurds", Human Rights Watch, New York, 1995, a report version of which can be found at <http://www.hrw.org/reports/1993/iraqanfal>.

<sup>6</sup> "In the 1977 census, Christians were forced to register as Arabs. In 1987, I was one of the census-takers and I was instructed to enter 'Arab' for anyone whose form I filled out, not even asking for that person's ethnicity. In 1997, Kurds and Turkomans were told they could buy cars and homes or get government jobs only if they registered as Arabs. It was the last census and the worst one of all". Crisis Group interview, Feyha Zein al-Abdin al-Bayati, head of the Turkoman Women's Association, Baghdad, 17 June 2006.

<sup>7</sup> Unofficial figures provided by Western official, Crisis Group email communication, 19 June 2006.

<sup>8</sup> The official Iraqi population census in 1957 indicated that the Turkomans predominated in Kirkuk town (45,306, versus 40,047 Kurds and 27,127 Arabs) but lagged behind both Kurds and Arabs in the districts (38,065 Turkomans, versus 147,546 Kurds and 82,493 Arabs). In Kirkuk governorate overall, the Kurds were the largest group (187,593), with the Arabs second (109,620) and the Turkomans third (83,371). Iraqi Republic, Ministry of the Interior, Population Registry Directorate (*Mudiriyet an-Nufous al-'Aameh*), "Aggregate Census Figures for 1957, Governorates of Suleimaniyeh and Kirkuk" [*Al-Majmou'eh li al-Ihsa'iyeh li-Tasjil 'Aam 1957, Liwa'ay as-Suleimaniyeh wa Kirkouk*], p. 243 (in Arabic). Iraq was still a monarchy in 1957 but the census results were published after the 1958 coup by the republican government.

<sup>9</sup> For an earlier discussion of these communities' duelling narratives, see Crisis Group Middle East Report N°10, *War in*

## A. THE KURDISH NARRATIVE

While Kurds recognise the mixed character of Kirkuk and other areas they claim (referred to as “disputed areas” in the new constitution), in their public discourse they have insisted that Kirkuk is an integral part of Kurdistan. In so doing, they have resorted to geographic rather than ethnic criteria: Kirkuk, they say, is not a Kurdish but a “Kurdistani” town and region. They routinely deny a primary interest in Kirkuk’s oil wealth,<sup>10</sup> emphasising instead a historical Kurdish presence. Kirkuk, they say, was an integral part, if not the capital, of the Shahrazour province (*vilayet*) and, later, *vilayet* Mosul during Ottoman times. For example, Dr Nouri Talabany, a Kirkuk native who has written widely on the subject, said: “Kirkuk is not a Kurdish town but it is a part of Kurdistan. The boundaries of Kurdistan are very clear: It is the original *vilayet* Shahrazour of Ottoman times. It always had minorities but it was always known as a Kurdish *vilayet*”.<sup>11</sup>

Moreover, they say (citing the 1957 census), Kurds were a plurality in at least the Kirkuk region (as compared to Kirkuk town) before Arabisation. Furthermore, they paint the Turkomans as relatively recent arrivals and agents of the Ottoman Empire and the “original” (indigenous) Arabs as wandering tribes that settled there only in modern times.<sup>12</sup> They consider both groups, as well as

the small Christian minority, as legitimate residents who are to become protected minorities in Kurdistan.<sup>13</sup> By contrast, they want the “Arab newcomers” (*al-Arab al-wafidin*) to return to “their original areas”.<sup>14</sup> According to them, the January 2005 provincial elections and October 2005 constitutional referendum showed unambiguously that today Kirkuk has a Kurdish majority.<sup>15</sup>

The Kurds contend they have fought hard and suffered grievously for Kirkuk. They say they repeatedly pressed their claim in negotiations with previous regimes and were rebuffed, precipitating a break down in talks and a return to armed insurgency and repression. In their eyes, nothing underscores their right to Kirkuk as strongly as concerted efforts to de-Kurdify it and other mixed areas, culminating in the Anfal campaign in Germian (“the warm areas”), Kirkuk’s rural hinterland, in which tens of thousands of men, women and children were rounded up methodically, machine-gunned and buried in mass graves, far from Kurdistan.

They posit an absolute right of displaced Kirkukis (Kurds as well as others) to return, including children born in exile, and they want predominantly Kurdish districts of Kirkuk that were attached to neighbouring governorates as part of Arabisation to be restored to Kirkuk governorate. Finally, they want Kirkuk to become the capital of their federal Kurdish region, which should also include other areas they consider originally part of Kurdistan and that suffered Arabisation.<sup>16</sup>

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*Iraq: What’s Next for the Kurds?*, 19 March 2003, pp. 18-20; and Crisis Group Middle East Report N°26, *Iraq’s Kurds: Toward an Historic Compromise?*, 8 April 2004, pp. 9-10.

<sup>10</sup> The prime minister for the KDP-run Kurdistan regional government, Nechirvan Barzani, for example, told Crisis Group: “Kirkuk is important to some people because it has oil and natural resources. For us this is not the case. For us Kirkuk is the symbol of oppression, the denial of rights and injustices that have been committed against our people there”. Interview, Erbil, 27 April 2005. In a subsequent interview, he stated that “oil has so far been a curse for us all”, as it gave rise to Kirkuk’s Arabisation, and proposed to “separate the issues of territory and oil” by offering to share oil revenues. Nechirvan Barzani, “Why Kurdistan insists on Kirkuk”, *The Financial Times*, 16 August 2005.

<sup>11</sup> Crisis Group interview, Erbil, 18 March 2005.

<sup>12</sup> In the words of a Kurdish official, “Kurdistan was *vilayet* Mosul; it was attached to Arab Iraq in 1925. Kirkuk was insignificant until oil was found [in 1927] but it is historically on Kurdish land”. Crisis Group interview, Amman, 27 March 2006. Another Kurdish official stated that Kirkuk was the centre of Shahrazour region in the eighteenth century, that as such it was a Kurdish town and that despite the fact that many Kurds declared themselves to be Turkomans during Ottoman times and the Ottomans introduced the Kizilbaş (Shiite Turkomans) into Kirkuk, the Kurds retained a demographic plurality throughout the Ottoman period. Crisis Group interview, Nasih Ghafour Ramadan, a member of the Kurdistan regional

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assembly for the KDP, Erbil, 1 April 2006. For a discussion, see Talabany, op. cit.

<sup>13</sup> Nasih Ghafour Ramadan, for example, stated: “We have no problems with the Turkomans and Arabs who lived in Kirkuk before 1957, or 1963. They are Kirkukis. The Arab tribes are not originally from Kirkuk but they settled a long time ago and became Kirkukis”. Crisis Group interview, Erbil, 1 April 2006.

<sup>14</sup> Numerous Crisis Group interviews, Kurdish officials and others, Erbil, Kirkuk and Suleimaniyeh, 2005 and 2006.

<sup>15</sup> Crisis Group interview, Nasih Ghafour Ramadan, Erbil, 1 April 2006. In the 30 January 2005 elections, the Kurdish list obtained 26 out of 41 seats on the Kirkuk provincial council. In the 15 October 2005 referendum, the constitution passed with 62.9 per cent of the votes in Kirkuk governorate. The assumption is that the “yes” vote must be attributed to the Kurds, even though many Shiite Turkomans and Christians probably also voted in favour (see below).

<sup>16</sup> A senior PUK official articulated the claim as follows: “Kirkuk governorate is historically and geographically a part of Kurdistan. We have fought for Kirkuk for 40 years and have entered it twice, in 1991 and 2003. We have been victimised because of Kirkuk: in Halabja and in the Anfal campaign. These atrocities suggest we need our own Kurdish region, which [in addition to the current three Kurdish governorates] must include Sinjar, Zammari, Sheikhan, Makhmour, Khanaqin, as well as a reconstituted Kirkuk governorate”. Crisis Group interview,



The Kurdish claim is inherently contradictory. On the one hand, the Kurds insist that Kirkuk is not a Kurdish but a “Kurdistani” town/governorate. On the other, they fail to explain why Kirkuk should become part of the Kurdish region if, in fact, it is not essentially Kurdish but mixed and has been so for a long time. Nor is it obvious that a historical Kurdish presence in Kirkuk should translate ipso facto into an exclusive Kurdish political claim to the area, especially given the existence of competing claims. The Kurdish claim to Kirkuk, which, as even some Kurdish intellectuals point out, is relatively young (post-Ottoman, and articulated only as part of the national liberation struggle, most powerfully from the early 1960s onward),<sup>17</sup> appears to be no stronger than the others (see below).

Often omitted – or denied – is the belief that, regardless of any historical claim based on continuous habitation and demographic plurality, Kirkuk’s oil wealth would enable Kurdish independence, an aspiration that virtually all Kurds hold deep in their hearts. They know that without Kirkuk, they would govern at most a rump state profoundly dependent on neighbours. With Kirkuk and its oil fields, however, they believe that, while still landlocked, they would have sufficient economic leverage to sustain political independence. True, under the current constitutional arrangement, Kurds would have to share management of Kirkuk’s oil fields with the federal government, but in the absence of a strong central government, or in the event of outright civil war in Iraq, control over Kirkuk’s oil might fall to the Kurds by default.

Kurds hold that other areas they claim – Sinjar, Tel Afar, Zammar, Sheikhan, the eastern part of Mosul, Makhmour, Tuz Khurmatu, Kifri, Khanaqin and Mandali, all of which have significant oil reserves in addition to Kurdish populations of various sizes – are Kurdish from both historical and demographic perspectives and were Arabised by the previous regime. During the 2005 constitutional negotiations, Kurdish leaders presented a map with the boundaries of the desired Kurdistan region. It included Tel Afar, a town and region west of Mosul that Kurdish officials have called a “mixed area, historically on Kurdish

land”<sup>18</sup> – despite its majority Turkoman population; the claim may stem from the need to facilitate Kurdish access to Sinjar from Erbil.<sup>19</sup>

Rhetorically, the Kurds seek not to seize but to “recover” or “restore” these areas. For example, the January 2006 Kurdistan regional government (KRG) unification agreement states: “We must secure and guarantee the historic achievements of our people and the realisation of our full and just rights” by, inter alia, “restoring Kirkuk, Khanaqin, Sinjar, Makhmour and other Arabised areas to the embrace of the Kurdistan Region”.<sup>20</sup>

## **B. THE TURKOMAN NARRATIVE**

To the Turkomans, *vilayet* Mosul was a Turkoman, not a Kurdish, Arab or mixed region.<sup>21</sup> They consider Kirkuk and other towns in the mixed-population belt (for example, Kifri, Tuz Khurmatu, Taza Khurmatu, Altun Kupri and Tel Afar) as originally Turkoman towns that also house other communities. Although there are a number of Turkoman villages in this belt (for example, Bashir), Turkomans recognise they are predominantly an urban group that immigrated during Seljuk and Ottoman times as soldiers, administrators and craftsmen (though sometimes they stretch the argument by positing that Kirkuk has been a Turkoman town for “thousands of years”<sup>22</sup>).

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<sup>18</sup> Crisis Group interview, Amman, 27 March 2006.

<sup>19</sup> According to a PUK official, Tel Afar is important to the Kurds because it offers access to Sinjar and Ba’aj, as well as Syria’s Kurdish region. Crisis Group interview, Erbil, 1 April 2006. The influx of Sunni Arab insurgents and foreign jihadis into Tel Afar and Mosul over the past two years, and U.S. military campaigns aimed at dislodging them, have created such insecurity that most Kurds travelling to Sinjar from Erbil avoid the Mosul-Tel Afar-Sinjar road in favour of a much lengthier journey along back roads.

<sup>20</sup> “Kurdistan Regional Government Unification Agreement”, 21 January 2006, at <http://www.krg.org>. Likewise, the unified Kurdistan regional government’s program of May 2006 states an objective to “recover Kirkuk and other areas peacefully through the democratic process and rule of law”. “Unified cabinet’s program: A bright future for all”, 7 May 2006, on the same website.

<sup>21</sup> According to Ilnur Çevik, a Turkish journalist and entrepreneur with strong ties to the Iraqi Kurdish leadership, Turks and Turkomans think of *vilayet* Mosul as a Turkoman region, excluding in their image strictly Kurdish areas such as Suleimaniyeh, and ignoring the fact that much of Mosul city and surrounding countryside is both historically and currently Arab. Crisis Group interview, Ankara, 31 May 2006.

<sup>22</sup> Crisis Group correspondence from Sati Arslan, 9 June 2006.

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Omar Sayed Ali, member of the PUK Political Bureau, Suleimaniyeh, 17 March 2005.

<sup>17</sup> “The Ottoman Empire was based on religion, not ethnic communities”, explained a lecturer in philosophy. “So the Kirkuk question emerged only in the twentieth century – with the rise of communal conflict... There never was a Kurdistan, but the word gained emotional importance as indicating the Kurdish homeland. It assumed legal significance with the 1970 autonomy agreement, when the region’s borders were set. But these borders have been disputed, especially regarding Kirkuk”. Crisis Group interview, Shaho Saeed, an editor of *Serdam* magazine, Suleimaniyeh, 4 April 2006.

They attribute the strong Kurdish presence in Kirkuk town to urban migration as part of the post-1927 oil boom – in other words, a recent affair – and say that the Turkomans were Arabisation's primary victims, suffering land expropriation and job discrimination, policies they could escape only by registering as Arabs.<sup>23</sup> They deride the notion that Kurds were the previous regime's only victims, saying the Kurds rebelled against "every legal government from the 1920s onward – during the monarchy and every regime since", and accuse them of seeking to "Kurdify" (*takrid*) Kirkuk at the end of the monarchical era.<sup>24</sup>

In the aftermath of the 2003 war, they have openly resented the arrival of displaced Kurds in Kirkuk, claiming that many more settled there than were ever expelled, including Kurds from neighbouring countries.<sup>25</sup> They accuse Kurds of seizing "Turkoman lands" and the U.S. of assisting them as punishment for Turkey's refusal in March 2003 to grant American forces the right to transit Turkish territory.<sup>26</sup> They dismiss the Kurdish claim to Kirkuk as a naked oil grab.<sup>27</sup> Kirkuk, they say, should not be incorporated into Kurdistan, because "it never was a part of Kurdistan"<sup>28</sup> but they do not wish to remain under direct central government control either; instead, they favour a special status for Kirkuk governorate as a federal region.<sup>29</sup>

They also reject the Kurds' claims to other areas they consider historically Turkoman, such as Tel Afar. Muzaffer Arslan, adviser on Turkoman affairs to

President Jalal Talabani, has alleged that Kurds want to change Tel Afar's demography to control its trade, seize its oil and metal resources and open a corridor to Sinjar and the Kurdish areas in neighbouring Syria. Moreover, he said, "the Kurds claim Tel Afar for the same reason they claim Kirkuk, Mosul and Tuz Khurmatu. They want to take as large an area as possible to add to their Dreamland [a stock Turkoman reference to the Kurdish region]. We will yet see the day they will also claim Baghdad – they already are the real rulers there".<sup>30</sup>

### C. THE ARAB NARRATIVE

The native Arabs derive mainly from three nomadic tribes: the Obeid, Jbour and Hadid. Predominant in rural areas west of Kirkuk town as well as the western part of the town itself (for example, the Hadidi quarter), they have shared land for grazing with sedentary agrarian-based groups such as the Kurds. Many deny the extent of Arabisation, including the genocidal nature of Anfal, holding that little more than 10,000 Kurds were displaced – mostly from Kirkuk town in the 1990s. For example, Abd-al-Rahman Manshed al-Asi, an Arab community leader, declared: "We are not opposed to the return of those who were expelled by Saddam. But in the period 1991-2003, the regime expelled a total of 11,856 individual Kurds from Kirkuk governorate", a figure, he said, that did not justify the Kurdish influx since the regime's fall.<sup>31</sup> In the Arab view, Kirkuk is a mixed region that should not fall to Kurdistan but either remain under direct central government control or gain

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<sup>23</sup> For a discussion, see Ershad al-Hirmizi, *The Turkmen and Iraqi Homeland* (Istanbul, 2003); Arshad Al-Hirmizi, *The Turkmen Reality in Iraq* (Istanbul, 2005); and Hasan Özmen, *The Turkomans in Iraq and Human Rights* (Ankara, 2002: in Arabic).

<sup>24</sup> Crisis Group correspondence from Sati Arslan, 9 June 2006.

<sup>25</sup> Crisis Group interviews, Turkoman community leaders in Kirkuk, 2004-2006.

<sup>26</sup> In the words of a Turkoman politician, "the Turkomans are Iraqis first, but Rumsfeld is punishing us for the Turkish parliament's refusal to allow U.S. forces the right of transit in March 2003". Crisis Group interview, Ali Mehdi Sadik, deputy chairman of the Turkoman Ele Party and member of the Kirkuk provincial council, Kirkuk, 22 March 2005.

<sup>27</sup> For example, a Turkoman politician declared: "The only reason the Kurdish people need Kirkuk is oil". Crisis Group interview, Riyadh Sari Kahyeh, head of the Turkoman Ele Party and member of the transitional national assembly, Kirkuk, 2 May 2005.

<sup>28</sup> Crisis Group interview, Ibrahim Beyraqdar, Kirkuk, 1 May 2005.

<sup>29</sup> For example, Tahsin Kahyeh, a leader of the Turkoman Islamic Union in Kirkuk, has stated that "our position is that the best way forward is for Kirkuk to be a separate region" in Iraq. Crisis Group interview, Kirkuk, 5 April 2006.

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<sup>30</sup> Crisis Group email communication, 23 June 2006.

