

# **IRAQ AND THE KURDS: CONFRONTING WITHDRAWAL FEARS**

Middle East Report N°103 – 28 March 2011



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## IRAQ AND THE KURDS: CONFRONTING WITHDRAWAL FEARS

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

Iraq's government was long in the making, but its inclusive nature and the way in which it was formed offer hope that it can make progress in the struggle between Arabs and Kurds. The conflict, which has left a devastating imprint on the country's twentieth-century history, could cause political paralysis or, worse, precipitate Iraq's break-up. Coalition partners have a unique opportunity to make headway. Failure to seize it would be inexcusable. Both sides should build on the apparent goodwill generated by efforts to establish a government to lay the foundations for a negotiated and peaceful settlement. In particular, they should immediately resume talks over the status of Kirkuk and other disputed territories. They also should use their January 2011 agreement to export Kurdish oil through the national pipeline as a basis for negotiations over a revenue-sharing law and a comprehensive hydrocarbons law.

As protests throughout the country have shown, Iraq is not immune from the revolutionary fervour that is coursing through the Middle East and North Africa. Nor should it be, as successive governments' inability to provide essential services, most importantly a steady supply of electrical power, has given rise to legitimate grievances. In what will be an early test for the new government, Prime Minister Nouri al-Maliki will have to find an effective response to protesters' demands as a top priority, certainly before the arrival of the hot summer months. The same holds true for the Kurdistan regional government (KRG), which has long been buffeted by complaints concerning poor service delivery and widespread corruption. Protests in Suleimaniya in February and March 2011 show it is overdue in taking persuasive remedial action and thus faces the risk of escalating and spreading unrest.

Arab-Kurdish relations remain a tinderbox. In late February, the Kurdistan regional government sent military forces into Kirkuk in a transparent attempt to both deflect attention from events in Suleimaniya and rally the Kurdish population around the supremely emotive issue of Kirkuk's status. In doing so, it dangerously inflamed an already tense situation and exacerbated ethnic tensions. This should serve as a reminder of the need for leaders in Baghdad

and Erbil to urgently attend to the structural Arab-Kurd fault line.

In joining the coalition government, Kurdish leaders presented conditions on power-sharing and outstanding claims over resources and territory. Maliki says he agreed to most, but to the Kurds the ultimate proof lies in whether and how he fulfils them. It is doubtful that the prime minister can or even would want to satisfy their every demand, and both sides will need to show flexibility in hammering out the required deals – notably on completing government formation, hydrocarbons and revenue-sharing legislation and the delineation of the Kurdistan region's internal boundaries.

In the past, Crisis Group has argued that Kirkuk should gain special status as a stand-alone governorate, under neither Baghdad's nor Erbil's direct control, for an interim period, with a mechanism for ultimately resolving its status, and with a power-sharing arrangement in which political representatives of the main ethnic and religious groups are represented fairly. A deal along these lines appears within reach, and now is the time to pursue it. In January, building on their success in forming the coalition government, Baghdad and Erbil negotiated a tactical agreement on oil exports from the Kurdistan region whose implementation should prove beneficial to both. They ought to take this a step further by starting talks on the range of issues that have plagued their post-2003 relationship.

In June 2009, the UN Assistance Mission for Iraq (UNAMI) set up a high-level task force whose stated goal was to work toward a negotiated solution – initially through confidence-building mechanisms – for the disputed territories, the broad swathe of land from the Syrian to the Iranian border that Kurds claim as historically part of Kurdistan. UNAMI realised full well, however, that the task force was unlikely to make progress in the months leading up to and following legislative elections, so its real objective was to keep the parties at the table until a new government was formed. This period, which lasted a year and a half, has now come to an end; today, the initiative should be invested with new life.

At the core of the territorial dispute lies the disposition of Kirkuk, the name for three separate but overlapping entities – city, governorate and super-giant oil field – that are subject to competing claims. The 2005 constitution lays out a process for resolving the status of Kirkuk and other disputed areas, but it has run aground on profound differences over interpretation and lack of political will. Meanwhile, the situation in the disputed territories has been left to fester. In areas with a rich ethnic mix, such as Kirkuk city and several districts of Ninewa governorate, this has produced strong tensions and politically-motivated provocations aimed at sparking inter-communal conflict.

To prevent small incidents from escalating into a broader conflagration, the U.S. military in 2009 established so-called combined security mechanisms along the trigger line – the line of control between the Iraqi army and the Kurdish regional guard force, known as the *peshmergas*, that runs along the disputed region's spine. The mechanisms' key features are joint checkpoints and patrols involving army and guard force personnel with embedded U.S. officers, as well as coordination centres designed to improve communication and build trust between the two sides. Moreover, Baghdad and Erbil agreed to a set of rules governing the deployment of their respective security forces in these areas.

Together, these steps have reduced tensions, but the security forces' presence and posture in their designated sectors remind a weary population the conflict is far from resolved. The standoff between the army and the *peshmergas* in Kirkuk's environs, in particular, and provocative conduct of the Kurdish security police, the *asaesh*, inside the city augur trouble for the period after U.S. withdrawal, scheduled for the end of 2011. Events in late February-early March, when *peshmerga* forces deployed around Kirkuk city over the vehement protestations of local Arab and Turkoman leaders, were another warning that the security situation, relatively stable since 2003, may not hold.

The combined security mechanisms were intended to buy time for negotiations over the disputed territories' status. So far, measures fashioned to break the deadlock, such as a process to organise provincial elections in Kirkuk, have reinforced it, increasing frustration and mutual recrimination. The impact has not been limited to the immediate area: a nationwide census has been postponed indefinitely because of disagreements over its application in the disputed territories. Without progress, conflict threatens to erupt as U.S. troops prepare to leave Iraq, including positions along the trigger line. This causes anxiety all around, especially among Kirkuk residents, who appear unanimous in calling for continued U.S. military protection.

There are no easy fixes. Although Maliki's government might seek to negotiate a troop extension, the likelier scenario is that the U.S. troop presence in the north will be se-

verely curtailed if not ended within a few months. UNAMI has begun to explore Baghdad's and Erbil's readiness to re-engage on core issues, but delays in filling key government posts, such as the defence and interior ministers, militate against an early resumption of talks.