<sup>31</sup> He justified his numbers by stating: "Kurds who were registered in Kirkuk in the 1957 census were allowed by the regime to stay after 1991 but others were expelled to the north, the west or the south. The Baath party was very intent on keeping precise statistics, going from house to house". Crisis Group interview, Kirkuk, 22 March 2005. Arab officials of the Iraqi Organisation for Human Rights and Civil Society in Kirkuk similarly asserted that the regime had expelled a total of 12,000 Kurds, mostly in the 1990s, and that today "there are 354,000 Kurds claiming to be from Kirkuk", including Kurds from Diyala and Nineveh governorates, which they claimed had experienced worse expulsions under the former regime. Using forged documents, they charged, these people are now also coming to Kirkuk: "The only reason is oil". They accused those who were expelled from Kirkuk in the 1990s of either having no Kirkuk IDs or involvement in the bombing of oil pipelines at the time. Crisis Group interview, Mustafa Tamawy, director, and Abd-al-Karim Khalifa, an officer of the same organisation, Kirkuk, 20 March 2005.

special status as a federal region.<sup>32</sup> A community leader stressed the mosaic nature of Kirkuk's population:

There are many cross-communal relationships and friendships. Look at me: I am a Sunni Arab because my father is a Sunni Arab. But my mother is a Shiite Arab, my wife is Turkoman and I was breastfed by a Kurdish woman. I'm an Iraqi first. If I kill a Kurd, I'd be killing my uncle. If I kill a Shiite, I'd be killing another uncle. This is Kirkuk. What you are seeing today, these differences, they are alien to Kirkuk; it's a political phenomenon that will disappear within a year.<sup>33</sup>

The Arabs settled in Kirkuk by past regimes, the majority of whom are Shiite Muslims,<sup>34</sup> in many cases recognise their recent status as residents; some even have indicated publicly (possibly under Kurdish pressure) that they would leave if properly compensated. Many deny they were regime agents, saying they too were victims of its practices, being forced out of their native lands to serve the purpose of Arabisation. Others say they came to Kirkuk as part of normal labour migration because opportunities existed, even if the regime helped with significant incentives. Many, especially the newcomers' offspring, say they no longer have "original areas" to which they could return and want to stay in Kirkuk, under direct central government control. "Kirkuk is a region that makes everyone salivate", said one local Arab leader, "but a solution to the Kirkuk problem is easy to reach. Once the central government decides that Kirkuk should remain an Iraqi town, then these parties that wish us ill will have to shut up".<sup>35</sup>

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<sup>32</sup> "The people who came to Kirkuk through Arabisation want to be governed from Baghdad, whereas the Arabs who are indigenous to Kirkuk want the region to have a special status", said a local Turkoman leader. Crisis Group interview, Riyadh Sari Kahyeh, leader of the Turkoman Ele (Region) Party, Kirkuk, 2 May 2005.

<sup>33</sup> Crisis Group interview, Ahmad Hamid Obeidi of the Iraqi Republican Group, Kirkuk, 19 April 2005.

<sup>34</sup> As part of Arabisation, the previous regime encouraged non-Kurdish Iraqis to move into Kirkuk governorate and other mixed-population areas. Most of those who settled in Kirkuk town were poor Shiites from the south, including people displaced during the Iran-Iraq war. By contrast, Sunni Arabs moved into destroyed Kurdish villages, building new ones in their place and working the land until the Kurds came back in April 2003.

<sup>35</sup> Crisis Group interview, Abd-al-Karim Khalifa, a university lecturer, Kirkuk, 1 May 2005.

## D. THE CHRISTIAN NARRATIVE

Syriac-speaking Christians, be they Assyrians, Chaldeans or Syriacs, date their origins in Kirkuk to the (pre-Christian) Assyrian Empire; in their view, all other communities are interlopers.<sup>36</sup> However, the Christians form such a small group in Kirkuk – an estimated 12,000 in 2006 – that their claims are generally ignored, and, they say, they have suffered expropriation at the hands of both Kurds and Arabs in Kirkuk and elsewhere.<sup>37</sup> Christians are concerned that while the regime's removal brought new job opportunities and the right to study in Syriac, it also brought chaos and a growing assertiveness of Salafist groups that consider Christians non-believers (*kufar*) and are thought to be behind church bombings.<sup>38</sup> They especially fear growing tensions arising from the communal contest over Kirkuk. "Regarding us, the Assyrians, there is no problem, no pressure on us in Kirkuk", said an Assyrian national leader. "But we are concerned, because if there is a crisis, everybody

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<sup>36</sup> Said one Assyrian politician: "We are considered second-class citizens in Iraq, but in fact all the others are guests. This is originally Assyrian land, and we are the original Iraqis". Crisis Group interview, Sargon Lazar Sliwa, local leader of the Assyrian Democratic Movement, Kirkuk, 19 March 2005. In 2003 he told Crisis Group: "We are the original 'castle people' from Kirkuk. Everyone else immigrated". Crisis Group interview, Kirkuk, 8 June 2003. The Assyrian International News Agency (AINA), a mouthpiece for diaspora Assyrians that publishes editorials, refers to Assyrians as "the indigenous people of Mesopotamia (including Iraq), driven to the brink of extinction by genocide", and to Kurds as "genocide deniers and occupiers". AINA, 18 May 2006. Even Kurdish sources acknowledge that Christians constitute Kirkuk's original population. "Kirkuk is a mixed area, but its original people are the Chaldeans", said a Kurdish parliamentarian. Crisis Group interview, Nasih Ghafour Ramadan, Erbil, 1 April 2006. This is an easy concession to make, given the small size of the Christian community and the fact that the Kurds' real opponents in Kirkuk are not the Christians but the Arabs and Turkomans. There may be other motives, as a historical endorsement of the Chaldeans is likely to anger the Assyrians, rivals in the conflict-ridden Christian community.

<sup>37</sup> Christians in the Ein Kawa neighbourhood of Erbil allege that the KDP has pocketed the money offered by the U.S. for expropriating the land on which the new airport was built (and which was an army camp under the previous regime). Crisis Group interviews, Erbil, 2003 and 2004.

<sup>38</sup> See, for example, comments by Kirkuk Archbishop Louis Sako, quoted in "*Iraqi Crisis Report*", Institute for War and Peace Reporting (IWPR), no. 177, 17 May 2006, at <http://www.iwpr.net>. For a discussion of the evolving Salafist tradition in Sunni Islam, see Crisis Group Middle East/North Africa Report N°37, *Understanding Islamism*, 2 March 2005, pp. 3-18.

will pay the price”.<sup>39</sup> And a local Assyrian politician warned:

We are all arming ourselves. We are afraid. There is talk of civil war. Anything could start it. Jalal Talabani said: “Anytime you perform surgery, you have to be very careful, but in Kirkuk we are talking about brain surgery”. A Kurdish man touching an Arab woman, or the other way around, could ignite it. Or provocations, such as flying the Kurdish flag in Arab neighbourhoods. Until now there have been people ready to quiet things down. These people need to be in power, but they are not.<sup>40</sup>

### III. IRAQ’S POLITICAL TRANSITION AND KIRKUK

#### A. USES OF THE KURDS’ NEW POWER

The two principal Kurdish parties, the KDP and the PUK, emerged from the Baath regime’s ouster as among the strongest political actors. Well-organised and enjoying both a fair measure of popular Kurdish support and U.S. backing, they staffed the interim institutions with their top cadres and thus shaped the agenda. Their two leaders, Masoud Barzani and Jalal Talabani, used their positions on the 25-member interim governing Council (July 2003 to June 2004) to influence the drafting of the interim constitution, the Transitional Administrative Law (TAL), in early 2004, including Article 58, which prescribed a reversal of Arabisation, and Article 61 C, which in effect gave the Kurds veto power over the permanent constitution (see below).

In the run-up to the January 2005 general elections, the parties’ power was such that they were indispensable to the transition’s success – a key reason behind the Interim Government’s reluctant, last-minute decision to accede to a demand that displaced Kurds from Kirkuk living in Suleimaniyeh and Erbil could vote in the Kirkuk provincial elections, lest it face a nation-wide boycott. In the event, it was the Sunni Arabs who boycotted the elections. This further strengthened the Kurds’ hand by inflating their representation at both the national and provincial levels and gave them great leverage over the Kirkuk question.

In interviews in January 2004, a year before the elections, several senior KDP and PUK officials readily acknowledged that the Kurds would have to settle the Kurdish question within the boundaries of the Iraqi state and expressed willingness to consider a compromise over Kirkuk.<sup>41</sup> Following the January 2005 elections, however, positions on Kirkuk hardened.

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<sup>39</sup> Crisis Group interview, Yonadam Kanna, leader of the Assyrian Democratic Movement and member of the council of representatives, Baghdad, 25 June 2006.

<sup>40</sup> Crisis Group interview, Sargon Lazar Sliwa, Kirkuk, 19 March 2005.

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<sup>41</sup> See Crisis Group Report, *Iraq’s Kurds*, op. cit., pp. 7-8, 16. In calling for a federal Kurdish region within Iraq, most of these officials did not indicate they had given up hope of achieving independence but noted that Kurdish statehood was not realistic under current circumstances, and they therefore had no choice but to engage in good-faith negotiations to settle the Kurdish question within Iraq. Officials interviewed included the PUK’s Nowshirwan Amin (deputy to Jalal Talabani) and Barham Salih (prime minister of the PUK-administered Kurdistan regional government in Suleimaniyeh at the time), and the KDP’s Sami Abd-al-Rahman (who, tragically, was killed in a bombing two weeks after the interview), Falak al-Din Kaka’i and a third senior official who spoke not for attribution.

A special status for the governorate, clearly negotiable until then, became acceptable only for the duration of Iraq's transitional period and could not be part of a permanent settlement.<sup>42</sup> Moreover, in March 2005 Nowshirwan Amin, deputy to PUK leader Jalal Talabani, who in January 2004 had declared that he favoured a special status for Kirkuk somewhat like that of Brussels in the Belgian state,<sup>43</sup> explained that such a status could only occur within the Kurdistan region.<sup>44</sup> What was new, in other words, was the insistence that Kirkuk be absorbed into the Kurdistan region, perhaps not as its capital and perhaps with some undefined (to be negotiated) power-sharing arrangement, but certainly not with a special status outside the region and least of all under the central government's direct control.

Building on their electoral strength, Kurdish leaders set about shaping the new constitution in 2005, which was ratified by popular referendum on 15 October. Their ambition, both in politics and in constitutional negotiations, has been to maximise the possibility of future peaceful secession by extending their region's boundaries and enhancing its powers and access to resources. The success of this strategy is expressed most vividly in Article 140 of the constitution, which sets a timetable for resolution of Kirkuk's status (see below). Moreover, the TAL's Article 53(C), which prevented Kirkuk, along with Baghdad, from joining a region, does not appear in the new constitution. This deliberate omission enables Kirkuk's incorporation into the Kurdish region by popular referendum.

Surpassing their national electoral success, the Kurds swept the provincial council elections in Kirkuk, thereby dramatically altering the local political landscape. Their list collected 59.19 per cent of the vote, producing an absolute majority of 26 of 41 council seats.<sup>45</sup> The

main Turkoman list, the Front of Iraqi Turkomans (FIT), came in second with eight seats.<sup>46</sup> An amalgam of Sunni Arab politicians, the Iraqi Republican Group (IRG), picked up five. The remaining two went to a small Turkoman coalition, the Islamic and Turkoman Alliance (ITA), and an Arab list, the Iraqi Patriotic Group (IPG), each with just over 3 per cent. Strikingly, not a single party representing a non-ethnically-based platform made any headway.<sup>47</sup>

The Kurdish victory in Kirkuk translated into stalemate, not an ability to dictate policy. As soon as council members took their seats and the council held its first sessions, communal tensions, exacerbated rather than mitigated by the Kurdish avalanche, boiled over. The Kurds' insistence on proceeding in the Kurdish language, without interpretation, prompted a walk-out by other members.<sup>48</sup> Moreover, key positions remained unfilled, as Arab and Turkoman politicians, who conceded to the Kurds the right to appoint a governor, insisted they would boycott meetings until they received the positions of deputy governor and council president.<sup>49</sup> Deadlock has

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of Iraq (IECI). Seat allocations were based on adjusted figures once the votes given to parties that failed to cross the 3 per cent threshold were eliminated. For Iraq's national and provincial election as well as referendum results, see IECI's website, <http://www.ieciraq.org>.

<sup>46</sup> The Front of Iraqi Turkomans (*Jabhat Turkman al-Iraq*, FIT) is not to be confused with the Iraqi Turkoman Front (*Al-Jabhat al-Turkmaniya al-Iraqiya*, ITF). The latter is an umbrella group of Iraqi Turkomans established by Turkish Special Forces in the mid-1990s as a proxy in Iraq, whereas the former was a list assembled specifically for the 2005 elections, comprising ITF members as well as politicians of several other Turkoman parties. See also, Crisis Group Middle East Report N°35, *Iraq: Allaying Turkey's Fears Over Kurdish Ambitions*, 26 January 2005, pp. 10-11.

<sup>47</sup> A majority of Kirkuk's parties claim to be multi-ethnic and non-sectarian. In reality, most feature at most a handful of members from other communities but tend otherwise to be rooted firmly within their own community. For example, an IRG official said that his party was "non-sectarian and non-ethnic", including Turkomans and Shiite Arabs in addition to Sunni Arabs, but that, "unfortunately, due to the abnormal situation in Kirkuk, most of the party's members are indigenous Kirkukis, meaning Sunni Arabs". Crisis Group interview, Ahmad Hamid Obeidi, Kirkuk, 19 April 2005.

<sup>48</sup> One council member, Sylvana Buya Naser, was reported as complaining: "I don't object to Kurdish, but the language used should be understood by all members". *Los Angeles Times*, 27 March 2005. It is remarkable that the Kurds succeeded in alienating this Assyrian council member, who ran on the Kurdish list. Reactions from the Kurds' adversaries on the council were much stronger.

<sup>49</sup> Crisis Group interview with Ali Mehdi Sadik, Kirkuk, 22 March 2005. See also, Soran Dawde, "Kirkuk Council Split on Roles", *Iraqi Crisis Report*, IWPR, no. 121, 18 April 2005, at <http://www.iwpr.net>. A PUK official told Crisis

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<sup>42</sup> The PUK's representative in the U.S., Qubad Talabani, told Crisis Group: "Special status is okay during the interim period only. Kirkuk's permanent status should be decided in a referendum once the governorate has been reconstituted". Interview, Washington DC, 1 March 2005.

<sup>43</sup> Crisis Group interview, Suleimaniyeh, 15 January 2004. The position concerning Brussels seems to be mostly rhetorical, focusing on the idea that Brussels is a region within Belgium with its own governing arrangement. It can be assumed that any such arrangement in Kirkuk would differ significantly in detail.

<sup>44</sup> He said: "I'm still with the idea of a special status for Kirkuk. Kirkuk would have to be incorporated into the Kurdistan region but there would be a special way of dealing with the allocation of administrative posts. We don't want to monopolise the administration of Kirkuk". Crisis Group interview, Nowshirwan Mustafa Amin, Suleimaniyeh, 17 March 2005.

<sup>45</sup> These percentages were calculated on the basis of voting figures provided by the Independent Electoral Commission

continued in 2006. Arabs and Turkomans consented to having only the deputy governor position but could not agree among themselves who should fill it. And while they participate in council discussions, they usually absent themselves during a vote so as not to legitimate the result. Thus, the Kurds are left with decisions reached unilaterally and by default that, given ethnic tensions and violence, they have found difficult to implement except in their own neighbourhoods.<sup>50</sup>

During this time, Kurdish parties have progressively seized control over Kirkuk security forces, dominating the army and police and running their own intelligence and security services.<sup>51</sup> They also dominate the civil service,

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Group in March 2005 that he preferred a coalition government for Kirkuk but that the Kurds would go it alone if negotiations broke down. The sticking point, he said, was the potential coalition partners' opposition to the Kurds' insistence they subscribe to their position on swift implementation of the TAL's Article 58 (mandating a reversal of Arabisation) and, more controversially, the "return" of Kirkuk governorate to the "region of Iraqi Kurdistan". Crisis Group interview, Ahmad al-Askari, member of the Kirkuk provincial council for the Kirkuk Brotherhood List, Kirkuk, 20 March 2005. Another Kurdish politician went so far as to say that even the Arab and Turkoman candidates for the positions of deputy governor and council president would have to satisfy this condition and that, since they were unlikely to do so, an Arab and a Turkoman on the Kurdish list should be selected instead. Crisis Group telephone interview, Hasib Rozhbayani, assistant governor of Kirkuk for resettlement and compensation, 22 March 2005. U.S. officials in Kirkuk urged the Kurds to be "as inclusive as possible" in the appointment of senior administrative and security positions. In the words of a U.S. diplomat, "we hope they will recognise that you can't run this province by poking other people in the eye". Quoted in *The Financial Times*, 9 March 2005. On 21 June 2005 the Kurdish list announced that it had decided on the top appointments in Kirkuk. Abd-al-Rahman Mustafa, an independent Kurd who had served as governor since May 2003 (when he was appointed by the Coalition Provisional Authority) stayed on, and Rezgar Ali, head of the Kurdish list and a senior PUK commander in Kirkuk, became council president. This was a slap in the face of Arabs and Turkomans, who had expected this position would be reserved for them. But the Kurds proved unwilling to concede. "The head of council represents the identity of Kirkuk, so that position should be filled by a Kurd", said a Kurdish leader. "This is not a charity. It is what we gained in the elections". Crisis Group interview, Jalal Jawher Aziz, head of the PUK in Kirkuk and a member of the PUK's Political Bureau, Kirkuk, 19 April 2005.

<sup>50</sup> Crisis Group interviews, Sargon Lazar Sliwa and Abd-al-Rahman Munshid al-Asi, an Arab politician, Kirkuk, 5 April 2006.