The U.S. takes the position that its forces are leaving, so Iraqis will have to sort out problems along the trigger line without the psychological security blanket its military presence has provided. It also appears to believe the impending departure itself might concentrate Iraqi minds and produce political will to agree on the disposition of Kirkuk and other territories. That could be a logical wager, but it also is a risky one. At a minimum, the U.S. should provide strong diplomatic and financial support to UNAMI as it prepares for talks, including by making continued military aid conditional on stakeholders' constructive participation in negotiations and commitment to refrain from unilateral military moves. UNAMI should propose specific confidence-building steps in the disputed territories based on its impressive (unpublished) April 2009 report. In so doing, it should make every effort to involve political representatives from the disputed territories. Both the Maliki and Kurdistan regional governments should encourage economic activity in the territories and, in Kirkuk, impartial use of extra revenue from oil sales on projects benefiting the entire community.

Most of all, leaders in Baghdad and Erbil need to ask themselves: will they be persuaded to pursue a negotiated solution by the realisation they cannot attain their objectives either by letting the matter linger or by using force? Or will they be prompted only by the outbreak of a violent conflict neither side wants and whose outcome they could not control?

## RECOMMENDATIONS

### To the Government of Iraq and the Kurdistan Regional Government:

1. Commit publicly to a negotiated solution to the status of disputed territories.
2. Resume negotiations on the full range of pertinent issues, including the status of disputed territories, a hydrocarbons law, a revenue-sharing law, provincial elections in Kirkuk and a national census; discuss in particular disputed territories as part of the high-level task force established under UN auspices; and institute confidence-building steps in individual districts, per recommendations in UNAMI's April 2009 report.
3. Include in such talks leaders of parties representing all ethnic and religious groups in the disputed territories.
4. Continue joint army-*peshmerga* checkpoints, patrols and operations in the disputed territories, based on

the U.S.-sponsored combined security mechanisms, after a U.S. troop withdrawal; maintain and fully staff the Joint Coordination Centres in the disputed territories; and create a Baghdad-Erbil monitoring team to investigate disputes involving joint security operations.

5. Issue clear instructions to security forces deployed in disputed territories to remain in designated separate areas, except in jointly agreed-upon joint checkpoints, joint patrols and joint operations against violent groups outside the political process; appoint a non-voting official from each side to, respectively, the Iraqi cabinet and the KRG's council of ministers to promote early flagging of disputes; and a senior military officer from each side to, respectively, the National Operations Centre in Baghdad and the KRG's equivalent in Erbil.
6. Encourage provincial authorities in the disputed territories to recruit additional police personnel from all ethnic and religious groups in order to achieve a force that fairly reflects the local community's diversity.
7. Continue efforts to integrate Kurdish *peshmergas* and police (including the paramilitary *zerevani*) under the respective defence and interior ministries within the national security architecture.
8. Move toward police primacy in the disputed territories with the aim of turning these areas into a demilitarised zone in which neither the Iraqi army nor Kurdish *peshmergas* or *zerevanis* are authorised to operate.
9. Accept the Supreme Court decision that the census mentioned in Article 140 of the constitution is not the same as the decennial population count and proceed, initially by asking parliament to amend the 2008 census law, on that basis with the latter, excluding the inflammatory and – for national purposes – unnecessary question regarding people's ethnicity.
10. Promote economic development in the disputed territories and, in Kirkuk, encourage the effective use of extra revenue from oil sales on projects benefiting the entire community.

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

11. Finalise legislation and step up implementation of the plan to unify security forces (*peshmergas*, *zerevanis*, *asaesh*, *parastin*, *zanyari*) belonging to the Kurdistan Democratic Party and the Patriotic Union of Kurdistan under its direct and exclusive authority.
12. Instruct the *asaesh* (party-controlled security police) deployed in Kirkuk city and other parts of the disputed territories characterised by religious and ethnic diversity to operate in close coordination with the local police and stay within the limits of Iraqi federal

law; and develop a plan to restructure the *asaesh* deployed in such areas by recruiting personnel from all religious and ethnic groups in order to achieve a force that fairly reflects the local community's diversity.

#### **To Local Governments in Kirkuk, Ninewa, Diyala and Salah al-Din:**

13. Ensure that local projects funded from the central Iraqi budget, including extra revenues from locally-produced and/or refined oil and gas (the so-called petrodollars), are distributed fairly throughout the governorate and/or benefit citizens without prejudice.
14. Recruit additional police personnel from all ethnic and religious groups in order to achieve a police force that fairly reflects the local community's diversity.

#### **To the UN Assistance Mission for Iraq (UNAMI):**

15. Revive the high-level task force, at least to address flare-ups along the trigger line; support negotiations between Iraqi stakeholders on disputed internal boundaries by providing technical expertise and political advice at all levels; propose specific confidence-building steps in the disputed territories based on its April 2009 report; and make every effort to involve leaders of parties representing all ethnic and religious groups in the disputed territories in the talks.

#### **To the U.S. Government:**

16. Support the early start of negotiations between the Iraqi government and the Kurdistan regional government on the full range of issues listed above and provide full financial and diplomatic backing to UNAMI in mediating stakeholder talks.
17. Encourage and support – in the event that no U.S. troop extension is negotiated – Iraqi joint mechanisms in the disputed territories designed to reduce the chances of armed conflict.
18. Use military assistance as leverage to press the Iraqi government and the Kurdistan regional government to refrain from unilateral steps in disputed territories, including by army and *peshmerga* units, and to ensure proper regulation of their respective security forces, these forces' continued cooperation in joint security mechanisms and their respect for human rights and the rule of law.

**Erbil/Baghdad/Brussels, 28 March 2011**

## IRAQ AND THE KURDS: CONFRONTING WITHDRAWAL FEARS

### I. INTRODUCTION: THE KURDS IN THE NEW IRAQI GOVERNMENT

#### A. THE KURDS' NINETEEN DEMANDS

Nine long months of negotiations made clear that no government could be formed in Iraq without the two principal Kurdish parties, the Kurdistan Democratic Party and the Patriotic Union of Kurdistan.<sup>1</sup> The two parties, which jointly competed in the March 2010 elections as the Kurdistan Alliance Bloc, refrained from endorsing a specific party or candidate from among the chief contenders to lead the new government, Nouri al-Maliki's State of Law list and Iyad Allawi's Al-Iraqiya slate. Instead they expressed their willingness to work with whoever proved ready to address the list of nineteen demands they published in August 2010.

Topping the list was implementation of the 2005 constitution which, as the Kurds see it, should result in the incorporation of Kirkuk and other disputed territories into the Kurdistan region – thereby fulfilling a quest that has preoccupied them since 2003.<sup>2</sup> Other demands, reiterated by the Kurds for years, related to the long-stalled hydrocarbons law and further legal and institutional reform, as well as Kurdish representation in state institutions.

Both Maliki and Allawi publicly acknowledged the Kurds' critical role in forming a government. In the months following the elections, State of Law declared its readiness to satisfy most of their demands, if they supported Maliki's continuation as prime minister.<sup>3</sup>

Al-Iraqiya was less forthcoming, stating it would find it difficult to cede to the Kurds' demand on disputed territories, but indicated that should an agreement be reached, it would be more meaningful than any promises made by Maliki, who would be in no position to deliver because his main constituency lives far from these areas.<sup>4</sup> By contrast, a large part of Al-Iraqiya's core constituency co-inhabits the disputed territories with Kurds.<sup>5</sup>

<sup>3</sup> In June 2010, Hassan al-Sneid, a State of Law parliamentarian, said in reference to Article 140 of the constitution that "the new government would seriously work to take the first steps regarding that matter and implement it". He added, in a statement that created controversy in Baghdad, that State of Law and Kurdistan Alliance Bloc representatives could sign a joint memorandum to confirm this pledge. *Baghdadiya News*, 25 June 2010. Denials soon followed, while Kurdish politicians expressed deep scepticism. At a press conference following an 8 August meeting with Kurdistan Region President Masoud Barzani, Maliki gave Article 140 a half-hearted endorsement: it "will not be suspended and no faction can reverse that". *Al-Muraqeb al-Iraqi*, 11 August 2010. He began reaching out to the Kurds shortly after the elections, if only to convince them he was ready to negotiate. In May, reports surfaced that the Maliki-led government had incorporated over 400 Kurdish police from the Kurdistan region into the interior ministry's police force in Kirkuk and Diyala governorates. Local non-Kurdish leaders decried the move as evidence that Maliki would readily trade away Kirkuk and other disputed territories in order to stay in power. Crisis Group interviews, Irshad Salehi, Turkoman parliamentarian for Al-Iraqiya, Kirkuk, 23 May 2010; Mohammed Tammeem, Arab parliamentarian for Al-Iraqiya, Baghdad, 27 May 2010; and Fawzi Akram, Turkoman parliamentarian for the Sadrists, Baghdad, 27 May 2010.

<sup>4</sup> Al-Iraqiya spokeswoman Maysoun al-Damlouji said, "if they [Kurds] form an alliance with Maliki, they will lose, in particular regarding the disputed regions". She argued that since most of the disputed territories' non-Kurdish residents voted for Al-Iraqiya rather than State of Law, Maliki would not be able to assist the Kurds in their quest to see Article 140 of the constitution implemented. This meant, she said, that the Kurds should negotiate an agreement with Al-Iraqiya rather than with State of Law. *Rudaw*, 16 October 2010.

<sup>5</sup> An Iraqi analyst observed that the Kirkuk question helped determine the outcome of government formation: "If the Kurds could have made a deal with Al-Iraqiya over Kirkuk and the other disputed territories, the government would have looked

<sup>1</sup> Following the March 2010 elections, the principal Kurdish parties formed the Kurdistan Alliance Bloc in Baghdad, which aimed to present a common front vis-à-vis the non-Kurdish electoral blocs. It comprised the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), as well as the reformist Goran (Change) list and two Islamist parties, the Kurdistan Islamic Union and the Kurdistan Islamic Group. On 29 October 2010, Goran's eight parliamentarians withdrew, claiming that the KDP and PUK had increased their powers in the Kurdistan region rather than respond to their list's call for reform.

<sup>2</sup> See Crisis Group Middle East Reports N°56, *Iraq and the Kurds: The Brewing Battle over Kirkuk*, 18 July 2006; and N°64, *Iraq and the Kurds: Resolving the Kirkuk Crisis*, 19 April 2007.

Even for Maliki, despite his declared readiness to accommodate the Kurds' demands, things did not prove quite so simple. In addition to the above claims, the Kurds' wish list included a set of overarching conditions designed to increase chances that the future government would implement Maliki's pledges regarding Kirkuk and other matters. In particular, they insisted that:

- ❑ the governing coalition be a government of national unity, ie, comprising Al-Iraqiya in addition to State of Law and the Kurdistan Alliance Bloc, as well as elements of a fourth list, the Iraqi National Alliance;
- ❑ the Kurdistan Alliance Bloc have the right to choose the next president;<sup>6</sup> and
- ❑ the prime minister's authority be diluted to prevent him from amassing disproportionate power.

On the first set of conditions, Mahmoud Othman, a prominent and independent Kurdish politician, explained: "Historically, we are closer to the Shiites; geographically, to the Sunnis. If we go one way, we pay the price there, and vice versa. This is why we support a government of national unity".<sup>7</sup> Specifically, the Kurds have found allies in Al-Iraqiya leader Iyad Allawi (though not among the bulk of Allawi's supporters, the majority of whom are Sunni Arabs) and in Adel Abd-al-Mahdi, a senior official of the Islamic Supreme Council in Iraq, whose party shares a history of joint struggle with the Kurds against the former regime and has supported a form of regionalisation that coincides with the Kurds' vision of a federal Iraq.<sup>8</sup> In the end, all four blocs entered the coalition government.