<sup>51</sup> A Kirkuk politician said: "The local government controls the police and other security forces. These, and the army, are shared between the communities but the Kurds are dominant. The

having placed loyalists in key positions and paying their salaries out of the budgets of the (parallel) Kurdistan regional governments in Erbil and Suleimaniyeh.<sup>52</sup> Such practices have led to serious frictions between them and other communities in a situation that is already inflamed by armed insurgency and growing criminality.<sup>53</sup>

In pressing their claim to Kirkuk the Kurds have pursued a multi-pronged strategy involving:

- Use of political and institutional power at the national level via legal and administrative decisions aimed at Kirkuk's incorporation into the Kurdish region. Representation at senior levels of the national government and the constitutional committee ensured that Kurdish policy-makers could make use of legal instruments already negotiated, such as the TAL, to create new laws and institutions, such as the Article 58 Commission (see below), devoted exclusively to advancing Kurdish interests in Kirkuk. Likewise, they hope to use Article 140 of the constitution to organise a census and referendum in Kirkuk and other territories they claim before the end of 2007.
- Voicing maximum demands at the outset of negotiations to limit eventual concessions. In drafting the constitution, these included: full Kurdish ownership over oil and gas resources within their region together with export rights, while leaving revenue distribution to be negotiated;<sup>54</sup> a fixed percentage of Iraq's budget (25 per cent<sup>55</sup>); control over regional fiscal policy;

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intelligence services and security police, however, are all Kurds or people allied with the Kurds". Crisis Group interview, Sargon Lazar Sliwa, Kirkuk, 5 April 2006. See also, Tom Lasseret, "Kurds in Iraqi army proclaim loyalty to militia", *Knight Ridder Newspapers*, 27 December 2005.

<sup>52</sup> Crisis Group interviews, Kurdish officials and Kirkuk community leaders, 2005 and 2006.

<sup>53</sup> Security in Kirkuk deteriorated sharply in late 2005 and the first half of 2006, with criminal gangs intimidating shop keepers and professionals. Crisis Group interviews, Kirkuk, 5 April 2006. A series of car bombs on 13 June 2006 caused major havoc and killed at least 25. *The New York Times*, 14 June 2006.

<sup>54</sup> In the words of senior PUK official Omar Sayed Ali: "The precise mechanism for oil revenue-sharing can be determined later but the principle should be clear: that a region owns its natural resources". Crisis Group interview, Suleimaniyeh, 17 March 2005.

<sup>55</sup> The Kurds based their request for 25 per cent of the national budget on their electoral strength in January 2005, suggesting that this figure represented their demographic numbers. The Sunni Arab absence at the polls, however, artificially inflated the results in the Kurds' favour;

key appointments, such as governors and police chiefs; adjustment of the region's borders to annex areas with significant Kurdish populations; retention of their armed forces (*peshmerga*); and veto power over entry of Iraqi troops into their region.<sup>56</sup> Some demands were satisfied: ownership over oil and gas resources, power of appointments and retention of *peshmerga* forces; others were adjusted or dropped: the fixed budget share was kept at 17 per cent, and the federal government retained control over fiscal policy; the issue of a region's veto power over troop entry remained unresolved.<sup>57</sup> The key boundary adjustment demand was postponed, but a mechanism and timetable were incorporated into Article 140.

- Threatening that if Kurdish demands are not met, the Kurdish population may not be as pragmatic as their leaders and instead press for independence. Kurdish leaders cite the presence of the Referendum Movement as evidence of this risk.<sup>58</sup> "The Referendum Movement was set up

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moreover, the Kurds' interpretation assumes that all Kurds voted for the Kurdish list and no non-Kurds did.

<sup>56</sup> Crisis Group interviews, Kirkuk, Erbil and Suleimaniyeh, November 2004 and March 2005. See also, Edward Wong, "Iraqi Kurds detail demands for a degree of autonomy", *The New York Times*, 18 February 2005; and Peter W. Galbraith, "As Iraqis celebrate, the Kurds hesitate", an opinion piece in *The New York Times*, 1 February 2005.

<sup>57</sup> Article 111 of the constitution states: "Oil and gas are owned by all the people of Iraq in all the regions and governorates". The power of appointments is not mentioned under the exclusive or shared powers of the federal government and therefore automatically falls under the exclusive powers of the regions. Article 121(5) provides that regional governments can establish their own internal security forces. Article 110(2), however, gives the federal government the power to formulate and execute national security policy, "including establishing and managing armed forces to secure the protection and guarantee the security of Iraq's borders and defend Iraq". This would suggest that federal troops would be permitted to enter a region to protect the nation's borders. It is likely, however, that the constitution of the Kurdish region, which was still being drafted in July 2006, will include a clause giving veto power over federal troop entry to the Kurdish regional assembly. Crisis Group email communication from Nouri Talabany, an independent member of the assembly and of its drafting committee, 20 June 2006.

<sup>58</sup> On election day, the Referendum Movement placed tables at polling stations in Kurdish areas, giving voters the opportunity to express their support for independence by responding to one question: "What do you prefer: for Kurdistan to stay part of Iraq or to become independent?" The form the movement's members handed out displayed two boxes to be marked, one showing the Iraqi, the other the Kurdish flag. The cumulative results in Erbil, Suleimaniyeh, Dohuk and Kirkuk, as well as Kurdish areas in Nineveh and Diyala governorates, were:

by the PUK and KDP to secure a federal Kurdish region, based on the philosophy: "If you want 100 dollars, ask for 200", explained Azad Shekhany, a Kurdish scholar. "The Arabs are not even accepting federalism [as defined by the Kurds]. So the threat of a referendum on independence should remain".<sup>59</sup>

- Reconciliation of the KDP and PUK, a reiteration of their joint vision of a Kurdistan region within a federal Iraq and further steps to bring about the full integration of the parallel regional governments in Erbil and Suleimaniyeh. In constitutional negotiations, Kurdish leaders realised that only a common front would yield an agreement on federalism as a necessary building block toward incorporating Kirkuk. Repeated delays in integrating the two Kurdish administrations have offered fresh ammunition to non-Kurdish leaders, who argue that rivalry between the KDP and PUK proves that the Kurds are unfit to run their own (single) region. The unification of the Kurdish regional government in May 2006 was only partial but a unified KDP-PUK stance and tight discipline during constitutional negotiations ensured a document largely favourable to their interests.
- Continuing close alliance with the U.S. and UK, calculating that loyalty will be rewarded and that by making common cause with U.S. forces against insurgents, including in Kirkuk, they will persuade Washington that only Kurds can effectively keep the peace there.
- A charm offensive aimed at persuading Kirkuk's other communities that their rights as minorities will be fully protected – as protected, Kurdish leaders say, as are the rights of Turkomans, Christians, Yazidis, Shabak and other minorities currently living in the Kurdish region<sup>60</sup> and, in the case of Kirkuk's Turkomans and Christians, better protected than if they were to stay under central government control. "If we can persuade

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participants: 1,988,061; in favour of an independent Kurdistan: 1,973,412; in favour of a unified Iraq: 19,850; blank: 4,999. Crisis Group email communication from Aso Kareem, member of the High Committee of the Kurdistan Referendum Movement, 7 February 2005.

<sup>59</sup> Crisis Group interview, Azad Shekhany, dean of Suleimaniyeh Technical College and head of the Iraq Property Claims Commission in Kirkuk for several months in early 2004, Suleimaniyeh, 16 March 2005.

<sup>60</sup> "Look at what the Turkomans have here [in the KRG]", said Nowshirwan Amin: "Their own schools and newspapers, participation in government. The same can happen in Kirkuk". Crisis Group interview, Suleimaniyeh, 17 March 2005.

the Turkomans that they would be better off under Kurdish than Arab rule, then a solution in Kirkuk is possible”, said Azad Shekhany. “This will require very hard work.”<sup>61</sup> Perot Talabani, a Kirkuk lawyer with the PUK, suggested that with time the other communities would become accustomed to living under Kurdish rule.<sup>62</sup>

- Last but not least, directing all energies toward speedy return to the status quo ante in Kirkuk ahead of a census and referendum in 2007.

## **B. THE PACE OF “NORMALISATION”**

The key component of the Kurds’ strategy of peacefully annexing – in their view, regaining – Kirkuk and other territories is a process they refer to as “normalisation”, essentially a methodical reversal of Arabisation.<sup>63</sup> The notion was elaborated in the TAL’s Article 58, which contains the following elements:

- return of displaced residents together with restoration of or compensation for lost properties;
- persons settled in these areas by the former regime “may be resettled, may receive compensation from the state, may receive new land from the state near their residence in the governorate from which they came, or may receive compensation for the cost of moving to such areas”;
- creation of employment opportunities to aid those who suffered job discrimination;

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<sup>61</sup> Crisis Group interview, Suleimaniyeh, 16 March 2005. Likewise, the KDP’s Hasib Rozhbayani argued: “Turkomans and Arabs will be well represented in Kirkuk; we have experience with them, and they will have rights. Moreover, the positive changes in the Kurdish region, like women’s rights, will be applied in Kirkuk as well, and so these groups will benefit”. Crisis Group telephone interview, 22 March 2005.

<sup>62</sup> He added: “We are working on making people see that Kirkuk is Kurdish geographically and ethnically – that it is part of Kurdistan. We want to get our rights through conversation, through negotiation, through making people understand, through making Britain, France and the USA see that Kirkuk is really part of Kurdistan and is our right. Maybe the other communities will not like this but who knows, maybe they will accept it in the end. We waited 35 years under Saddam. We can wait another 35, or twenty, years while we are negotiating with the other communities”. Crisis Group interview, Perot Talabani, a Kirkuk lawyer who was a member of the provincial council in 2003-2005, Kirkuk, 25 April 2005.

<sup>63</sup> The agreed starting point of Arabisation is the 1968 Baath coup, although the policy was launched originally after the first – short-lived – Baath coup of 1963.

- cancellation of the “nationality correction” law, which was used in Kirkuk to force Kurds to declare themselves Arabs if they wanted to buy land, receive services or be eligible for civil service or oil sector jobs;
- request for recommendations from the Presidency Council on how to undo the former regime’s manipulation of administrative boundaries; and
- deferral of permanent resolution of the “disputed territories” until after ratification of the permanent constitution.<sup>64</sup>

The constitution ratified in October 2005 embraced these provisions but went further to provide, without detail, a process by which the status of the territories is to be settled. Article 140(2) states:

The responsibility placed upon the executive branch of the Transitional Government stipulated in Article 58 of the Law of Administration for the State of Iraq for the Transitional Period shall be extended and conferred upon the executive authority elected in accordance with this constitution, provided that it completes normalisation, a census and a referendum in Kirkuk and other disputed territories to determine the will of their citizens before 31 December 2007.<sup>65</sup>

Although Article 140 provides no detail about a referendum, or what citizens should express their will about, it should be read in conjunction with Article 58(C), which states: “The permanent resolution of disputed territories, including Kirkuk...shall be consistent with the principle of justice, taking into account the will of the people of those territories”. The implication is that the inhabitants of a disputed territory will have the opportunity to vote on its status in a future federal Iraq.

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<sup>64</sup> The TAL can be found at: <http://www.cpa-iraq.org/government/TAL.html>.

<sup>65</sup> Because of numerous late changes to the constitution, different drafts have circulated. There is no universally agreed final version; each party coalition has its own. The draft submitted to popular referendum on 15 October 2005 is at [http://www.ieciraq.org/final%20cand/Draft%20Constitution\\_2005%5B1%5D.09.20\\_En.pdf](http://www.ieciraq.org/final%20cand/Draft%20Constitution_2005%5B1%5D.09.20_En.pdf). However, this version does not include the last-minute changes concerning the constitution’s early review, and therefore has incorrect numbering. Moreover, the English translation is poor. The original Arabic text of a close pre-final draft is at <http://www.iraqigovernment.org>. Hard copies of one final text are available in both Arabic and English from the National Democratic Institute for International Affairs (NDI). All translations of constitutional text in this report are Crisis Group’s.



Invoking Articles 58 and 140, Kurds have pressed their political partners to get on with “normalisation” in Kirkuk and elsewhere. They insist on Article 58 because they expect to gain a demographic majority in areas they consider traditionally Kurdish and to annex those areas through a simple majority in a local referendum under Article 140. “Once the districts are reattached, it will be clear that Kurds are the majority in Kirkuk”, said the KDP’s Hasib Rozhbayani. “Then the people of Kirkuk will choose to be linked to Kurdistan. The central government will have to accept their decision”.<sup>66</sup>

The Kurds’ efforts have encountered stiff resistance from Arabs and Turkomans in Kirkuk, as well as from a broad sector of Arab opinion throughout Iraq, including influential central government elements. An important reason why Kurds rejected Ibrahim Jaafari’s candidacy for prime minister in 2006 was that during his tenure as head of the transitional government in 2005, he not only did nothing, in their view, to facilitate “normalisation” but did much instead to block it.<sup>67</sup>

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<sup>66</sup> Crisis Group telephone interview, 22 March 2005. Nichervan Barzani, prime minister of the KDP-controlled KRG, told Crisis Group: “The administrative boundaries of Kirkuk should go back to the original situation before the changes and manipulations. Four main districts – Kalar, Kifri, Altun Kupri and Tuz Khurmatu – were detached from Kirkuk and attached to, respectively, Suleimaniyeh, Diyala, Erbil and Salah al-Din. These areas should be reattached to Kirkuk. Then a referendum must be organised among the people of Kirkuk. If the people of Kirkuk decide they want to be with Baghdad, they can be with Baghdad, but if they decide to be part of the Kurdistan region, then they will be part of our region”. Interview, Erbil, 27 April 2005. Barzani’s omission of Chamchamal as one of the districts to be reattached to Kirkuk is a curious one. It could be purely accidental. Alternatively, it could be an attempt at denying the PUK the political edge (over the KDP) it would almost certainly get in Kirkuk if the predominantly pro-PUK district of Chamchamal (currently part of Suleimaniyeh governorate) were to rejoin Kirkuk governorate.

<sup>67</sup> Jaafari was accused of impeding the disbursement of funds allocated by the national budget to the Kurdish region, of taking no steps to empower the Supreme Commission for Normalisation in Kirkuk (established in January 2005 to supervise de-Arabisation; see below), and of otherwise doing little to implement the TAL’s Article 58. Crisis Group interview, an independent Kurdish academic, Erbil, 1 April 2006. A PUK official referred to Jaafari as “anti-Kurdish, whereas he should be the prime minister of Iraq, not of the Shiites, or the Daawa party, or the Sadr family”. He noted especially the sharp criticism levelled at the prime minister following his sudden, unannounced trip to Ankara in late February 2006, where the Kurds suspected him of conspiring with the Turkish government over Kirkuk’s fate. Crisis

Most of Article 58’s directives raise significant complications in interpretation, let alone implementation. For example, while there seems to be little opposition to the idea that those displaced during Arabisation have the right to return home, a vigorous controversy rages over how many Kurds – and to a lesser extent Turkomans – the Baath regime expelled. Arab and Turkoman politicians angrily dispute Kurdish numbers. Ali Mehdi Sadek, a Turkoman member of the elected governorate council, declared that:

Kurds who were expelled from Kirkuk have the right to return [but] many other Kurds have come as well. The population in Kirkuk governorate in 2003 was 850,000. Today it is 1,150,000. Where do these 300,000 additional persons come from? Let’s say this number equals 50,000 families. Only 10,000 Kurdish families were expelled under the old regime. Where do these additional 40,000 families come from?<sup>68</sup>

Arguments that the former regime expelled, or killed, tens of thousands of Kurds from the Kirkuk countryside in the 1980s tend to fall on deaf ears, partly because a large chunk of that countryside had been attached to neighbouring governorates as part of Arabisation and therefore did not formally belong to Kirkuk, partly due to a selective interpretation of the past.<sup>69</sup>

Article 58’s language on the Arabs settled in Kirkuk and other mixed areas is equally controversial. “Arab newcomers should go back to their own areas. It says so explicitly in Article 58 of the TAL”, the PUK’s Nowshirwan Amin told Crisis Group. “Those who accept that Kirkuk is part of Kurdistan – who recognise the

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Group interview, Saedi Ahmad Pirra, Erbil regional head of the PUK, Erbil, 1 April 2006.

<sup>68</sup> Crisis Group interview, Ali Mehdi Sadik, Kirkuk, 22 March 2005.

<sup>69</sup> The campaign to drive rural Kurds from districts belonging (either at the time or previously) to Kirkuk was comprehensive. The rural population was either pushed into vast resettlement complexes (*mujamma’at*) in Erbil and Suleimaniyeh or, during the 1988 Anfal campaign, systematically murdered and bulldozed into mass graves. Human Rights Watch, “Iraq’s Crime of Genocide”, op. cit. At least one Arab politician recognised the removals but blamed these on the Kurds themselves: “The former regime deported Kurds due to the security situation in the country during the Iran-Iraq war”, he said, “when the Kurdish people supported Iran against Iraq”. Crisis Group interview, Rokan Sa’id Ali al-Jubouri, member of the Kirkuk provincial council for the Iraqi Republican Group, Kirkuk, 3 May 2005. Another politician asserted, more typically: “We shouldn’t believe all the Kurdish stories”. Crisis Group interview, Ghassan Muzhir al-Asi, an Arab politician, Hawija, 17 January 2004.

Kurdish national identity of Kirkuk boundaries – can stay”.<sup>70</sup> But claims by some Kurdish leaders notwithstanding, the article does not state that the Arabs who were “newly introduced” must leave. Ahmad al-Askari, a Kurdish politician in Kirkuk, acknowledged that “the TAL does not force [the Arab newcomers] to leave”. But, he added, “if they stay, the problem will remain, and so we will encourage them to go”.<sup>71</sup>

Those in question are mainly Shiite Arabs, mostly living in Kirkuk town, where they received large tracts of public land under the Baathist regime. They are invariably poor, predominating as labourers in the oil industry and as low-level agents in the former regime’s security agencies. This accounts for their unpopularity in Kirkuk even among some non-Kurds, who say that Arab newcomers should “return to their original homes”. Ismail Hadidi, for example, an indigenous Kirkuk Arab on the Kurdish list, advocates orderly departure, with homes and jobs made available in other areas: “It has to be done properly”. Still, he made clear that those who wished to stay should be permitted to do so, including those employed by the Northern Oil Company (NOC), though because of past discrimination, future NOC positions should be offered to Kurds as redress.<sup>72</sup>

By contrast, Arab and Turkoman parties in Kirkuk, as well as most national parties, fear a Kurdish majority in Kirkuk and insist Arab newcomers have the right to stay.<sup>73</sup> “The Kurds want to get rid of the Shiite Arabs in Kirkuk in order to reduce the number of non-Kurds ahead of a popular referendum over the final status of Kirkuk”, said an Arab politician.<sup>74</sup>

The issue also is controversial because many Arab newcomers may not have “original areas” to which to return. Many have lived in Kirkuk for a generation or more, and their children have no knowledge of, nor attachment to, any other area.<sup>75</sup> Moreover, it often is overlooked that many poor Arabs came to Kirkuk simply because its oil industry generated jobs. While the past regime actively promoted their migration by incentives and by excluding Kurds and others from oil sector jobs, such labour migration would have occurred in any economy. Those who moved in search of better conditions were, if anything, pawns of a cynical regime, not criminals who should be sent packing.<sup>76</sup> This may be why Article 58 does not state that Arab newcomers must be deprived of their jobs, even in the oil sector but rather calls on the government to create new jobs in Kirkuk.

Another problem with Article 58 concerns the provision that the Presidency Council recommend how to undo the former regime’s manipulation of administrative boundaries. Though Iraq’s president in 2005 was a Kurd inclined towards getting on with de-Arabisation – Jalal Talabani, who was reelected to a full four-year term after the December 2005 elections – no steps have been taken to establish a mechanism for resolving the Kirkuk boundary question.<sup>77</sup> As a Kurdish official observed, this is a hornet’s nest: Kirkuk’s boundaries are not the only ones politically manipulated by the former regime; even the predominantly Sunni Arab governorate of Anbar, for example, has boundary disputes. To open the Kirkuk question risks generating chaos by opening all others.<sup>78</sup>

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<sup>70</sup> When challenged, he asserted the TAL says so in its Arabic version. The TAL in Arabic, however, uses the word *imkaniyeh* to connote “the possibility” or “may”, not something stronger, let alone compulsory. Crisis Group interview, Suleimaniyeh, 17 March 2005.

<sup>71</sup> Crisis Group interview, Ahmad al-Askari, member of the Kirkuk provincial council for the Kirkuk Brotherhood List and senior member of the PUK, Kirkuk, 20 March 2005. Dr Nouri Talabany went even further: “The newcomers do not have to leave but they will want to. It will not be comfortable for them to stay because they know they do not belong; it will be difficult for them, as Kirkuk will not be a home for them. We have all their names – whoever came after 1968 – from documents seized in Kirkuk after the war”. Crisis Group interview, Erbil, 18 March 2005.

<sup>72</sup> Crisis Group interview, Ismail Hadidi, deputy Kirkuk governor in 2003-2005 and member of the transitional national assembly following the January 2005 elections, Kirkuk, 20 March 2005.

<sup>73</sup> Crisis Group interviews, Iraq, 2003-2006.

<sup>74</sup> Crisis Group interview, Abd-al-Rahman Manshed al-Asi, an Arab, member of the Obeidi tribe indigenous to the region, Kirkuk, 22 March 2005.

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<sup>75</sup> Azad Sheikhyani, an unaffiliated Kurd from a destroyed Kirkuk-area village who briefly served as head of the Iraq Property Claims Commission in Kirkuk, sounded a moderate tone: “Once they give up their ill-gotten properties, the Arabisation Arabs can stay. Most don’t want to leave. They have no homes to go back to; their children grew up in Kirkuk and consider it their home”. Crisis Group interview, Suleimaniyeh, 16 March 2005.

<sup>76</sup> To the extent that any of them committed crimes in their capacity as security agents or otherwise, the local authorities have both the opportunity and duty to investigate and prosecute them.

<sup>77</sup> The Kurds want the following districts to be restored to Kirkuk governorate: Chamchamal and Kalar (both in Suleimaniyeh governorate), Kifri (Diyala), Tuz Khurmatu (Salah al-Din), and Altun Kupri (Erbil). Kalar used to be a sub-district under Kifri. De facto, the Altun Kupri sub-district returned to Kirkuk in April 2003.

<sup>78</sup> Crisis Group interview, Muhammad Ihsan Sleivani, the KDP’s outgoing minister for human rights (subsequently appointed as minister for “regions outside the Kurdistan region” in the unified Kurdish government announced in May 2006), Erbil, 6 April 2006. He added: “This is why we should not focus on this issue now but postpone it till after the referendum in Kirkuk”.

Moreover, a Kirkuk politician asked: “Who is going to sign an agreement on restoring Kirkuk’s original districts? Certainly not the council of representatives! If things were as simple as that, it would not take so long to form a government [following the 25 December 2006 elections]”.<sup>79</sup>

Particularly irritating to the Kurds has been the ineffectiveness of de-Arabisation mechanisms. Although the governing accord signed between the main Shiite and Kurdish lists in April 2005 pledged that the transitional government, within a month of its creation, would start implementing the procedures spelled out in Article 58,<sup>80</sup> Prime Minister al-Jaafari’s government allocated no funding,<sup>81</sup> and nothing has happened since. The “Supreme Commission for Normalisation in Kirkuk [*Hay’at al-Ulya li at-Tatbi’ fi Kirkuk*, also known as the Article 58 Commission]<sup>82</sup> is almost frozen”, said a political leader. “It has done nothing and it cannot do anything. Even if they wanted to decide on something, in the end it is the political blocs that take the decisions behind the curtains”.<sup>83</sup> Its chairman, Hamid Majid Mousa, stressed that a priority should be to bring jobs and economic opportunities so as to reduce tensions but he doubted this would happen soon.<sup>84</sup> Still, there remains

some hope for the committee’s revival under the government appointed in May 2006.<sup>85</sup>

Mousa, the Kurds and many independent observers also have lamented slow progress in the Iraq Property Claims Commission (IPCC), established by the Coalition Provisional Authority (CPA) in January 2004 to help restore confiscated properties to their original owners and adjudicate competing claims. Through the first quarter of 2006, the IPCC had decided only some 21,000 of the more than 131,000 claims nationwide and only just over 4,000 of the roughly 21,000 from Kirkuk governorate.<sup>86</sup> That body, which in March 2006 was renamed the Commission for the Resolution of Real Property Disputes, has been so riddled with institutional problems – controversial leadership, lack of funds, statutory deficiencies, bureaucratic red tape and a shortage of equipment<sup>87</sup> – that the Kurds, the presumed primary beneficiaries, have dismissed it.

“The lack of a process has deflated everything and undermined our credibility with our people”, said Qubad Talabani, the PUK’s representative in the U.S. (Jalal Talabani’s son). “Now we need to relegitimise the

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<sup>79</sup> Crisis Group interview, Sargon Lazar Sliwa, Kirkuk, 5 April 2006.

<sup>80</sup> The text of the agreement between the United Iraqi Alliance and the Kurdistan Coalition List, “Foundations and Principles Agreed by the UIA and KLC Concerning the Operation of the Interim Government”, posted on 13 April 2005, is available in Arabic at: <http://www.iraq4allnews.dk/>.

<sup>81</sup> At the beginning of July 2005, the Kurds launched a torrent of criticism at the Iraqi leadership over the lack of progress in implementing Article 58, with both the Kurdish regional assembly and Kurdish deputies in the transitional national assembly threatening to bring down the Jaafari government if it failed to act. As reported in *Al-Ta’akhi* (KDP daily, in Arabic) and *Kurdistan News* (PUK daily, in Kurdish); *Iraqi Press Monitor*, IWPR, 5 July 2005, available at <http://www.irwpr.net>; and “Kurds pressure Jaafari for Kerkuk”, Cihan News Agency, 8 July 2005.

<sup>82</sup> Threatening a boycott, Kurdish leaders agreed to participate in the January 2005 national elections only after the interim government of Prime Minister Iyad Allawi allowed displaced Kirkuki Kurds living in Erbil and Suleimaniyeh to participate in the Kirkuk provincial election and agreed to set up the Article 58 Commission.

<sup>83</sup> Crisis Group interview, Yonadam Kanna, Baghdad, 25 June 2006.

<sup>84</sup> Crisis Group interview, Baghdad, 26 May 2005. In staking their fortunes on the Article 58 Commission, the Kurds placed their confidence in Mousa, a long-time political ally as leader of the Iraqi Communist Party (ICP). Indeed, when the leadership of the ICP was driven underground and into exile by the Baath regime in the late 1970s and 1980s, they made common cause with the KDP and PUK, setting up guerrilla bases in or near the

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Kurdish villages that these parties controlled during the Iran-Iraq war. It is partly for this reason that the Turkomans do not trust Mousa. Another reason is that they associate the communist party with a massacre in Kirkuk in 1959. Crisis Group interview, Feyha Zein al-Abdin al-Bayati, Baghdad, 17 June 2006. But, in a statement bound to disappoint the Kurds, Mousa told Crisis Group: “Kirkuk will remain an Iraqi town”. Crisis Group interview, Baghdad, 26 May 2005.

<sup>85</sup> Kurdish leader Mahmoud Othman said: “Very soon there will be a committee and a budget. Prime Minister Nouri al-Maliki has promised to do that. Hopefully it will be done soon. I trust Nouri al-Maliki”. Crisis Group interview, Baghdad, 25 June 2006.

<sup>86</sup> Commission for the Resolution of Real Property Disputes, information sheet, 24 April 2006, and Crisis Group interview, U.S. official, Baghdad, 18 June 2006. In a 2005 interview, a U.S. official told Crisis Group that most of the adjudicated cases in Kirkuk involved “low-hanging fruit”, in other words, non-contentious cases whose resolution was relatively easy for the IPCC to effect. Crisis Group interview, U.S. Army Col. Anthony Wickham, Kirkuk, 19 March 2005.

<sup>87</sup> The head of the IPCC’s Kirkuk branch has been accused of pro-Kurdish bias, while the IPCC’s national head in Baghdad was accused of being a former Baathist and was replaced in August 2005. Crisis Group interviews, Kirkuk, March 2005, and Baghdad, June 2006. The deficiencies in the statute were addressed in a series of amendments in March 2006. In one reported incident, officers of the IPCC General Secretariat in Baghdad removed computers from the Kirkuk branch office, saying they needed them. Crisis Group interview, Kirkuk, March 2005.

process of return, but not through institutions such as the IPCC, which has no mandate, no money and no staff".<sup>88</sup>

Moreover, the cardinal problem for the Kurds is not the restoration of confiscated properties but the return of displaced persons to homes and villages that were razed to the ground. This is primarily a political and economic problem, not a judicial one, and so not within the IPCC's mandate. Moreover, the IPCC is not authorised to compensate owners whose homes were destroyed, rather than confiscated and sold, and these are the vast majority of cases in Kirkuk.<sup>89</sup> The Article 58 Commission is mandated to deal with this issue but has been moribund.<sup>90</sup>

Because there has been no progress through established institutions, the Kurds have made every effort to effect changes on the ground in Kirkuk without appearing to violate the letter or spirit of either the TAL or constitution. They have the funds and capacity to settle many displaced Kirkuk Kurds in the countryside, with the help of foreign governments that have supported village rehabilitation. "We have been informally encouraging Kirkukis to return to Kirkuk", said Qubad Talabani. "We provide funding as well as transportation costs, so that it is done in an orderly way. But what we still lack and must have is a viable mechanism to implement the right of return".<sup>91</sup>

IDPs arriving in Kirkuk town have been placed in temporary housing in two locations: the First Army

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<sup>88</sup> Crisis Group interview, Washington DC, 1 March 2005. In similar criticism, Hasib Rozhbayani accused the IPCC of "trying to delay the process at every turn. There is also a lot of bureaucracy and a lot of confusion. There are more than 10,000 cases in Kirkuk, and only 150 are being worked on. Each case, including the appeals process, can take more than eight months. This is going to take many years. We should reform the IPCC's structure and kick out the former Baathists". Crisis Group telephone interview, 22 March 2005.

<sup>89</sup> "In most cases", said a former head of the IPCC in Kirkuk, "there is no property dispute. People's homes were destroyed. Each time a home owner wants to claim compensation, the local government tells them to go to the IPCC but it has no authority to intervene. People feel they are being pushed around and are becoming frustrated". Crisis Group interview, Azad Shekhany, Suleimaniyeh, 16 March 2005.

<sup>90</sup> Other mechanisms set up to stabilise the situation in Kirkuk have similarly failed to yield visible results. For example, the Kirkuk Foundation, created by CPA administrator Paul Bremer in June 2004 as a forum for community and political leaders "to develop a common vision for the Province of Kirkuk" and "help set the conditions for long-term peace and stability in the Province" (speech, Kirkuk, 22 June 2004), never received the \$100 million allocated by Bremer. Figures denoted in dollars (\$) in this report refer to U.S. dollars.

<sup>91</sup> Crisis Group interview, Washington DC, 1 March 2005.

Corps (*faylaq*) headquarters near the airport and Pyenj Ali, on the way to Leilan, a subdistrict east of Kirkuk that leads to the vast rural areas of the Germian region. Living in squalor, these de-ruralised villagers have been a useful instrument through which the Kurdish parties press their case that the international community should facilitate displaced person (IDP) return by providing basic services and infrastructure. However, the slow pace of reconstruction and growing tensions in Kirkuk, resulting in part from the presence of these IDPs, has convinced politicians across the spectrum that the optimal solution would be to induce those expelled from their villages to go back to the countryside rather than settle in town.

According to Mousa, this requires that the federal government rehabilitate the countryside just as the Kurdish regional government did with considerable success in the three Kurdish governorates after 1992.<sup>92</sup> A Turkoman council member agreed: "Those who were expelled from their villages should go back to those areas, and the villages should be rebuilt. The government should create jobs, because when rural Kurds come to Kirkuk town, they add to the unemployment problem, as well as to communal discord (*fitna*) and crime".<sup>93</sup>

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<sup>92</sup> Crisis Group interview, Baghdad, 26 May 2005. Dr Nouri Talabany likewise has called for a government effort to rehabilitate destroyed villages: Rural Kurds who are moving into Kirkuk town from exile "should really be going back to their villages. But to facilitate this return, the government should provide basic services and, to make villages economically viable, group them and set up small industries". Crisis Group interview, Erbil, 18 March 2005. Such a move would be difficult, predicted an international aid worker. "The IDPs do not want to lose their relative quality of life", a reference to the minimal facilities available in the resettlement complexes, especially schools and health centres, as well as proximity to urban areas. "There is little revenue from agriculture in the villages, except on irrigated lands, but in the latter locations farmers pay visits merely to sow and harvest; they do not live on the land". Crisis Group interview, Erbil, 15 March 2005.

<sup>93</sup> He accused the Kurds of working in the opposite direction: "The Kurds do have an interest in rehabilitating the countryside, but the Kurdish parties' primary interest is in incorporating Kirkuk into Kurdistan". Crisis Group interview, Ali Mehdi Sadik, Kirkuk, 22 March 2005. An NGO, International Relief and Development (IRD), has used U.S. Agency for International Development (USAID) funding to help rehabilitate destroyed villages in Kirkuk governorate. IRD estimated in 2005 that "on average about 25-30 per cent of the prior population levels have returned to the villages. Many others have intentions to return but due to a lack of comprehensive support including electricity, water and sanitation, schooling and jobs, have not returned and instead continue to temporarily squat in Kirkuk city". It also predicted that, "by supporting the voluntary return to rural areas, rising ethnic tensions can be reduced". IRD, "Kirkuk Rural

Although some 300,000 Kurds may have returned to Kirkuk and surrounding areas since 2003, the absence of significant central government funding has complicated and delayed the removal of Arab newcomers through compensation and resettlement. Kurdish leaders believe that with additional numbers they can win referendums in Kirkuk and other territories they claim, based, as the constitution mandates, on a simple majority vote.<sup>94</sup> As the pace of the “normalisation” process has shown, however, matters may not be so simple.

#### **IV. OPPORTUNITIES AND CONSTRAINTS**

##### **A. THE KURDS**

Politically and militarily strong, enjoying a moment of internal peace and maintaining strong relations with the U.S., the Kurds have made serious headway, both de jure and de facto, in their ambition to absorb Kirkuk into their federal region. Kurdish leaders express steely confidence their strategy will succeed and have convinced their followers that success is just around the corner, namely by the end of 2007.<sup>95</sup> It is easy, therefore, to overlook the many constraints Kurds face and which they themselves acknowledge only during moments of sober reflection.

First, while Kurds enjoy political strength now relative to the central government, this may not last. Iraq may stabilise and central government may be restored. The Kurds, if they remain united, would then face serious difficulty in pushing through favourable legislation. This is so especially because they have tested the patience of many of their partners in Baghdad and will continue to do so as long as they hold on to maximum positions.<sup>96</sup> Moreover, the Kurds may find strong opponents to their quest to remove Arab newcomers not only among government leaders and Arab Iraqis generally, but also among members of the international community who might well argue on behalf of a citizen’s right to live anywhere in Iraq, including Kirkuk.<sup>97</sup>

Secondly, the Kurds’ military strength is also limited. Tenacious fighters in difficult terrain, they have proven historically weak at controlling the lowlands

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Villages Revitalisation Project”, document provided to Crisis Group in July 2005.

<sup>94</sup> The Kurds cannot be confident they have the necessary majority in Kirkuk as long as displaced Kirkuk Kurds fail to return due to an absence of services, facilities and jobs, and as long as Arab newcomers – even those who have physically left since April 2003 – continue to possess Kirkuk residence and therefore retain the right to vote there.

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<sup>95</sup> There was widespread Kurdish anger about Article 140 of the new constitution, which their leadership touted as a major victory. To many Kurds, the process outlined delayed Kirkuk’s incorporation by an unnecessary two years. Crisis Group interviews, Iraqi Kurdistan, September 2005. On the Kurdish leadership’s raising of community expectations, see Crisis Group Report, *Toward an Historic Compromise?*, op. cit., pp. 17-22.

<sup>96</sup> As one Iraqi policy adviser put it: “Their basic line is that everyone else has to compromise, but they do not intend to move an inch. And they have convinced some important people in the Bush administration to back them on that”. Crisis Group email communication, 1 May 2006.