The second condition proved controversial until the moment the deal on the new government was announced on 10 November. The Kurds had long indicated that they

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dramatically different". Crisis Group interview, Amman, 24 January 2011.

<sup>6</sup>The Kurds' final demand was that Maliki agree that if the Kurdistan Alliance Bloc withdrew from the government, it would fall. This was the only demand Maliki rejected out of hand, and Kurdish officials then said they recognised it was unrealistic. Under the constitution, a government falls if it loses a parliamentary vote of confidence, which would not necessarily be the result of a coalition partner's withdrawal. Subsequently, the sides worked out a compromise, the text of which – along with the final agreement concerning the other eighteen demands – has not been published and about which they have stayed mum. Crisis Group interview, Najmaldin Karim, parliament member for the Kurdistan Alliance Bloc, Baghdad, 17 January 2011.

<sup>7</sup>Crisis Group interview, Baghdad, 25 May 2010.

<sup>8</sup>See Crisis Group Middle East Report N°70, *Shiite Politics in Iraq: The Role of the Supreme Council*, 15 November 2007. But the Supreme Council's influence has declined significantly, as a result of its poor performance in both the 2009 provincial and 2010 legislative elections.

wished to see Jalal Talabani, a Kurd who has served as president since 2005, continue in the top post. Masoud Barzani, the Kurdistan region's president, publicly supported Talabani, saying this was not an "electoral entitlement" but a "national entitlement" for the Kurds, the country's largest ethnic group after the Arabs.<sup>9</sup> The presidency holds symbolic importance for the Kurds in a country that is a member of the Arab League,<sup>10</sup> as well as a vindication of decades of struggle against Baghdad regimes.<sup>11</sup>

During negotiations over the new government, however, the U.S. had pushed for Al-Iraqiya's Iyad Allawi to become president, with the Kurds receiving the post of speaker of parliament, an effort that faltered on the last day.<sup>12</sup> While some Kurdish officials had suggested during the year that the matter was negotiable,<sup>13</sup> and Goran officials had indicated they opposed Talabani's candidacy,<sup>14</sup> Barzani held to his view despite heavy U.S. pressure, possibly because his, and his party's, strong preference was for Talabani, the Patriotic Union of Kurdistan (PUK) leader, to be in Baghdad rather than Kurdistan, where the two parties have been locked in competition.<sup>15</sup>

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<sup>9</sup>Quoted on Kurdistan TV, 8 November 2010. Barzani said that the president's position "is connected to the [Kurdistan] Region, to the Kurdistan Parliament, to the Kurdish street. It is not one person's decision". He added: "The Kurdistan Bloc does not represent political parties. It represents the second nation in Iraq. So, undoubtedly, what Kurds are asking for is their national entitlement and not electoral entitlement".

<sup>10</sup>The issue promises to have special importance in March 2011, when the Arab League is scheduled to meet in Baghdad.

<sup>11</sup>Crisis Group interviews, Kurdish leaders, Baghdad, Erbil and Suleimaniya, 2010.

<sup>12</sup>Crisis Group interviews, Washington, 10 and 12 November 2011.

<sup>13</sup>Crisis Group interviews, Erbil and Suleimaniya, March, May and September 2010.

<sup>14</sup>Crisis Group interviews, Suleimaniya, May 2010.

<sup>15</sup>Independent Kurdish parliamentarian Mahmoud Othman said, "the only reason the Kurds want the presidency is that Talabani is still there, and Barzani does not want him back in Kurdistan". Crisis Group interview, Baghdad, 25 May 2010. Another senior alliance member, Fuad Masoum, a Talabani loyalist, offered a different view. Unlike the outgoing government and its three-member presidency council, the new government has a single president, consistent with the 2005 constitution. Some Kurdish officials believe the three-member presidency was an obstacle to implementing Article 140 of the constitution regarding Kirkuk, in particular the clause on restoring to it districts separated by the former regime (a task given to the presidency council to resolve), and that a single, Kurdish president could rectify this in their favour. Masoum, a parliament member for the Kurdistan Alliance Bloc, said, "now that the three-member presidency has been cancelled, we want the presidency for the Kurds because the president can address the issue of Kirkuk's districts". Crisis Group interview, Suleimaniya, 24 May 2010. An Arab leader in Kirkuk disputed the Kurdish view that a sin-

The third condition was the most difficult to satisfy and indeed so far has not been implemented. Distrusting Maliki, whom they had accused of authoritarian tendencies during his first term, Maliki's political opponents – Al-Iraqiya, the Iraqi National Alliance<sup>16</sup> and the Kurds – wanted to limit his powers in the new government. They supported a number of measures designed to do so, including the establishment of a National Council for Strategic Policy; legislation that would remove security and intelligence agencies, as well as certain security forces, from the prime minister's exclusive control;<sup>17</sup> and council of ministers by-laws that would delineate the prime minister's authorities relative to those of his ministers. All these matters are still under negotiation, but the November 2010 rush by Al-Iraqiya politicians to secure senior government positions reduced both their party's and the Kurds' leverage vis-à-vis Maliki on these checks on his power.

Maliki accepted the Kurds' demands by signing a document that reportedly spelled out key agreements in greater detail but has remained secret.<sup>18</sup> This introduced a thaw in previously frayed personal relations between Maliki and Barzani and allowed formation of a coalition government that, consistent with the Kurds' demand, includes all major blocs. Much will now depend on whether Maliki implements his promises.

## **B. TREMORS ALONG THE ARAB-KURDISH FAULT LINE**

Negotiations over government formation underscored not only the Kurdish parties' important role but also and especially the enduring impact of the Arab-Kurdish fault line on the outline and nature of the new state. The stand-off between the two capitals, Baghdad and Erbil, over how to divide power, territory and resources has permeated and contaminated key aspects of central policy making, affecting issues that at first blush appear unrelated, such

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gle president could restore Kirkuk's districts, saying the pertinent provision was null and void now that the presidency council had ceased to exist. Crisis Group interview, Rakan Saeed, deputy governor, Kirkuk, 20 May 2010.