<sup>97</sup> This point was made by a Sadrist member of the council of representatives: “Kirkuk is an Iraqi town, not a Kurdish or a Turkoman town. Any Iraqi should be able to live in Kirkuk, or in Karbala, or in Suleimaniyeh”. Crisis Group interview, Baha al-Araji, Baghdad, 18 June 2006.

with their main urban centres, particularly the areas of mixed population such as Kirkuk. Although they are rapidly building up conventional forces, a resurgent Iraqi state could roll back their advances in Kirkuk and elsewhere. The Kurds, in other words, may have a strategy for gaining Kirkuk, but how will they retain it?

Thirdly, the Kurds have learned from bitter experience that U.S. patronage could prove fickle. Washington has used them in the past as regional pawns.<sup>98</sup> Given its relationship with Turkey and, for now at least, its support for a relatively strong central state in Iraq, the U.S. could well oppose overly ambitious Kurdish designs. Senior Kurdish leaders “realise full well that in the end the U.S. will sell them out”, said İlnur Çevik, a Turkish journalist and entrepreneur who maintains close links with such leaders.<sup>99</sup>

Fourthly, internal political stability cannot be assumed. Despite a bloody internecine conflict in the mid-1990s, the KDP and PUK have forged a shared vision of the Kurds’ place in Iraq; their remarkable unity and discipline over the past three years accounts for their political successes in Baghdad. But current efforts to reunify their parallel governments – the civil war’s legacy – are proceeding slowly, as mutual mistrust runs deep and wounds of conflicts past still fester.<sup>100</sup> The two parties also differ on the importance of working with the centre: Masoud Barzani, president of the unified Kurdish regional government, puts the KDP’s political weight in Kurdistan, whereas Jalal Talabani, the Iraqi president and PUK leader, has

staked both his party’s and his region’s future on the enduring importance of Baghdad and Iraq.

As new challenges and points of contention present themselves – political dominance in Kirkuk, for example, and access to Kirkuk oil<sup>101</sup> – will Kurdish leaders retain their conviction that only a strategic KDP-PUK alliance can help them retain control over their respective spheres of influence? In private meetings and the occasional media interview, Talabani has repeatedly suggested that compromise – power sharing – on Kirkuk might be possible. His dilemma is that any conciliatory notes on Kirkuk could prompt Barzani to harden his stance and steal support from the PUK, given the high expectation among Kurds, actively encouraged by these same leaders, that Kirkuk will fall into their laps in the near future.<sup>102</sup> In that sense, a peaceful solution to the Kirkuk question is hostage to the enduring KDP-PUK rivalry.

Fifthly, while the Kurds have enjoyed virtual independence since Iraqi forces withdrew from much of Kurdistan in late 1991, this has been severely compromised by their continuing economic and infrastructural reliance on both Iraq and neighbouring states. The Kurds, for example, receive 17 per cent of the national budget (70 per cent of their revenue), use the Iraqi dinar as their currency and tap into the national power grid for most of their electricity

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<sup>98</sup> Two examples: In 1975, the U.S. promptly withdrew its support for the insurrection led by Mullah Mustafa Barzani after Saddam Hussein signed the Algiers Treaty with the Shah of Iran, Washington’s ally in the Gulf. The revolt collapsed, leaving its participants dead or scattered. Then, after 1991, although the U.S. established a safe haven for the Kurds in northern Iraq, it did so more with the intention of keeping Saddam Hussein’s regime on the defensive than to rebuild Kurdistan, which had suffered from decades of deliberate underdevelopment. Although the Kurds flourished, impediments laid by the U.S. and Turkey through Turkish control of the border prevented them from building the infrastructure and productive capacity they needed to attain independence.

<sup>99</sup> Crisis Group interview, Ankara, 31 May 2006.

<sup>100</sup> On 7 May 2006, the PUK and KDP announced their two regional governments’ reunification under a single president (Masoud Barzani) and prime minister (Nichervan Barzani). However, the merger of the four most important ministries was postponed for at least a year, namely the ministries of interior, *peshmerga* affairs (defence), finance and justice. This reflects a continuing mistrust, as well technical difficulties involved in overcoming a decade of separate governance.

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<sup>101</sup> Kirkuk is linguistically part of the Surani region of which Suleimaniyeh is the cultural capital, and is politically dominated by the PUK. The Talabani family originates in the Kirkuk area. In a free two-way electoral contest between the PUK and KDP in Kirkuk, the PUK would likely win. This is one of the main reasons why the two parties decided to run on a joint list in Kirkuk in the January 2005 provincial elections; because of their strategic need to present a common front toward Arab Iraq, they could not afford to be distracted by a highly divisive struggle over Kirkuk and its oil wealth.

<sup>102</sup> Crisis Group interview, Cengiz Çandar, Istanbul, 29 May 2006. Çandar, a Turkish journalist, has had frequent discussions with senior Kurdish leaders. He met Talabani in Baghdad in January 2006, when Talabani reiterated his Kirkuk proposals. According to Çandar, Talabani’s offer of a power-sharing arrangement is genuine but he cannot deliver because of the “Masoud factor” that leaves him paralysed. İlnur Çevik said that Barzani “cannot change his tune – that Kirkuk is part of Kurdistan – because of public opinion”, which he himself has helped create. Crisis Group interview, Ankara, 31 May 2006. Even within his own ranks, Talabani faces challenges to his expressed willingness to compromise. Jalal Jawher, the PUK’s leader in Kirkuk, said: “Mam Jalal [Talabani] has no right to compromise on Kirkuk, because as president he is now on the government’s side. He is the party that we are negotiating with”. Crisis Group interview, Kirkuk, 19 April 2005.

needs.<sup>103</sup> Even should they gain exclusive control over Kirkuk oil, current realities dictate that it would have to be refined in Baiji in the Sunni Arab heartland and shipped through Turkey for export via the Mediterranean port of Ceyhan, the new “hydrocarbon supermarket”.<sup>104</sup> Recent events have shown how easy it is to sabotage the flow of oil by attacking pipelines and tanker trucks.<sup>105</sup>

Sixthly, the Kurdish region is landlocked and so dependent on the goodwill of neighbours,<sup>106</sup> none of whom at this point would condone a Kurdish grab for Kirkuk, let alone a bid for formal independence. This is unlikely to change, and all have the ability to do serious harm to Kurdish interests. Indeed, the Kurdish region’s uncertain status and the Kurds’ aggressive pursuit of

additional territory already discourage major foreign investment.<sup>107</sup>

Seventhly, implementation of Article 140 (which concerns not only Kirkuk but all territories claimed by the Kurds) is complicated, requiring the active cooperation of the central government, which may withhold it, just as it failed to implement the TAL’s Article 58. Moreover, the language of Article 140 is vague on key procedures. Who, for example, will have the right to vote in a Kirkuk referendum, and who will determine the precise territories in which referendums will be held?<sup>108</sup> The political will to draft the necessary rules may be lacking. Furthermore, as mentioned, restoration of pre-1968 administrative boundaries is a hornet’s nest with ramifications well beyond the Kurdish region that may stymie any move to settle Kirkuk. Finally, the requirement to hold a census and referendum in Kirkuk encourages demographic mischief: parties could bring members of their community from outside to be counted, as Kurds have done and Arabs have threatened.<sup>109</sup> Holding a census first might prompt a referendum boycott,<sup>110</sup> as one or more

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<sup>103</sup> Asked what impact an Iraqi civil war might have on the Kurdish region, a cross-section of Kurdish officials, opposition politicians and independent intellectuals stated unanimously that this would be “a disaster” (*karitha* in Arabic). Crisis Group interviews, Iraqi Kurdistan, March-April 2006. In one illustration of the Kurds’ dependence on Iraq’s national power grid, a June 2006 central government decision to cut some 200 megawatts of electricity to the three Kurdish governorates caused severe shortages in the midst of the summer heat. IRIN, 3 July 2006; and *Iraqi Crisis Report*, IWPR, 7 July 2006, at <http://www.iwpr.net>.

<sup>104</sup> Kurdish leaders have indicated their intention to build refineries in the Kurdish region and construct a pipeline from the Kirkuk fields directly to Turkey, circumventing Arab Iraq. But in no way would this diminish the Kurds’ dependence on Turkey. Turkish officials have also signalled their country’s intent to build an oil pipeline from Silopi, a small Kurdish town in Turkey on the Iraqi border, to Zakho, the first Kurdish town after crossing the border into Iraq. Crisis Group interview, senior Foreign Ministry official, Ankara, 27 September 2005. The term “hydrocarbon supermarket” stems from Ceyhan’s emerging role as a hub for oil transports from Central Asia across the Mediterranean. Crisis Group interview, Murat Yetkin, a journalist with the daily *Radikal*, Ankara, 27 September 2005.

<sup>105</sup> See James Glanz and Robert F. Worth, “Attacks on Iraq oil industry aid vast smuggling scheme”, *The New York Times*, 4 June 2006.

<sup>106</sup> Iraqi Kurdistan is dependent on Turkey for gasoline shipments by truck across the border at Khabur. These have been held up in the past (creating huge lines at the Turkish side of the border and price hikes in Iraq) due to late payment by the Iraqi government’s state agency SOMO, but this problem appears to have been resolved in May 2006. Crisis Group interviews, Ankara, 31 May-1 June 2006. Iraqi oil minister Husain al-Shahristani announced in June that he had reached agreement with Turkish officials about the payments: “Iraq is now paying \$72 million every month to Turkish companies in return for fuel imports. Iraq will pay all due money to Turkey by the end of this year”. Dow Jones Newswires, 11 June 2006.

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<sup>107</sup> A Turkish entrepreneur explained that while there is a lot of Turkish business in Iraq and the Kurdish region, there is very little investment. The reason: banks will not provide financing or insurance for loans because of the security situation. Crisis Group interview, Ercument Aksoy, chairman of the Turkish-Iraqi Business Council and CEO of Yapa, Istanbul, 14 June 2005.

<sup>108</sup> For example, if the Kirkuk provincial council is the proper authority to determine in which precise area a Kirkuk referendum should be held, communal rifts that have frozen the council’s activities so far will certainly block any progress on this issue, the most divisive of all.

<sup>109</sup> For each of the two elections, as well as the constitutional referendum, the Kurds have bussed in Kurds from Erbil and Suleimaniyeh. Arab and Turkoman accusations of these Kurds’ non-Kirkuk origins notwithstanding, they appeared to be mostly displaced Kirkukis who had not yet made the move back home. As for the Arabs, one community leader who is close to the Sadrist movement, Abd-al-Karim Khalifa, commented: “The Kurds want to take Kirkuk by referendum and to this end they keep bringing Kurds in. If there is going to be a referendum, we will bring all the Arabs from the south to participate”. Crisis Group interview, Kirkuk, 5 April 2006. Technically, anyone who remains registered in Kirkuk can vote in a local referendum, regardless of their place of effective residence at such a time. Many Arab newcomers who have left Kirkuk since April 2003 continue to have formal residency in Kirkuk and therefore have the right to vote there.

<sup>110</sup> Some politicians have already threatened to boycott a Kirkuk referendum if the Kurds continue to be permitted to make demographic changes. Crisis Group interviews, Feyha Zein al-Abdin al-Bayati, a member of the ITF’s political bureau, Baghdad, 17 June 2006, and Hussein al-Fallouji, a member of the council of representatives for the Iraqi Consensus Front, Baghdad, 20 June 2006.

communities might conclude they would lose.<sup>111</sup> In either case, the referendum's legitimacy would be fatally undermined.

Finally, actions both taken and not by the Kurdish parties since their arrival in Kirkuk in April 2003 are working against them, as they have shattered any notion of peaceful coexistence. In interviews over the past three years, Kirkukis have indicated that they most prize inter-communal harmony (*ta'ayush*). Many grumble about outside parties that represent their communities only nominally and complain about inflammatory rhetoric and provocative actions that threaten the peace. This is true even for many Kirkuk Kurds who otherwise support the Kurdish parties' call for incorporation into Kurdistan. Some, for example, argue that had the Kurdish parties acted with greater moderation since their arrival – more in line with *ta'ayush* – they would have received a better reception and perhaps could have brought Kirkuk under their control. They also deride these parties for failing to bring in development projects. "Kirkuk is nothing now", said a Kirkuk Kurd who recently returned for a visit. "It's terrible. There are no services. It is a neglected town. The Kurdish parties are doing nothing to improve it, and the central government is not making funds available to help".<sup>112</sup>

Today this opportunity was lost, if it ever existed. The Kurds' much-heralded charm offensive has consisted mainly of reiterating their supposed entitlement to Kirkuk rather than an attempt to convince Arabs and Turkomans they would gain from Kurdish rule, for

example by supporting cross-communal reconstruction projects and equity in civil service appointments. As a result, Kirkuk Arabs and Turkomans have unequivocally stated that Kirkuk's incorporation into the Kurdish region is an immutable red line. Some have even suggested they might resort to violence.<sup>113</sup> While they do not have a fighting force capable of standing up to the Kurds' fire power, they do have the ability, supported by foreign sponsors, to sabotage Kurdish dominance in Kirkuk and generally make the Kurds' lives there highly unpleasant – a further disincentive for displaced Kirkuk Kurds to return.<sup>114</sup> Moreover, the large Kurdish community in Baghdad may suffer from the Kurdish parties' actions in Kirkuk and other mixed areas they claim. Threats have been heard to the effect that for any Arab family removed from Kirkuk, a Kurdish family will be expelled from Baghdad.<sup>115</sup>

Combined, these factors suggest that a Kurdish take-over of Kirkuk, by constitution or by force, is unlikely to be the cakewalk some Kurdish leaders predict.

## B. THE TURKOMANS

A plurality in Kirkuk town (at least until April 2003) but a (sizable) minority in the governorate, the Turkomans have observed with anguish the arrival of tens of thousands of Kurds in Kirkuk, who have come, if not to settle, at least to vote in the January and December 2005 elections and October 2005 constitutional referendum. The growing Kurdish presence dilutes, in their view, the town's essential Turkoman character, a

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<sup>111</sup> Both Kurds and Turkomans have called for a census in Kirkuk, in both cases on the unstated assumption that it will prove they constitute the majority. Although there is no rule stating that the census form must include an "ethnicity" or "mother-tongue" question, past Iraqi censuses have done so. Mandatory questions concerning ethnicity or religion are considered unlawful in Europe, Canada and the U.S. for the obvious reason that they are prejudicial and a precursor to discrimination and conflict. In the words of a constitutional scholar: "The 'mother-tongue' question is highly problematic because it prizes an ethnic logic and creates hierarchies correspondingly. There is no need for this in a democracy. People should simply vote. It should not be assumed, as academic advocates of the notion of consociationalism do, that Kurds, for example, will always vote for Kurds". Crisis Group interview, Baghdad, 27 May 2005.

<sup>112</sup> Crisis Group interview, Ibrahim Taha, Amman, 20 June 2006. An independent Kurd, who considers Kirkuk historically part of Kurdistan, said: "We need a democratic, not an ethnic, solution in Kirkuk. Instead, the Kurdish parties' ethnic approach has triggered an ethnic response from Arabs and Turkomans. By such a policy we are going to lose Kirkuk". Crisis Group interview, Rebin Hardi, Suleimaniyeh, 4 April 2006.

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<sup>113</sup> "We will not allow Kirkuk to be part of Kurdistan, by any means", threatened a local politician. "We will not sell out our country. There will be violence". Crisis Group interview, Abd-al-Rahman Munshid al-Asi, Kirkuk, 5 April 2006. A Shiite Arab politician said: "Kirkuk is an Iraqi town and I'm ready to fight for that". Crisis Group interview, Abd-al-Karim Khalifa, Kirkuk, 20 March 2005.

<sup>114</sup> In June 2006, there were indications that al-Qaeda in Iraq was moving operations to Kirkuk in order to foment sectarian strife, having suffered defeat in their original strongholds in Sunni Arab areas, including the killing of their leader, Abu Musab al-Zarqawi on 7 June. There was a spike in bomb attacks that at least one Iraqi lawmaker attributed to the group's desire "to provoke sectarian tensions". Crisis Group interview, Hassan al-Sunaid of the United Iraqi Alliance, Baghdad, 20 June 2006. The attacks triggered a backlash among Kirkuk's native (Sunni) Arabs, however, who, in a meeting of 150 tribal leaders, declared war on al-Qaeda in Iraq. *Iraqi Press Monitor*, IWPR, 26 June 2006, at <http://www.iwpr.net>.

<sup>115</sup> There were media reports to this effect in June 2006. An Iraqi journalist noted that "we are seeing tit-for-tat ethnic cleansing: in Kirkuk and Khanaqin by the Kurds, in Baghdad and Falluja by the Arabs, and there is going to be a lot more of that". Crisis Group interview, Amman, 27 March 2005.



development they experience as existential, given their relatively small numbers in Iraq overall.

For this reason, the Turkomans have looked for external sponsors to champion their cause. They have found these in two quite different sources. “Nationalist” Turkomans (*Qawmiyoun*), as they are referred to, have forged close links with Turkey. The organisation that most expresses this bond is the Iraqi Turkoman Front (ITF), a loose coalition of Turkoman parties established and funded by Turkish security forces in the 1990s.<sup>116</sup> It won three seats in the transitional national assembly elected in January 2005 but only one in December 2005. Most members are Sunnis but it also includes secular Shiites. Because many such Turkomans served in senior positions in the former regime’s security apparatus, links between some of these elements and the insurgents often are presumed.