<sup>16</sup> This loose 2009-2010 electoral alliance comprised Shiite Islamist parties such as the Sadr Trend and the Islamic Supreme Council of Iraq, as well as smaller parties and individuals. Following the March 2010 elections, it allied with Nouri al-Maliki's State of Law list to become the National Alliance, with former Prime Minister Ibrahim al-Jaafari as its head.

<sup>17</sup> See Crisis Group Middle East Report N°99, *Loose Ends: Iraq's Security Forces between U.S. Drawdown and Withdrawal*, 26 October 2010.

<sup>18</sup> Crisis Group interview, Khaled Shwani, parliament member for the Kurdistan Alliance Bloc (PUK-Kirkuk), Baghdad, 13 January 2011.

as governorate elections.<sup>19</sup> Increasingly over the past four years, negotiations over aspects of this conflict have either been managed through last-minute compromise that evaded core issues, as with the 2009 electoral law,<sup>20</sup> or ground to a halt, for example the draft hydrocarbons law in 2007. The effect has been to entrench the problems and deepen the rift between Baghdad and Erbil. Stalemate also has produced tensions that have tended to erupt at times of political crisis.

At this point, Kurdish prospects are uncertain. As central actors in the new government, they will press their demands regarding Kirkuk with renewed vigour. Yet, they have little time, as the scheduled U.S. troop withdrawal will deprive them of their strongest friend, ally and protector.

Kurdish officials and parliamentarians express mixed emotions about the Kurds' fortunes in the new government. Fuad Hussein, chief of staff to President Barzani, said he was heartened that the Kurds are fully part of the decision-making process in Baghdad<sup>21</sup> and argued that the situation today differs from four years ago when coalition partners in the first Maliki government signed a governing accord whose article on Kirkuk the government subsequently failed to implement:<sup>22</sup> "It is a different sort of agreement, a different sort of coalition and different conditions in Iraq. We reached a good understanding with Maliki this time"<sup>23</sup> manifested in the signed document listing the Kurds' nineteen demands. Najmaldin Karim, a Kurdish parliamentarian (PUK-Kirkuk), was equally sanguine:

Four years ago, the commitments were not reached after the same sorts of discussions that we had this time. Maliki now realises things need to be resolved. He understands that the Kurds no longer are a threat to

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<sup>19</sup> The 2008 negotiations over a provincial elections law are a case in point. See Crisis Group Middle East Report N°80, *Oil for Soil: Toward a Grand Bargain on Iraq and the Kurds*, 28 October 2008, pp. 3-4. For discussion of other examples, see Crisis Group Middle East Report N°75, *Iraq after the Surge II: The Need for a New Political Strategy*, 30 April 2008, pp. 11-14 and 24-28.

<sup>20</sup> For a discussion of how this conflict was managed, see Crisis Group Middle East Report N°94, *Iraq's Uncertain Future: Elections and Beyond*, 25 February 2010, pp. 20-27.

<sup>21</sup> The Kurds gained these positions: president, deputy prime minister, deputy parliament speaker, ministers of foreign affairs, health, trade and displacement and migration and the ministers of state for women's affairs, civil society and one without portfolio.

<sup>22</sup> The governing accords signed by the coalition partners after the January 2005 and December 2005 parliamentary elections each contained important provisions on Kirkuk and other disputed territories. Because they largely were unimplemented, in 2010 the Kurds pressed for mechanisms to ensure implementation of similar promises made by Maliki.

<sup>23</sup> Crisis Group interview, Erbil, 20 January 2011.



[the unity of] Iraq. His relations with Barzani have improved a lot, and they have always been good with Talabani. The Kurds and Shiites need each other.<sup>24</sup>

These views could prove overly optimistic. Mahmoud Othman, an independent lawmaker (who ran on the Kurdistan Democratic Party, KDP, slate in Suleimaniya), provided a reality check, suggesting that the Kurdish position might have worsened in Baghdad since the elections: the three Kurdish governorates gained fewer seats in proportion to other governorates when parliament's size was increased from 275 to 325 seats, he said, and as a result the Kurdistan Alliance Bloc received fewer seats in parliament than in the December 2005 elections;<sup>25</sup> moreover, "everyone is in the government, so if State of Law and Al-Iraqiya agree on an issue, they can gang up on us". Finally, parliament's role has been weakened, because all major parliamentary blocs are represented in the executive.<sup>26</sup> The deputy head of the government committee charged with implementing Article 140, Nermin Osman, expressed similar doubts: "Maliki will never implement the article within [the promised] two years. Even if work was done toward its implementation, it would not be implemented even in four years' time".<sup>27</sup>

Since forming the government, Maliki has emitted mixed signals about his intentions. An adviser to him suggested that the Kurds would be content if only half their demands were satisfied,<sup>28</sup> a claim that has not been confirmed by Kurdish leaders.<sup>29</sup> A high-level government official close

to Maliki reinforced the notion that the prime minister might not be in a hurry to implement Article 140: "Some of the prime minister's promises will be delivered in two to three weeks, some in two to three years, and some will take ten years. There are lots of [unimplemented] promises left over from 2006 [when the first Maliki government was formed]. We still didn't finish Article 140, and this will take perhaps ten more years".<sup>30</sup> In a development troubling to the Kurds, Maliki indicated shortly after recapturing the prime minister's post in December that while he agreed with their demand that Article 140 be implemented, its ambiguous wording made doing so impossible, necessitating the constitution's amendment.<sup>31</sup> Then, in a positive sign a few weeks later, he presided over an interim deal between Baghdad and Erbil over oil exports from the Kurdistan region. Exports resumed on 2 February after a hiatus of a year and a half.<sup>32</sup>

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use the constitution as long as they do. Otherwise, we'll choose to go the way of southern Sudan", ie, independence. Crisis Group interview, Baghdad, 13 January 2011.

<sup>30</sup> Crisis Group interview, Baghdad, 16 March 2011.