By contrast, Islamist Shiites (*Islamiyoun*), who opposed the previous regime and suffered accordingly, have gravitated towards either the Turkoman Islamic Union (TIU) or Iraqi Shiite parties such as al-Da’wa and the Supreme Council for the Islamic Revolution in Iraq (SCIRI). The TIU joined al-Da’wa, SCIRI and other Shiite parties to form the United Iraqi Alliance (UIA) in late 2004. The UIA gave the Turkomans four seats in the council of representatives after the December 2005 elections, and they in turn have used the UIA’s electoral power (with Iran supposedly standing behind it)<sup>117</sup> to defend Turkoman interests in Iraq generally and in Kirkuk in particular. In April 2006, reports suggested that SCIRI had bolstered its Badr militia presence in Kirkuk.<sup>118</sup>

Several factors complicate the Turkomans’ ability to withstand the perceived Kurdish onslaught. First, both the sectarian Sunni-Shiite rift and the proliferation of Turkoman parties have weakened their position. The Kurdish parties have already picked off members of Kirkuk’s Turkoman community and brought them into their own coalition, the Kirkuk Brotherhood List. If in the peaceful extension of their control in Kirkuk they display sensitivity to Turkoman concerns and bring concrete benefits to all residents, the Kurds may be able to break off more significant portions of the Turkoman community. Turkoman attempts to reunify their parties or create a new

“big tent” party unburdened by the current schisms have yet to bear fruit.<sup>119</sup>

Secondly, Shiite Turkomans had to swallow hard when their loyalty to the UIA dictated acceptance of the new constitution, whose provisions on Kirkuk they rejected.<sup>120</sup> Having to play the constitutional game now means they will have to rely on the UIA’s ability and willingness to complicate and delay implementation of Article 140.

Thirdly, multiple elections in 2005 drove home the reality that Turkomans are unlikely to number more than a million – far short of the two to three million they have long claimed.<sup>121</sup> While Turkomans promptly cried fraud,<sup>122</sup> Turkey took notice and modified its

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<sup>119</sup> In 2005, an attempt was made to revive the flagging ITF via a broad-based Turkoman conference but its constituent parties left the event in disarray. The conference chairman, Muzaffer Arslan, went on to become adviser on Turkoman affairs to President Jalal Talabani, and then established his own party, the Iraqi Turkoman Autonomy Organisation, in March 2006, in a bid to outmanoeuvre the ITF.

<sup>120</sup> In the words of one local politician: “As Shiites, and despite some reservations, we said ‘yes’ in support of the political process and the constitution, unlike the Sunni Turkomans, who allied with the Sunni Arabs to say ‘no’”. He made clear that his “reservations” concerned Article 140 in particular, which, he said, “contains items that clash with basic freedoms” enunciated in the constitution. Crisis Group interview, Tahsin Kahyeh, member of the Kirkuk provincial council for the TIU, Kirkuk, 5 April 2006.

<sup>121</sup> The main Turkoman list, the Front of Iraqi Turkomans, collected just over 93,000 votes nation-wide in the January elections. If one assumes that the majority of these were Sunni Turkomans, that a similar number of Shiite Turkomans voted for the UIA, that only an insignificant number of Turkomans voted for other parties and personalities, and that in some areas with Turkomans people were unable or unwilling to vote, then the total reaches a mere 200,000-250,000, suggesting a Turkoman population of between one and one-and-a-half million, or about 4 per cent to 6 per cent of Iraq’s estimated population of 25 million. Contrast this with Turkoman claims that they number three million, or, in their reckoning (based on a total Iraqi population of only twenty million) about 12 per cent. Address by Ayoub Bazzaz, chairman of the Iraqi Turkmen Rights Advocating Committee (ITRAC, an acronym suggesting the word “Atrak”, Arabic for “Turks”), before the UN Sub-Committee for the Promotion and Protection of Human Rights, Working Group on Minorities, eleventh session, 30 May 2005.

<sup>122</sup> Sati Arslan claimed that the Kurds bussed in Kurdish families from the Kurdish region, “as well as from Syria, Iran and Turkey”, while Arabs and Turkomans were forced to stay indoors because of a curfew; the police guarding the ballot boxes were all Kurds; and there were no independent international monitors: “U.S. and UK diplomats observed all this without protest. They acted as if they were neutral, but

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<sup>116</sup> See Crisis Group Report, *Iraq: Allaying Turkey’s Fears*, op. cit., pp. 9-11.

<sup>117</sup> For Iran’s influence in Iraq, and its limits, see Crisis Group Middle East Report N°38, *Iran in Iraq: How Much Influence?*, 21 March 2005.

<sup>118</sup> *The Washington Post*, 25 April 2006.

stance towards its kin in Iraq, all but abandoning the ITF and instead redoubling efforts to influence developments in Kurdistan through intertwining economic ties and warm relations with Kurdish leaders.<sup>123</sup> The Kurds claimed victory: “The elections made very clear that Turkomans are not the majority in Kirkuk. In fact, they are not even equal to the Kurds in numbers. This reality was a kick in the teeth for Turkey”, said the PUK’s Qubad Talabani.<sup>124</sup>

Finally, at the end of the day, the Turkomans, whatever their rights in Kirkuk, are a relatively small minority over whom no Iraqi or regional sponsor may choose to go to war. SCIRI, for example, has exhibited less interest in retaining Kirkuk than other Shiite parties. This is because of its aspiration to establish a Shiite supra-region in the south that would control most of Iraq’s oil.<sup>125</sup> SCIRI may well prove willing to trade away Kirkuk (with its relatively minor oil resources) in exchange for Kurdish collusion in Iraq’s de facto break-up.<sup>126</sup> Other Shiite parties with Turkoman members may be too divided, too weak militarily or unwilling to split the Shiite coalition to fight on behalf of Kirkuk’s Turkomans.

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they were the main actors in the game”. Crisis Group correspondence, 9 June 2006.

<sup>123</sup> The election results underscored the failure of Turkey’s ITF policy, said a Turkish analyst, following which Foreign Minister Abdullah Gül refused to make funds available for the ITF. “They realised that half the Turkomans are Shiites, and that Turkey has no influence over them”. Crisis Group interview, Cengiz Çandar, Istanbul, 14 June 2005.

<sup>124</sup> Crisis Group interview, Qubad Talabani, PUK representative in the U.S., Washington DC, 1 March 2005.

<sup>125</sup> SCIRI officials, including its leader Abd-al-Aziz al-Hakim, have repeatedly called for the establishment of such a region since July 2005. The nature of the federal structure in the new constitution that allows for such a region has been attributed to an agreement between the Kurdish parties and SCIRI, in whose offices key provisions were negotiated to the exclusion of other parties. See Crisis Group Middle East Briefing N°19, *Unmaking Iraq: A Constitutional Process Gone Awry*, 26 September 2005, pp. 2-5.

<sup>126</sup> “When the constitution was being drafted”, said a Shiite legislator, “we felt that certain deals were made between one of the Shiite parties and the Kurds. You see what I mean...It was like, ‘Give me something, and I will give you something’”. The comment came in response to a question whether the Kurds and SCIRI had made a deal on Kirkuk in the constitution. Crisis Group interview, Baha al-Araji, a Sadrist member of the council of representatives, as well as of the constitutional committee in 2005, Baghdad, 18 June 2006.

## C. THE ARABS

Kirkuk Arabs’ greatest asset is the fact they belong to the Arab nation, in Iraq and beyond, and are, therefore, never short of potential sponsors. Even those few Iraqi Arabs who accept the Kurds’ right to secede do not accept that an independent Kurdistan could ever include Kirkuk.<sup>127</sup> The Kirkuk question has not yet become an issue in Arab discourse outside Iraq but some inter-Arab linkages are already visible. Insurgents in Kirkuk, for example, are thought to have ties to Syria. This would be understandable, given Syria’s interest in curbing Kurdish ambitions in Iraq, lest they inspire Syria’s own Kurdish population.

Muqtada Sadr, the leader of the Sadrist trend (*al-tayyar al-Sadri*), has championed the Arab newcomers’ cause, asserting their right to stay in Kirkuk, and tried to organise them. Many have already left but retain their Kirkuk residency cards and could theoretically vote there. Moreover, in April 2006 reports suggested that Sadrist fighters had arrived in Kirkuk to swell Arab numbers and deliver the message to the Kurds that they should not take their seizure of Kirkuk for granted.<sup>128</sup> There is no evidence that such fighters arrived in significant numbers but the threat is clear: should the Kurds move on Kirkuk, the Arabs would counter.

This is another reason why Kurdish leaders opposed Jaafari’s candidacy for prime minister: he was nominated thanks to Sadrist votes. Although Jaafari was forced to withdraw, his successor, Nouri al-Maliki, comes with the same backing. This could mean the Kurds will face the prospect not only of an Iraqi leadership – possibly for four years – reluctant to assist their “normalisation” scheme in Kirkuk, but of active, organised resistance to their efforts to implement it by persuading Arab newcomers to leave.<sup>129</sup>

Moreover, ever since the Kurdish political parties and *peshmergas* arrived in Kirkuk in April 2003, the

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<sup>127</sup> “The Kurds can have their independent nation”, said one Kirkuki Arab leader, “but Kirkuk should not be part of it”. Crisis Group interview, Abd-al-Karim Khalifa, who is close to the Sadrist trend, Kirkuk, 5 April 2006.

<sup>128</sup> *The Washington Post*, 25 April 2006.

<sup>129</sup> Initial indications, however, are that al-Maliki supports the constitution’s full implementation, including Article 140 on Kirkuk. See, for example, his statement in support of the Normalisation Committee’s resurrection. *Hawlati*, 14 June 2006, as reported by BBC Monitoring Middle East. Visiting the Kurdish region in July 2006, al-Maliki affirmed his commitment to the constitution, including Article 140 on Kirkuk. *Hewler Globe*, 12 July 2006.

governorate's Arab and Turkoman community leaders have forged a very loose strategic union that has aimed to curb Kurdish advances. This has been most noticeable in the Kirkuk provincial council, where their fifteen representatives (of 41) have blocked effective governance. This Arab-Turkoman front has many internal differences but has withstood the extreme pressures deriving from escalating sectarian strife elsewhere in Iraq. In the view of one of their leaders, the Turkomans play a pivotal role: "If the Turkomans decide to go with the Arabs, there will be a unified Iraq. But if they will go with the Kurds instead, there will be partition."<sup>130</sup>

Despite their majority nation wide, however, or any alliance with Kirkuk Turkomans, the Arabs' position in Kirkuk is not particularly strong, for several reasons. First, Kirkuk's Arabs largely stayed away during the January 2005 provincial elections, the Sunnis mustering no more than six seats on the provincial council, the Shiites none.<sup>131</sup> This has sharply reduced their ability to make policy or resist Kurdish measures outside the council, such as civil service appointments.<sup>132</sup>

Secondly, internal rifts are significant: on one side are native Kirkukis, almost invariably Sunnis; on the other are the newcomers, the majority Shiites. Many native Kirkuk Arabs would have been quite happy for the newcomers to leave, had Kurdish advances since 2003 not persuaded them they might make useful allies.

Thirdly, the indigenous Arabs are strongest outside town boundaries, especially in the area to the west,

mostly in the Hawija district. Wanting to divest themselves of their Arab "problem", the Kurds might accept a fall-back arrangement in which Hawija and other predominantly Arab areas would be split off from the governorate and attached to either Ninewa (Mosul) or Salah al-Din (Tikrit). At least one Kurdish leader has floated this possibility.<sup>133</sup> The Arabs could have difficulty thwarting such a unilateral Kurdish move.<sup>134</sup>

Fourthly, the Arab newcomers' resolve to stay appears weak. Many might accept compensation, if and when the central government makes funds available,<sup>135</sup> over continued residence in a town increasingly dominated by Kurds hostile to their presence. As more Arabs leave, de-Arabisation may gain momentum, making it increasingly difficult for those committed to stay to hang on.

Finally, regardless of a sense of a shared Arab-Turkoman mission to counter the Kurds, Arab and Turkoman community leaders have not been able to agree on who should fill the one leadership position on the provincial council the Kurds offered after the January 2005 elections, that of deputy governor (which is filled temporarily by a Kurd). "The greatest problem", said Riyadh Sari Kahyeh, a Turkoman leader, "is that the Turkomans, Arabs and Kurds do not trust each other. We have good relations with the Arabs but we believe it will be a temporary relationship on which we cannot rely. Even the Turkomans and Arabs do not trust each other".<sup>136</sup> As long as the Kurds seek to advance their interests via politics, not force, they may well be able to exploit differences between these two communities further.

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<sup>130</sup> Crisis Group interview, Muzaffer Arslan, Ankara, 25 March 2005.

<sup>131</sup> An Arab political leader explained: "There was pressure from the tribal leaders and the Muslim Scholars Association [for us to boycott the elections]. We tried to convince them that Kirkuk was a special case and that we should participate as a first step toward reaching a consensus here. In any case, we managed to participate and move forward. But Wasfi al-Asi, a Sunni Arab whose party has mostly Shiite members, withdrew from the process, an event that was magnified by the media, which made it appear as if the entire Arab population was boycotting the election. He made his move in support of the newcomers and in reaction to Article 58 of the TAL". Crisis Group interview, Ahmad Hamid Obeidi, a member of the Iraqi Republican Group, Kirkuk, 19 April 2005. In addition to the boycott, the security situation militated against a massive Arab turn-out at the polls, especially in towns like Hawija. In any case, some Sunni Arabs evidently participated; most Shiite Arabs, however, appear to have observed the boycott.

<sup>132</sup> According to a Turkoman leader, the Kurds bar children born of Arab newcomers from jobs for which they are qualified. Crisis Group interview, Tahsin Kahyeh, head of the provincial council's appointments committee, Kirkuk, 5 April 2006.

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<sup>133</sup> Crisis Group interview, Nowshirwan Mustafa Amin, the PUK's deputy leader, Suleimaniyeh, 17 March 2005.

<sup>134</sup> Kirkuk's Arab leaders clearly oppose Hawija's separation from Kirkuk. "This is why they participate in provincial council meetings", said Sargon Lazar Sliwa, suggesting that this reinforced the Arabs' commitment to the unity of the governorate. Crisis Group interview, Kirkuk, 5 April 2006.

<sup>135</sup> This has been a contentious issue. The Kurds want the Arab newcomers to leave but say the federal government must cover compensation and resettlement costs. The government has shown no inclination to make these funds available quickly.

<sup>136</sup> Crisis Group interview, Kirkuk, 2 May 2005. Feyha Zein al-Abdin al-Bayati elaborated: "The Arab Shiite families have the right to stay in Kirkuk. But as Turkomans we feel they are trying to manipulate us, as they seek to consolidate their power in the face of the Kurds. Our fear is that if a federal solution is created for Kirkuk, there will be a fight for power between the Sadrists and the Kurds, of which we would be the victims". Crisis Group interview, Baghdad, 17 June 2006.

## D. THE CHRISTIANS

Kirkuk's Assyrian, Chaldean, Syriac, Armenian and other Christian communities are so small as to enjoy only marginal political influence, mirroring their demographic numbers and political power nationally. The only viable Christian party, the Assyrian Democratic Movement, failed to obtain a seat on the provincial council in January 2005 (and gained just one nationwide in December 2005). The only Christian on the Kirkuk provincial council got there on the Kurdish list. Noises made by Chaldean and Assyrian groups in exile (for example in the U.S.) on behalf of their compatriots in Iraq are often heard with anxiety by local Christians, who prefer not to attract too much attention. Facing kidnapping for ransom as well as killing for perceived collaboration with U.S. forces, many Christian professionals have fled from Baghdad and Mosul, as well as Kirkuk: abroad if they could or to the Kurdish region if they had to.<sup>137</sup>

As a small minority the Christians are in no position to counter the Kurds and would fear reprisals if they joined with anti-Kurdish forces. Indeed, it has been in their traditional interest to ally themselves, or seek some kind of accommodation, with whomever provides them stability and basic rights. In Kirkuk, this could well be the Kurdish regional government.<sup>138</sup>

## V. REGIONAL AND INTERNATIONAL FACTORS

Victims of post-Ottoman state building and boundary manipulation by Britain and France, the Kurds have fought for greater freedoms, if not independence, in the four principal states in which they found themselves as a minority: Turkey, Iran, Iraq and Syria. In doing so, they repeatedly forged tactical deals with central governments under whose repressive yoke they laboured, governments of neighbouring states and Kurdish movements in adjacent parts of Kurdistan. Physical borders have been the cardinal factor obstructing Kurdish aspirations.<sup>139</sup>

Many things divide these four states but on at least one issue they have agreed consistently: the need to block the Kurds. While this has led to different internal policies, all have viewed with suspicion the emergence of a supra-national Kurdish movement with cross-border appeal, whose success in one country might inspire others. Particularly alarming to them have been the 1991 creation of a "safe haven" in northern Iraq, which allowed the Kurds there to enjoy virtual independence, and the 2003 ouster of Saddam Hussein's regime, which gave the Kurds unprecedented power both in their region and the national capital.<sup>140</sup>

In 1991 these states' immediate response was to discuss strategies to contain and possibly subvert the Iraqi Kurdish experiment. They found a de facto ally in the U.S., which used the Kurds as a lever against the Baghdad regime, while needing them to be autonomous in decision-making but weak otherwise, utterly dependent on others for vital requirements. The 1990s thus witnessed a steady flow of assistance to Iraqi Kurdistan and support for village rehabilitation but nothing that would promote Kurdish independence.<sup>141</sup>

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<sup>137</sup> See "Iraqi Christians flee Baghdad for peace and hardship in Kurdistan", Agence France-Presse, 26 June 2006.

<sup>138</sup> As one disgruntled member of the Assyrian community put it, "The Kurds are a better bet for the Christians in Kirkuk because they are building a stable and safe society. Our relations with the Kurds will work out, as they have in the past". Crisis Group interview, Kirkuk, 16 March 2005.

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<sup>139</sup> See David McDowall, *A Modern History of the Kurds* (London, 2000).

<sup>140</sup> Turkey consented to and cooperated with the establishment of a safe haven in Iraqi Kurdistan and a no-fly zone over northern Iraq. It did so, however, in order to prevent a worse option: the influx of hundreds of thousands of Kurds fleeing Iraq's suppression of the March-April 1991 uprising. Strong pressure by the U.S., which faced a public relations debacle in the face of Saddam Hussein's resurgence despite his defeat in Kuwait a month earlier, ensured Turkey's consent.

<sup>141</sup> See Kerim Yildiz, *The Kurds in Iraq: The Past, Present and Future* (London, 2004); Jonathan C. Randal, *After Such Knowledge, What Forgiveness? My Encounters with Kurdistan* (New York, 1997).

The Kurds' aim, to the contrary, has been to match their growing political autonomy with increasing economic self-reliance. This strategy's key component has been the exploration and development of energy sources. In the 1990s, their almost exclusive dependence on neighbouring Turkey, which controlled the supply of goods through the single border crossing at Khabur, thwarted their efforts. The 2003 war opened new opportunities, including not only the ability to attract investments in oil and gas exploration, but also, potentially, control over the Kirkuk oil fields.

## A. TURKEY

To neighbouring states, the Kurds, whatever they may say in public, have never given up their quest for independence. These states present the Kurds' progressive takeover of Kirkuk since April 2003 as Exhibit A. Their principal objective has been to prevent the Kurds from formalising this seizure but they have gone about it in different ways.

Iran and Syria have been content to let Turkey do the heavy lifting.<sup>142</sup> Subjected to strong international pressure and isolation, in particular after the assassination of Rafiq al-Hariri, Lebanon's former prime minister, Syria has not been fully able to influence developments. Its principal asset has been insurgents in Kirkuk, who could potentially turn up the heat. Iran's strategy even before 2003 has been to keep the Kurdish leadership on the defensive by supporting certain Islamist groups and seeding the region with its agents. The security arm of the Pasdaran (Islamic Revolutionary Guard Corps) covering northern Iraq, the Karargah Ramazan, has an office in Suleimaniyeh, as does the country's intelligence service, the Ittala'at. Iranian agents have been accused of funding or otherwise facilitating attacks on Kurdish leaders.<sup>143</sup> Moreover, a Shiite-led government is now in power in Baghdad that, Iran hopes, will hinder Kurdish ambitions.

This has left Turkey the most visible player on Kirkuk. Although Ankara makes no claim on Iraqi territory, the Kurdish region, as part of *vilayet* Mosul,

was an integral component of the Ottoman Empire, and the region's Turkoman population is considered kin deserving of protection.<sup>144</sup> In the 1990s Turkey faced little international opprobrium for its efforts to contain Kurdish nationalism in Iraq through its Khabur chokepoint. The Iraqi regime's removal changed the equation dramatically. The only scenario more undesirable to Turkey than a strong Kurdish entity in northern Iraq is Iraq's disintegration, because the country is a critical balance to Iran; its dissolution would almost beg for intervention by neighbours, potentially creating a zone that would remain unstable for decades.

As a senior Turkish official put it: "Iraq should remain one. If it dissolves, all boundaries in the region will be redrawn, because they are all artificial. They are like walls: You take out one brick and the whole structure collapses".<sup>145</sup> In such a scenario, a strong Iraqi Kurdistan might well become a helpful buffer between Turkey and total chaos, another official suggested. "Never mind that there will be a Kurdish entity. This will be a very minor issue relative to the regional disaster" that Iraq's break-up would wreak.<sup>146</sup>

Precisely to prevent destabilising unpredictability on its south-eastern border, Turkey has begun to court the Kurdish leadership and actively promote Turkish investments in and trade with the Kurdish region. Exact figures do not exist but the annual trade reportedly amounts to between \$2 billion and \$3 billion.<sup>147</sup> The new airports in Erbil and Suleimaniyeh that make the region less dependent on Turkey were built by Turkish companies. Turkey is working on a second land-border crossing, and there are plans for oil and gas pipelines directly from Kurdistan to Turkey, circumventing Sunni Arab Iraq. There is even talk of a new Turkish state company to manage the Kurds' oil industry, from extraction through marketing. In this view, if Turkey needs a strong Kurdish buffer against Iraq's disintegration,

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<sup>142</sup> Crisis Group interview, the PUK's Bahros Galali, Ankara, 1 June 2006.

<sup>143</sup> The attempted assassination of senior PUK official Mullah Bakhtiar and the almost-simultaneous attack on the PUK's ministry of *peshmerga* affairs compound outside Suleimaniyeh in late October 2005 have been attributed to Iranian agents, one of whom was found with a weapons cache and materials needed for the construction of a car bomb, and who reportedly acknowledged having been sent by the Pasdaran. Crisis Group interview, Kurdish official, Suleimaniyeh, 3 April 2006.

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<sup>144</sup> Turkey did not "discover" its Turkoman kin in Iraq until after the 1991 Gulf war, when Iraqi Kurds were allowed to administer their own enclave. Still, Kirkuk holds emotional importance for Turks, many of whom grew up singing songs about it. Crisis Group interview, Cengiz Çandar, Istanbul, 29 May 2006.

<sup>145</sup> Crisis Group interview, Ankara, 1 June 2006. See also, Crisis Group Report, *Iraq: Allaying Turkey's Fears*, pp. 6-8.

<sup>146</sup> Crisis Group interview, Ankara, 31 May 2006.

<sup>147</sup> Crisis Group interview, Ilnur Çevik, who said his own projects in Iraqi Kurdistan, which include the Suleimaniyeh airport, amount to \$100 million. In 2005, Turkey reportedly sold \$2.75 billion worth of goods to Iraqi Kurdistan, and imported about \$500 million. Services are not included in these figures, nor is informal trade. Crisis Group email communication from Soli Özel, a lecturer at Bilgi University in Istanbul, 5 May 2006.

it should act as a midwife facilitating its birth, the better to guide it. This might also help solve the nagging problem of the PKK (Kurdish Workers Party) rebels in Turkey, who have used Iraqi Kurdistan as a rear base for operations in Turkey's Kurdish provinces.

Still, for now, Turkey would not want a Kurdish entity to gain exclusive control over Kirkuk's oil resources. As long as its ambition to join the European Union as a full member are unconsummated – as it well might for years – it fears that its own Kurdish population will draw inspiration and support from brethren across the border rather than the benefits anticipated from EU membership. Nor does Turkey trust the Kurdish leadership, least of all Masoud Barzani, whose rhetoric on Kirkuk it sees as uncompromising and inflammatory and whom they suspect of aiding the PKK.<sup>148</sup> A Kurdish seizure of Kirkuk, by law, force or otherwise, remains, therefore, a Turkish red line.<sup>149</sup>

Ankara has been working actively to thwart the Kurdish quest through diplomacy. All “in order to avoid worse”, it now embraces the U.S. presence in Iraq as the “glue that will force the country to stay together”; it has backed the constitutional process (despite qualms about its content) and the resulting document's early substantive review;<sup>150</sup> and it supports the new government.<sup>151</sup> But it posits a strong role for Turkey as well because of distrust of U.S. aims, bewilderment at the many mistakes Washington has

made over the past three years<sup>152</sup> and the fact that Turkey retains a strong interest in what happens in Kirkuk.

Moreover, Turkey's nationalist lobby is pushing for more coercive action. Ümit Özdağ, an aspiring politician, said:

\$2 billion in trade is small pickings for Turkey but it is huge for the Kurds. We have a geopolitical advantage that we are not using. We could close the border and shut down the pipeline. Turkish companies should not be involved in developing the Taqtaq oil field. In this way the Kurds won't be able to sustain their foolish policies.<sup>153</sup>

Turkey could cause significant harm to Kurdish interests in Kirkuk if it chose to play the Turkoman card and foment violence. The upshot, said a retired senior military officer, is that “the Kurds have no future. Once foreign forces withdraw from Iraq, the Kurds will have to come to Turkey for protection, as happened in the past.<sup>154</sup> Even Turks friendly to Iraqi Kurds take this view and suggest that Kurdish leaders do so as well: they realise, said İlnur Çevik, that once the U.S. abandons them, “they will need Turkey – very badly”.<sup>155</sup>

It is because of this, perhaps, that Turkey has remained remarkably calm in the face of the Kurds' creeping takeover of Kirkuk. It appears confident that the Kurds are reaching the limit of their ambitions and

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<sup>148</sup> For example, Turhan Çömez, a member of the Turkish parliament, said that antipathy towards Barzani and opposition to his policies stem from the Turkish public's opinion that he “provides logistical support” to PKK camps in northern Iraq, whose presence “is embarrassing to us”. Crisis Group interview, Ankara, 31 May 2006. All the same, the Turkish government and intelligence services maintain active back-channel diplomacy with Barzani.

<sup>149</sup> That said, Turkey has had red lines in the past – notably the creation of a federal Iraq and the use of Iraq's Kurdish region as a haven for the PKK – which it has been compelled to adjust as circumstances have changed.

<sup>150</sup> A senior Turkish official criticised the Iraqi constitution for having “legitimised ethnic and sectarian divisions and made these a key criterion. The constitution presents no notion of citizenship, only ethnic and sectarian identities”. He called for an “early and substantive” review, but predicted that this would happen “only if there is international pressure. If it is not done now, the problem will become much bigger”. Crisis Group interview, Ankara, 1 June 2006.

<sup>151</sup> Crisis Group interview, Sami Kohen, a journalist with the daily *Milliyet*, Istanbul, 30 May 2006. Some, like former president Süleyman Demirel, have called for a far greater UN role in Iraq, including the deployment of a peace force. Demirel said that “for all its faults, there is no better organisation than the U.N. to handle this”. Crisis Group interview, Ankara, 1 June 2006.

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<sup>152</sup> As a Turkish parliamentarian put it, the U.S. “cannot do this alone”. Crisis Group interview, Turhan Çömez, Ankara, 31 May 2006.

<sup>153</sup> Crisis Group interview, Ankara, 1 June 2006. Özdağ, the founder of a conservative think tank, is running for leadership of the MHP (Nationalist Action Party), one of Turkey's unabashedly nationalist parties. There could also be a dangerous backlash from a border closure, given the high proportion of Kurds of Turkey involved in trade with Iraq and Iraqi Kurds. “If Turkey punitively chokes off the Kurds in Iraq”, warned a Turkish analyst, “there could be an explosion in the Southeast”. Crisis Group interview, Soli Özel, lecturer at Bilgi University, Istanbul, 14 June 2005.

<sup>154</sup> Crisis Group interview, Istanbul, 30 May 2006. A senior Turkish official said: “Even if the Kurds become independent – and I hope they will not – they will still be dependent on us”. Crisis Group interview, Ankara, 1 June 2006.

<sup>155</sup> Crisis Group interview, Ankara, 31 May 2006. He accused Turkish nationalists of wanting conflict in Iraqi Kurdistan as a way for the Turkish military to maintain political power in Turkey and keep a tight leash on Prime Minister Recep Tayyip Erdoğan and the ruling AK Parti (Justice and Development Party), whose overt Islamism runs up against the Kemalist republic's ardent secularism, of which the military has acted as staunch guardian.

power. Some suggest, moreover, that the Bush administration has offered assurances to Ankara that it will manage the Kirkuk issue and allow no unilateral Kurdish moves.<sup>156</sup> Washington's frosty relationship with its Turkish partner has started to thaw, the slight dealt by the Turkish parliament's refusal to allow U.S. troops passage to Iraq in March 2003 overcome by mutual realisation that the two countries need each other in the face of growing instability in Iraq and Iran's nuclear ambitions. U.S. Secretary of State Condoleezza Rice and Turkish Foreign Minister Abdullah Gül signed a "Vision Statement" in Washington in July 2006 to signal an enduring strong relationship between the two countries.

## **B. THE UNITED STATES**

The U.S. has remained largely neutral on the Kirkuk question, mainly preoccupied with developments further south. Formally, it has indicated it defers to Iraqi authorities and constitutional and legal processes. Before the October 2005 constitutional referendum, this meant supporting de-Arabisation without forcible removal of newcomers from Arabised areas, and promoting inclusiveness in Kirkuk's governance. Some U.S. officials, moreover, indicated a preference for Kirkuk gaining a special interim status with a power-sharing arrangement, in which case a potentially dangerous referendum would not be needed.<sup>157</sup> This position did not prevail in the drafting of the constitution,<sup>158</sup> and the U.S. now supports Article 140's timeline and mandate for a census and referendum. "We do not have specific policy on Kirkuk", said a State Department official. "Our position is to support the Iraqi government's decisions".<sup>159</sup>

Unwilling, for now, to cross its most reliable Iraqi allies, Washington has largely stood silent in the face of Kirkuk's progressive Kurdification; to lessen tensions created by the flood of displaced Kurds coming to the town, it also has launched wide-scale countryside rehabilitation. Moreover, it provides technical support

and indirect funding to the Iraq Property Claims Commission.<sup>160</sup> When accused of aiding Kirkuk's Kurdification, officials reportedly replied that other communities were free to bring their people into the town.<sup>161</sup>

Insurgent attacks on the forces of both have reinforced the U.S.-Kurdish security alliance and led to the removal of detained suspects from Kirkuk to prisons inside the Kurdish region, an issue that has caused great anger among Kirkuk's Arabs and Turkomans, who are most affected by this practice.<sup>162</sup> But it is doubtful Washington will support the Kurds to the point of alienating Turkey. As long as hope remains that Iraq can be stabilised, it will pursue a peaceful solution in Kirkuk that accommodates the central concerns of Kurds, Turkey and Baghdad alike. This is an overriding U.S. interest, as chaos in Kirkuk resulting from a Kurdish take-over would further undermine its effort to rebuild Iraq. "The U.S. will try to kick this issue down the road", predicted a Washington-based analyst. "It is not a U.S. priority. They only will make sure it doesn't blow up, so that they don't have to divert troops from the Sunni Arab areas". However, if the Kurds push for Kirkuk, he said, and the Arabs fight back, U.S. forces might be compelled to prevent a bloodbath.<sup>163</sup>

It remains unclear how Washington's perspective on Kirkuk would change if Iraq falls apart. De facto Kurdish control as a means of protecting the oil fields,

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<sup>156</sup> Crisis Group interview, an Iraqi scholar spending time in the U.S., Brussels, 21 March 2006.

<sup>157</sup> Crisis Group interviews, officials at the U.S. Department of State and National Security Council, Washington DC, July 2005.

<sup>158</sup> This was to Turkey's chagrin, which had urged Washington to address the Kirkuk issue in the constitution. In the words of a senior Turkish official: "We urged the U.S. and UK last year to give Kirkuk a special status, like Baghdad. Instead, that provision [which was in the TAL] was left out. Now Kirkuk will be a bomb ready to go off next year". Crisis Group interview, Ankara, 1 June 2006.

<sup>159</sup> Crisis Group telephone interview, Washington DC, 21 June 2006.

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<sup>160</sup> Crisis Group interview, U.S. embassy official, Baghdad, 18 June 2006. The U.S. has provided \$10 million to the International Organisation for Migration to provide technical support to the IPPC and has itself given direct technical support as well. Commission for the Resolution of Real Property Disputes, information sheet, 24 April 2006.

<sup>161</sup> "I talked with the U.S. consul in Kirkuk", said a Turkoman politician, "and asked him why the U.S. was letting Kurdish families into Kirkuk without any controls. He replied: 'Just do the same! Have some Turkoman families move to Kirkuk!' But we could not do this if we wanted to. If a Turkoman family wishes to move into Kirkuk with a truck full of stuff, the Kurds running the checkpoints would stop them". Crisis Group interview, Feyha Zein al-Abdin al-Bayati, Baghdad, 17 June 2006.

<sup>162</sup> Kurdish security officials claim they were told by the U.S. to take these detainees. Crisis Group interview, Karim Sinjari, minister of interior of the KRG-KDP, Erbil, 1 April 2006. Many of these detainees have been held without trial or seeing a judge for months in poor conditions, visited only by the International Committee of the Red Cross and international human rights organisations. Crisis Group interview, human rights researcher, Amman, 22 June 2006.

<sup>163</sup> Crisis Group interview, Kenneth Katzman, a Middle East specialist at the Congressional Research Services, Washington DC, 23 June 2006.

coupled with guarantees to Turkey that the Kurds would not proclaim independence, might be its most viable option.

Yet, the absence of a Kirkuk policy is costly and potentially disastrous. The pretext of Iraqi sovereignty is, in this regard, disingenuous. The U.S. has been omnipresent diplomatically, financially and militarily, most recently playing a key role in bringing about the May 2006 national unity government. This was a critical first step in addressing the most urgent crisis, the growing sectarian conflict.<sup>164</sup> But Kirkuk is first among the other issues that, if left unaddressed, could well prevent Iraq's stabilisation. Several Iraqi actors have openly indicated that Kirkuk will require proactive U.S. diplomacy and that it should start now.<sup>165</sup>

## VI. ADDRESSING THE KURDS' CORE CONCERNS

For the moment, the Kurds are the dominant actors in Kirkuk and have unprecedented influence in Baghdad. They have the power to engineer Kirkuk's incorporation into the Kurdish region in a number of ways. The question is whether any of these scenarios would, in the end, serve their fundamental interests.

### A. TAKEOVER SCENARIOS

The Kurds are set on extending their control in Kirkuk and formalising their takeover in the next two years, and they can follow one of three routes to this end.

**By constitution.** This scenario, made possible by Kurdish influence over the political process in Baghdad, is the one the leadership clearly prefers.<sup>166</sup> "Normalisation" – the return of displaced Kurds to Kirkuk, the removal of Arab newcomers and the reattachment of predominantly Kurdish districts to Kirkuk governorate – should be completed by 31 March 2007, it states. Then a census should be held in Kirkuk and other areas claimed by the Kurds no later than 31 July,<sup>167</sup> followed by one or more referendums in these same areas by 30 November.<sup>168</sup> Given that a referendum requires a simple majority,<sup>169</sup> and the

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<sup>166</sup> The program of the newly unified Kurdistan regional government declares as one of its key objectives the incorporation of Kirkuk and other claimed areas "peacefully through the democratic process and rule of law". Unified cabinet's program, op. cit.

<sup>167</sup> There has been some confusion in the public mind over whether there will be a census in disputed areas only, such as Kirkuk, or a nationwide census. This is because of the coincidental deadline of the Kirkuk process (under Article 140) in 2007, exactly ten years after Iraq's last (decennial) census. The government has already indicated its intent to hold the next census on schedule in 2007. However, there are serious questions whether a nationwide census can be held consistent with the Article 140 timetable – the census is usually held in October – or whether either a nationwide or a local census can be organised at all, given poor security and the logistical problems that a weak central government faces.