<sup>31</sup> The problem has long revolved around definition of the referendum mentioned in Article 140 and how it should be organised. The Kurds insist on a referendum that would decide the disputed territories' status, but Article 140 is vague on its nature and at what administrative level it should be held. In a December 2010 interview after the new government was inaugurated, Maliki said, "I am with Article 140 if it pleases the Kurds .... This is a constitutional article. They [Kurdish leaders] also asked why this article does not get implemented. We told them it's drafted in such a way that it cannot be implemented; this is not our fault. There are great obstacles in its way. Go change the constitution, change the present situation, change the article ... drawing the borders of the provinces and this includes Kirkuk, Nineveh ... this needs a decree from the presidential council and approved by parliament. If this provision is not completed, all the other provisions will be halted". Interview published in full on *The Wall Street Journal* website, 28 December 2010. A Maliki adviser confirmed this perspective: "Article 140 is in the constitution. There is no Iraqi politician who will come out against it. But can you implement the article? It is not about Maliki or any prime minister. Implementing Article 140 is impossible based on its text. Moreover, this article is not limited to Kirkuk but covers many provinces whose administrative boundaries should be redrawn, for example, Baghdad, Karbala, Najaf, Diyala – a responsibility not of the prime minister but the president. To do this would cause an explosion in all of Iraq". Crisis Group interview, Baghdad, 12 January 2011.

<sup>32</sup> The Kurdistan region produced oil for export during four months in 2009 but then suspended operations over Baghdad's refusal to pay the producing companies for their investment and operating costs. The Maliki government has long refused to recognise contracts the KRG signed with foreign companies, deeming them inconsistent with Iraqi law. Under the agreement reached between Oil Minister Abd-al-Karim al-Luaybi and the KRG's natural resources minister, Ashti Hawrami, in Baghdad on 17 January 2011, the KRG will pump no less than 100,000

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<sup>24</sup> Crisis Group interview, Baghdad, 17 January 2011.

<sup>25</sup> In December 2005, the Kurdistan Alliance, comprising the KDP and the PUK, obtained 53 seats with 19.3 per cent of the vote. Adding the five seats won by the Kurdistan Islamic Union, which voted consistently with the Kurdistan Alliance during the subsequent four years, the Kurds' size of the vote was 21.1 per cent. In the March 2010 elections, by contrast, the Kurdistan Alliance gained 43 seats (13.2 per cent). If one adds other Kurdish parties – the Kurdistan Islamic Union (four seats), the Kurdistan Islamic Group (two) and Goran (eight) – the total is 57 seats (17.5 per cent). Because Goran withdrew from the loose Kurdish front in Baghdad in October 2010 and is unlikely to vote with the KDP and PUK as long as its demands regarding governance in the Kurdistan region remain unsatisfied, a more reasonable figure would be 49 seats (15.1 per cent). In other words, the Kurdistan Alliance lost 6 percentage points of its representation since December 2005.

<sup>26</sup> Crisis Group interview, Baghdad, 12 January 2011.

<sup>27</sup> Quoted in *Rudaw*, 9 February 2011.

<sup>28</sup> The adviser said, "there is a signed statement between Maliki and Barzani, but it is about general matters. It's not strict in terms of implementation. Maybe 50 per cent will be implemented. The Kurds presented nineteen demands, but they will be happy if eight of them are satisfied. That is how it works". Crisis Group interview, Baghdad, 16 January 2011.

<sup>29</sup> To the contrary, a Kurdish lawmaker said that the Kurds would "push by all means" to see the agreement honoured. "We will

These twin issues – Kirkuk and oil – go to the heart of the unresolved conflict between the central government and the Kurdistan region. The current spell of goodwill between Maliki and Kurdish leaders might provide a useful stepping stone for negotiations over these matters. The UN Assistance Mission for Iraq (UNAMI) has started putting out feelers about reviving the high-level task force it created in June 2009 and whose work fell by the wayside as politicians geared up for the March 2010 elections.<sup>33</sup> Ad Melkert, the special representative of the Secretary-General in Iraq, engaged in exploratory meetings in Baghdad and Erbil in January 2011, seeking a basic consensus that talks should begin. If early signs are not encouraging, it may be because the government is still not fully formed, with some key slots remaining unfilled.

The stakes are high. The Kirkuk conflict's endurance and proven ability to complicate and sometimes block progress in governance, law-making and elections suggests the strong need for a concerted push for a compromise acceptable to all parties, above all residents of the disputed territories, whose voices are rarely heard in the intermittent war of words between Baghdad and Erbil.

On a separate track in 2010, UNAMI facilitated negotiations in Ninewa between the governorate's ruling party, an Arab group called Al-Hadbaa, and local Kurdish politicians of the Brotherhood list. Tensions rose following the January 2009 provincial elections and Al-Hadbaa's advance, which came at the expense of Kurdish local government control.<sup>34</sup> UNAMI piggybacked on an initiative by Deputy Prime Minister Rafea al-Issawi to reach a

deal, and the talks progressed quite far before becoming stranded in the larger debate over government formation. The effort, described below, should now be revived so that it can bear fruit and possibly serve as a foundation for negotiations over the more intractable Kirkuk conflict.

This report focuses primarily on Kirkuk, the issue that has proven consistently the hardest to tackle, with references to the situation in Ninewa. It leaves out the question of disputed districts in other governorates, which may be easier to solve as part of an overall package.

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barrels per day during the 2011 budget year; in exchange, the government will pay the producing companies for costs (though not their profits) following an audit of their expenses, without conferring legitimacy on the contracts. The deal potentially serves both sides, as revenues will flow to the central treasury, while the Kurdistan region's hydrocarbons potential will be unlocked to its benefit. (Pending resolution of the overarching conflict over management of Iraq's oil industry via a comprehensive hydrocarbons law, companies that have signed contracts with the KRG are unlikely to be fully rewarded, as the KRG says the federal government should pay them their profits, while Baghdad refuses to recognise the contracts' validity. These companies have continued to honour their contracts in the hope that the dispute between Baghdad and Erbil will be resolved soon, generating huge profits as the Kurdistan region steps up the development of its hoped-for oil and gas wealth.)

<sup>33</sup> UNAMI press release, 15 June 2009, at [www.uniraq.org](http://www.uniraq.org). The task force met several times but accomplished nothing other than keeping the issue alive and communication lines open. The UN's objective was to bridge the time between UNAMI's mammoth report on internal disputed boundaries, which it presented to stakeholders in April 2009, and the seating of a new government. This period turned out to be a year and a half.

<sup>34</sup> See Crisis Group Middle East Report N°90, *Iraq's New Battlefield: The Struggle over Ninewa*, 28 September 2009.

## II. THE DISPUTED TERRITORIES STALEMATE

### A. ENTRENCHED POSITIONS

Stated positions regarding the status of disputed territories have remained frozen, while mechanisms designed to resolve the matter have failed to deliver.<sup>35</sup> Kirkuk – with its mixed population and vast hydrocarbons wealth – remains at the core of the conflict. Kurdish leaders have enunciated no vision for Kirkuk other than its incorporation into the Kurdistan region, while, in mirror image, most Arab leaders publicly insist on its staying under Baghdad's direct control. The Turkomans, a small ethnic minority in the country as a whole but a relatively large group in the disputed territories, tend to occupy a political middle ground, contending that Kirkuk should have the status of a single-governorate region not tied directly to either Baghdad or Erbil.

For Kurds, Kirkuk resonates deeply, an issue fuelled by a strong sense of historical injustice perpetrated by previous regimes, of discrimination, dispossession, dislocation and death.<sup>36</sup> This has been compounded since 2003 by a profound feeling of frustration over the central government's failure to make headway on Kirkuk's status, despite solemn and repeated promises. Masrour Barzani, chief of the KRG's intelligence and security services and son of Masoud Barzani, said:

We have made sacrifices. We are the largest stateless nation in the world. We have made compromises. They cannot ask us to make compromises on top of the compromises we have already made.<sup>37</sup> This would create

tensions in the street. Their lack of action is unconstitutional.<sup>38</sup> We want to move forward, while they don't.<sup>39</sup>

Kurds wave away any objection to their quest presented by their detractors (as well as by some independent observers), arguing that since the Kurds agree that the region should remain part of Iraq, the country's unity should not be affected if Kirkuk joins the region. As Masrour Barzani put it:

Is Kurdistan part of Iraq? Yes. So it will make no difference if Kirkuk becomes part of Kurdistan. Otherwise you are not treating Iraq as a united country. Kirkuk is not going to make Kurdistan independent. It is landlocked. Neighbouring states will not allow it. How would we export our oil? It's just an excuse.<sup>40</sup>

He added: "This is Iraq today. Of course, I don't know what might happen 100 years from now".<sup>41</sup>

In what they consider a significant compromise, Kurdish leaders suggest that Kirkuk be granted a special status *within* the Kurdistan region, with a power-sharing arrangement between its various communities.<sup>42</sup> This, in their opinion,

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Kurds have wanted a census to show they are the majority in Kirkuk; see below).

<sup>38</sup> The Kurds argue that Article 140 lays out a process with a timeline. In their view, non-implementation amounts to a constitutional violation.

<sup>39</sup> Crisis Group interview, Masrour Barzani, chief of KRG intelligence and security, Salah al-Din, 21 September 2010.

<sup>40</sup> The Kurds' detractors make the same argument but in reverse: because Iraq is a united country, with the Kurdistan region fully a part within a federal arrangement and oil revenues shared equitably, there is no need for Kirkuk to join it. Crisis Group interviews, Baghdad, January 2011. The principal difference between the two sides is that the Kurds say they consider Kirkuk historically part of Kurdistan, while Arabs and Turkomans flatly disagree.

<sup>41</sup> Crisis Group interview, Salah al-Din, 21 September 2010. A year earlier, an Arab critic rejected this reasoning: "In their discourse the Kurds suggest they might want to secede from Iraq, and this scares other Iraqis. If they wouldn't have this ambiguity, Kirkuk could be part of Kurdistan, because in that case it would still be part of Iraq". Crisis Group interview, Falah Shanshal, head of parliament's accountability and justice committee (Sadrist), Baghdad, 27 September 2009.

<sup>42</sup> Khaled Shwani, a Kurdish member (PUK) of the Iraqi national legislature, said, "I propose that Kirkuk have a special status within the Kurdistan region with special powers, not linked to either Erbil or Baghdad. Education would have to be in four languages. All groups would enjoy full cultural rights. In terms of power-sharing, the Turkomans and Arabs should be given a fixed number of seats in both the Kirkuk provincial council and the Kurdistan region's parliament, as well as certain ministerial positions in the regional government. A Turkoman or an Arab could be governor of Kirkuk, at least until we establish trust. We would need to have a vote, though, lest they

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<sup>35</sup> These mechanisms include: normalisation, a census and a referendum under Article 140 of the constitution (there has been some progress on measures included under the rubric "normalisation", such as restitution of or compensation for confiscated properties); the 2 December 2007 agreement between Arab and Kurdish leaders in Kirkuk; and provincial elections (which took place elsewhere in Iraq in January 2009), as well as steps that were to enable them (power-sharing, property restitution and vetting of voter rolls).

<sup>36</sup> See Crisis Group Reports, *The Brewing Battle over Kirkuk*; and *Iraq and the Kurds: Resolving the Kirkuk Crisis*, both op. cit.