<sup>168</sup> This schedule was presented by a Kurdish legislator as officially agreed by the Kurdish parties and the United Iraqi Alliance. There is, however, no indication that the timetable has any legal basis. Crisis Group interview, Nasih Ghafour Ramadan, Erbil, 1 April 2006.

<sup>169</sup> Article 131 of the constitution states: "Every referendum mentioned in this constitution is deemed successful if approved by a majority of the voters, unless provided otherwise". There is no special provision for referenda in

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<sup>164</sup> Crisis Group Middle East Report N°52, *The Next Iraqi War? Sectarianism and Civil Conflict*, 27 February 2006.

<sup>165</sup> Crisis Group interviews, Baghdad, May 2005 and June 2006. For example, an Assyrian leader stated: "As long as U.S. forces stay here, the situation will remain stable. Iraqis cannot trust each other but they trust the Americans – it's a funny thing! Even Sunni Arabs don't agree to Iraqi police entering their areas unless they are accompanied by U.S. forces. Were the latter to withdraw, there would be civil war". Crisis Group interview, Sargon Lazar Sliwa, Kirkuk, 5 April 2006.



Kurds expect to be an absolute majority in these areas well before (especially if pre-1968 Kirkuk governorate boundaries are restored), a Kurdish victory and incorporation of Kirkuk and other areas into the Kurdish region would be inevitable. As Kurds see it, Kirkuk would thus come to them in a lawful and democratic fashion.

The problem with this plan is that it is rejected by Kirkuk's other communities and is embraced only half-heartedly by the central government. Kirkuk's Arabs and Turkomans argue there is nothing democratic about the procedure prescribed by the constitution, because Sunni Arabs and Turkomans did not substantively participate in its drafting, and the deck was stacked in the Kurds' favour.<sup>170</sup> Community leaders have indicated that even if it comes to a referendum – many hope the central government will find procedural means to block this – they may boycott it as unfair and/or reject its results as biased. As noted, some have indicated their readiness to fight any Kurdish attempt to take Kirkuk by referendum.

While one cannot predict that implementing the constitution would provoke civil war in Kirkuk, it can be stated with reasonable confidence that there would be active opposition to any attempt by the Kurds to annex Kirkuk through procedures in which no other community had invested. If this happened, the Kurds might have to resort to their second option.

**By force.** When pressed, Kurdish leaders make clear that their bottom-line position is that Kirkuk is rightfully theirs, and any resistance or non-cooperation by the other communities will compel the Kurds to resort to force. "If there is violence", warned Nasih Ghafour Ramadan, a Kurdish legislator with the KDP, "the bottom line is that we cannot compromise on Kirkuk after everything that has happened, but hopefully it will not come to that".<sup>171</sup>

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disputed areas such as Kirkuk, and these must therefore be based on the simple-majority rule.

<sup>170</sup> Because Sunni Arabs absented themselves from the January 2005 elections, they were under-represented in the transitional national assembly from whose ranks the constitution-drafting committee was chosen. Fifteen unelected Sunni Arabs were added to the committee later, but the entire committee itself was sidelined when the KDP, PUK and SCIRI moved constitutional negotiations to their party headquarters and leaders' homes, where all key decisions were taken. See Crisis Group Report, *Unmaking Iraq*, op. cit., and Jonathan Morrow, "Iraq's Constitutional Process II: An Opportunity Lost", U.S. Institute of Peace, Washington DC, December 2005.

<sup>171</sup> Crisis Group interview, Erbil, 1 April 2006.

Should the constitutional provisions be implemented and rejected or not implemented at all – either because of active central government opposition or because the country dissolves into civil war – the Kurds could declare Kirkuk theirs, draw the governorate's boundaries unilaterally (excluding, for example, Hawija district) and deploy protection forces. In the worst-case, civil war scenario, the sizeable Kurdish population of Baghdad could be expelled by hostile militias; should that occur, Kurdish leaders might seek to address the resulting refugee crisis by forcibly removing remaining Arab newcomers from Kirkuk and offering their homes to displaced Baghdadi Kurds.

Given the Kurds' military superiority in Kirkuk, and assuming no U.S. veto, the Kurds should be able to take full control of Kirkuk governorate (minus the Arab areas). They could take other areas they claim as well: Sinjar, Tel Afar, the eastern part of Mosul, Makhmour, Tuz Khurmatu, Kifri, Khanaqin and Mandali.

The problem is that this would deprive the Kurds of the substantive legitimacy they need to rule effectively and to have their claim recognised internationally. Even if their opponents could not mount a significant military challenge in the short term, they would be able, through sabotage and political violence, to make life difficult. Already, many displaced Kurds are refusing to return to Kirkuk because of fears of rampant crime, political violence and chaos, not to mention the absence of adequate educational and health facilities and other essential services. And even if Turkey kept its forces on its side of the border, it might well succumb to pressures from a nationalist pro-Turkoman lobby it has actively nourished and encourage insurgent activity against Kurds in Kirkuk. The upshot would be long-term instability and violence, which the Kurds ought to do everything in their power to avoid.

**By default.** Kirkuk may accrue to the Kurds through a third option that falls between the use of law and the use of force. In this scenario, the Kurds would simply continue their current policy: incrementally extend their political, institutional and military control over Kirkuk governorate and other areas, creating a fait accompli. By acting skilfully and dividing and neutralising their opponents, for example by agreeing to effective power-sharing arrangements with other communities, they could minimise the threat of violence.<sup>172</sup> As the KDP's Ramadan put it, "I can't win elections for them. But I can give them positions in

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<sup>172</sup> Senior PUK leader Nowshirwan Mustafa Amin suggested as much in an interview with Crisis Group, Suleimaniyeh, 17 March 2005.

government and administration. It is not in our interest that they oppose us. We are in an exceptional situation".<sup>173</sup>

This might well be the Kurds' optimal way forward, as it would bring effective control over Kirkuk at minimum cost and risk. But it would be an inherently unstable outcome, leaving Kirkuk's status unresolved and therefore the prey of competing pressures. In particular, urged by domestic opinion, Kurdish leaders might feel the need to take unilateral steps to annex Kirkuk.

## **B. SECURING KURDISH INTERESTS**

If the Kirkuk question is to be resolved peacefully, Kurdish leaders must step back from maximalist demands. There are grounds to believe they may do so, as it is in their fundamental interest.

The Kurds face a basic question: do they wish to remain a part of Iraq? If the answer is "yes", the importance of the Kirkuk question dramatically decreases and can be settled via negotiations. The Kurds would still want to have access to Kirkuk's natural resources and have guarantees that Kirkuk Kurds enjoy full rights and protections but these matters could be taken care of through a political settlement, a revised constitution and international guarantees. However, by investing such importance in Kirkuk's incorporation into their region – a step that is truly useful only if independence is contemplated – Kurds inevitably raise the suspicion that they are saying "yes" while thinking "no" – or "yes" for now but ultimately "no".<sup>174</sup>

If the Kurds, as they say, want Kirkuk only because historically they have lived there and are a plurality in the governorate, they run up against the other communities' competing claims that appear to have no less value. If they want Kirkuk to prevent a repeat of past atrocities, necessary protections can be found

short of incorporation into the Kurdish region. Two conclusions stand out: first, that while based on ethnicity, language and culture, as well as past struggle and suffering, the Kurds have a strong claim to independence, they have failed to present a persuasive case for exclusive control over Kirkuk; secondly, that their insistence on having Kirkuk can only be explained by their desire for independence.<sup>175</sup> Of course, they have the option of declaring independence within the current boundaries of the Kurdish region, without Kirkuk; in this case they could count on the support of many Iraqis.<sup>176</sup> But to the Kurds this would make little sense, as their state would be too weak economically to withstand external pressures.<sup>177</sup>

All indications are that the Kurds cannot take Kirkuk, by law or by force, without triggering wide-scale violence; likewise, there is compelling reason to believe that they could not subsequently retain it without facing endemic instability and perennial challenges to their rule. Whatever the Kurds may want in their hearts, and many agree they fully deserve, the question is whether it is realistic to strive for independence when they are not in a position to acquire either vital economic resources or the Iraqi, regional and wider international support they need for legitimacy and survival.

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<sup>173</sup> Crisis Group interview, Erbil, 1 April 2006.

<sup>174</sup> Yonadam Kanna, leader of the Assyrian Democratic Movement, for example, stated: "The Kurds want to annex Kirkuk 100 per cent. They want it because it has many resources and is therefore very rich. They can develop their own region better if they have Kirkuk. They aspire to independence, and so it would help of they had Kirkuk". Crisis Group interview, Baghdad, 25 June 2006. Hunein Qado, a member of the council of representatives for the UIA, stated: "Kirkuk will be the cause of civil war. The Kurds should not seek to annex Kirkuk and other areas. By doing this they are sending a signal that they want their own state. If they don't aspire to independence, they do not need these areas". Crisis Group interview, Amman, 2 May 2006.

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<sup>175</sup> This is the perspective for now. If and when significant oil and gas resources are discovered and proved within the Kurdish region as currently delineated – so significant as to eclipse Kirkuk's importance – the Kurds could pursue independence without Kirkuk (even if none of the economic dependency problems would be resolved in that case either).

<sup>176</sup> One politician declared: "The Kurds can have their independence, but not by violating Iraqi interests, that is, not with Kirkuk and other areas they claim". Crisis Group interview, Saad Jawad al-Saati, Amman, 2 March 2006.

<sup>177</sup> Discovery of major oil and gas deposits in the Kurdish region within its current boundaries might diminish Kirkuk's importance as a guarantee of the Kurdish region's economic viability. Although there are oil and gas prospects, not enough exploration has occurred for the existence of major reserves to be more than purely speculative.

## VII. AN ALTERNATIVE: INTERIM SPECIAL FEDERAL STATUS AND POWER SHARING

If a peaceful settlement of Kirkuk's status in line with current Kurdish thinking is not achievable, alternatives must be explored. These, in turn, could suggest solutions for all "disputed" territories covered by Article 140. The government (both its executive and legislative branches), representatives of Kirkuk's communities and representatives of the Kurdistan regional government should negotiate a political solution along the following lines:

**Status as a region.** The constitution provides that "any one or more governorates shall have the right to create a region" (Article 119), each with its own constitution (Article 120) and with powers as defined by both the constitution and future legislation (Article 121 and other articles). To accommodate all the core concerns of Kirkuk communities without overstepping the red lines of any one, Kirkuk governorate could be accorded a federal regional status. Kirkuk would then fall neither under the Kurdish federal region – an Arab and Turkoman red line – nor directly under the federal government in Baghdad – a Kurdish red line.

**Ratified by a charter.** In the case of Kirkuk, Iraq's council of representatives should set aside the idea of a referendum and instead draft a charter to grant the governorate the status of a federal region. The council of representatives is so empowered by Article 118 of the constitution, which states: "The council of representatives shall enact, in a period not to exceed six months from the date of its first session, a law defining special implementing procedures to create regions by a simple majority of members present". Although there is some controversy over when exactly the assembly had its first session, elected representatives took the oath of office on 16 March 2006. The charter would be in lieu of the referendum mentioned in Article 140.

**For an interim period.** To make such a solution palatable to the Kurds, Kirkuk's status as a federal region would initially have to be for an interim period. No future options should be foreclosed during a stand-off as tense and wrought with danger as the current one. The interim period, if managed wisely, would allow Kirkuk's communities to regain confidence that their fundamental rights will be safeguarded, their interests protected and thus their futures secured. This could help allay basic fears, diminish communal tensions and, hopefully, restore communal harmony. The charter creating the Kirkuk region should include both a time

limit – ten years, for example – and a mechanism for addressing permanent status down the line.

**With a power-sharing arrangement.** Granting Kirkuk governorate regional status alone would not be sufficient. During the same interim period, power would have to be shared between its four principal communities. Some have suggested giving each a quarter share in the region's legislature. This is more or less the arrangement that existed and appeared to work at the level of the Kirkuk provincial council between May 2003 and the January 2005 provincial elections.<sup>178</sup> Others have proposed giving the three larger communities a proportionately greater share than the minority Christians, perhaps a 30-30-30-10-per cent arrangement.<sup>179</sup> Over time, though, Kirkuk should seek to move away from ethnically-based power-sharing.

**Through international mediation.** The Security Council should appoint a special envoy for Kirkuk, who, with international community support, should help establish a federal Kirkuk region and resolve the status of other disputed territories. Key aspects of the envoy's terms of reference would be to facilitate discussions on the modalities of an interim Kirkuk status; help establish a power-sharing arrangement in which all Kirkuk's communities were fairly represented; establish a mechanism by which senior positions in the Kirkuk regional government and the Northern Oil Company (the state oil company that is Kirkuk's largest employer) were assigned on the basis of qualifications without discrimination against any community; raise donor funds for Kirkuk's rehabilitation and ensure their use on the basis of need, not ethnicity; monitor compliance with any agreements; and report regularly to the Security Council. The UN could also contemplate convening an international conference on Kirkuk to tap into the international community's expertise.

**With modalities to be decided.** The precise modalities of such an arrangement would have to be worked out by Kirkukis themselves, in coordination with the central government and the Kurdistan regional government. The decision-making process would benefit from greater inclusivity and transparency: stakeholders in civil

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<sup>178</sup> See Crisis Group Report, *Iraq's Kurds*, op. cit., p. 11, and Crisis Group Report, *Iraq: Allaying Turkish Fears*, op. cit., p. 4.

<sup>179</sup> One community leader proposed: "There should be a UN decision to give Kirkuk special status, the same as Baghdad. Then power should be distributed as follows across the provincial government and its agencies and directorates: 30 per cent each to the Arabs, Turkomans and Kurds, and 10 per cent to the Chaldeans and Assyrians". Crisis Group interview, Mustafa Tamawy, Kirkuk, 20 March 2005.

society, including unions, non-profits and women's organisations, especially in Kirkuk, should be involved to reduce the risk of public rejection of a settlement.

**Reversal of past abuses.** During the interim period, the process of reversing past abuses should continue, with the managed return of those who were forcibly displaced by previous regimes; facilities and compensation offered to those brought in by past regimes (including their offspring) who agree to leave voluntarily; resolution of property disputes via the established mechanism; and a process by which former Kirkuk districts could either be restored to Kirkuk governorate or remain where they are.

**Amendment of the constitution.** During the constitutional review, legislators should replace Article 140 with a new article in which the principle of reversing past abuses (TAL Article 58) is retained and Kirkuk's separate status as a federal region is recognised on an interim basis.<sup>180</sup>

The compromise solution sketched here emerges from interviews with numerous representatives of the four communities over the past two years, none of whom made such a proposal but all of whom indicated what might and what would definitely not be acceptable to their communities. In other words, it is preferred by no one but seeks to address the core concerns of all without overstepping red lines.

## VIII. CONCLUSION

In drafting Article 140 of the constitution, Kurdish leaders believed they were gaining guaranteed acquisition of Kirkuk. However, because of the way the constitution was achieved – through a rushed process culminating in a political deal between the Kurds and a single Shiite party, SCIRI, to the exclusion of many other parties, communities and minorities, as well as civil society organisations and public opinion more broadly – it reflects imposition of a Kurdish template for Kirkuk rather than a consensus agreement. As a result, a Kirkuk referendum may not happen, certainly not by the December 2007 deadline, and Kurdish aspirations may well flounder.

For the Kurds, this deadline thus threatens to become a self-laid trap. Having raised expectations and convinced their people to defer their Kirkuk ambitions by a couple of years, Kurdish leaders must now deliver by the end of 2007 or meet their wrath. As a Kurdish official put it, “we concentrated so much on Kirkuk, we would lose face if we now lowered our position. This is the problem”.<sup>181</sup>

This is a problem, however, not only for the Kurdish leadership, but for all Iraqis, as the Kurds' failure to secure Kirkuk by lawful, constitutional procedure may drive them to reckless adventurism with the risk of violence, civil war and possibly (direct or indirect) foreign intervention.

The time to avert this threat is now, well before the window closes at the end of 2007. As the most dynamic post-war actor, it falls on the Kurdish leadership to take a step back and make a cold calculation of fundamental interests, opportunities and constraints. And it falls on the international community, which is intent on stabilising Iraq, to help. The principal international actors, the U.S. and UK, with UN assistance, should bring Iraqi political leaders together and help them negotiate an arrangement along the broad outlines proposed above, which may be the only solution to the Kirkuk question that is both workable and durable.

Regrettably, there are no moves in this direction. Political leaders have been so fixated on achieving their maximum objectives, or blocking others from achieving theirs, that they have taken no time to contemplate the need for, let alone details of, an alternative. Some have indicated that Kirkuk is a U.S. responsibility and are waiting for Washington to intervene. The U.S. has been

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<sup>180</sup> There is a precedent for this in the current constitution, which states in Article 117: “First: This constitution, upon entering into force, shall recognise the Kurdistan region, along with its existing authorities, as a federal region. Second: This constitution shall recognise the new regions that are established according to its provisions”.

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<sup>181</sup> Crisis Group interview, Erbil, 6 April 2006.

preoccupied with fighting an unremitting insurgency and propping up a weak government but it no longer can afford to neglect Kirkuk.

The following steps would help reduce tensions and enable a negotiated solution:

- all parties to this conflict should make clear their intention to pursue a negotiated settlement, explain to their followers that compromises will have to be made for the sake of an overall peaceful solution, desist from voicing maximalist claims and generally lower inflammatory rhetoric on Kirkuk;
- the U.S. should signal intent to place its weight behind a UN-brokered political settlement of the Kirkuk question;
- the Iraqi government should invite the UN to appoint an envoy for Kirkuk and, along with representatives of Kirkuk's communities and representatives of the Kurdistan regional government, start negotiations to settle its status, at least for an interim period; and
- the Security Council should appoint a special envoy charged with facilitating a negotiated solution to the status of Kirkuk as well as other disputed territories.

**Amman/Brussels, 18 July 2006**

## APPENDIX A

### MAP OF IRAQ