<sup>37</sup> The notion that the Kurds are being asked to compromise on issues on which they already compromised in the past is a reference to, inter alia, extending the referendum deadline beyond December 2007 (the Kurds had insisted on meeting the original deadline but were unable to force the issue); interpreting the referendum's nature differently from the way the Kurds intended (Kurds insist they want an up-or-down vote on whether Kirkuk will join the Kurdistan region, but UNAMI and the U.S. have said any referendum should be on a prior political agreement between primary stakeholders); and postponing the census (the

would still preserve what they believe is Kirkuk's essential Kurdish identity.<sup>43</sup>

Such views are anathema to Arabs and Turkomans, both inside and outside Kirkuk. As they see it, Kirkuk's incorporation in the Kurdish region would accelerate Kurdish independence and, thus, Iraq's break-up. A senior adviser to Prime Minister Maliki, Ali Adeeb, stated:

The Kurds think on the basis of their nationality [*qawmiya*] and want to build a strong state, just like during an earlier era of European history. Oil is the main factor in this. They strive for economic autonomy and wait till there is an opportunity to separate.<sup>44</sup>

Under this perspective, a referendum on Kirkuk's status inevitably would trigger conflict and therefore should not take place until and unless a prior political agreement has been reached among the people of Kirkuk. In the meantime, Kirkuk should remain a stand-alone governorate in which Kurds play the dominant role, somewhat like Baghdad (a mixed city and governorate in which Shiites predominate),<sup>45</sup> for the sake of peaceful coexistence.<sup>46</sup>

It is hard to imagine either the Arabs/Turkomans agreeing to Kirkuk's integration into Kurdistan or the Kurds accepting to keep Kirkuk's present status. A logical compromise lies somewhere in between – a special status for a defined interim period with local power-sharing and a mechanism to decide the area's eventual disposition. While leaders in Baghdad or Erbil will not publicly countenance such a scenario, it gained credibility when, in 2009, the Obama administration threw its weight behind it.<sup>47</sup> There is some

indication Kurdish leaders are moving in that direction too. In private conversations with U.S. and Turkish officials, Masoud Barzani, president of the Kurdistan region, reportedly expressed understanding that simply joining Kirkuk to the Kurdistan region no longer was an option.<sup>48</sup> Publicly, of course, he continues to insist on Kurdistan's right to Kirkuk, as well as to independence.<sup>49</sup>

A number of variations exist on the special-status scenario. Among others, these relate to the nature of Kirkuk's ties to Baghdad and Erbil, the balance of influence in Kirkuk between Baghdad and Erbil, the outlines of a local power-sharing deal, the length of the interim period and the ultimate mechanism for resolving Kirkuk's status. Moreover, it remains unclear if all sides mean the same thing when they speak of "Kirkuk": it could be the governorate, the city or both. At least one Western observer suggested that if Masoud Barzani were to consider a special status for Kirkuk, it would concern only the city, not areas north and east of it that have been under Kurdish military control since 2003.<sup>50</sup>

To overcome past failures to work out such critical details, UNAMI, supported by the U.S., has proposed a process that could lead to a negotiated solution. The Kurds have objected, saying that the constitution requires a referendum. Both the U.S. and UNAMI are now on record as stating very clearly that a negotiated solution would have to be ratified by the local population in a referendum – consistent with constitutional requirements, but not with

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accuse us of putting in a Turkoman governor who is pro-Kurdish". Crisis Group interview, Kirkuk, 23 May 2010.

<sup>43</sup> Masrour Barzani: "We agree to power-sharing in Kirkuk. The dispute centres on Kirkuk's identity". Crisis Group interview, Salah al-Din, 21 September 2010. His father, Masoud Barzani, said in a speech that "The Kurdish identity of Kirkuk is not a matter of bargaining". Quoted by Reuters, 11 December 2010.

<sup>44</sup> Crisis Group interview, Ali Adeeb, parliament member for the United Iraqi Alliance (Daawa Party), Baghdad, 27 May 2010.

<sup>45</sup> In Iraq's interim constitution, the 2004 Transitional Administrative Law, neither Baghdad nor Kirkuk could join another governorate or a region. In the 2005 constitution, only the injunction on Baghdad remained.

<sup>46</sup> Crisis Group interview, Ali Adeeb, parliament member for the United Iraqi Alliance (Daawa Party), Baghdad, 27 May 2010.

<sup>47</sup> In a classified September 2009 cable to Vice President Joe Biden, the U.S. ambassador in Iraq, Christopher Hill, proposed that the Obama administration take "a more visible and muscular role to defuse Kirkuk as a potential security flashpoint and divisive campaign issue", involving "a more directive and hands-on approach" aimed at reaching a "sustainable, consensus-based" outcome that "contributes to Iraq's national unity". In particular: "Rather than an up or down referendum on whether Kirkuk should be a part of the KRG [Kurdistan Regional Gov-

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ernment], which Barzani steadfastly wants and which UNAMI thinks will lead to civil war, we believe the United States should quietly advocate a negotiated interim 'special status' arrangement making Kirkuk [governorate] a distinct administrative territory for ten years, renewable by agreement of the KRG and GOI [Government of Iraq], with special guarantees and protections for all communities. The arrangement would include a power-sharing formula for the Kirkuk provincial council among Arabs, Kurds and Turkomen. This will be a very difficult message for the Kurds, and Barzani in particular, to hear. If we don't make clear now where we stand, the Kurds may harden a negotiating position based on a misreading of our policy .... Messaging of the Kurds, however, needs to be done for now in private rather than as a matter of public policy". The cable, dated 12 September 2009, was leaked to *Al-Akhbar*, a Lebanese daily newspaper, which published it in November 2010. Crisis Group has proposed precisely such a solution since 2007. See Crisis Group Report, *Resolving the Kirkuk Crisis*, op. cit.

<sup>48</sup> Crisis Group interviews, U.S. and Turkish officials, Washington and Ankara, 2010. U.S. Vice President Joe Biden reportedly first mentioned the need for Kirkuk to have a special status to Masoud Barzani in a meeting on 17 September 2009. Crisis Group interview, U.S. official, Washington, 25 September 2009.

<sup>49</sup> For example, Barzani asserted Kurdistan's right to both in a speech to the KDP congress in Erbil on 11 December 2010, as reported by Reuters and others that day.

<sup>50</sup> Crisis Group interview, Erbil, 3 October 2009.

the Kurds' preference for a referendum as soon as possible that would allow the population to choose whether it wants to adhere to the Kurdistan region rather than sign on to a consensus agreement negotiated by political leaders. UNAMI provided a lengthy report on Kirkuk and other disputed areas to Iraqi leaders in April 2009 that it intended to use as a basis for discussions between stakeholders.<sup>51</sup> However, the onset of the election season later that year, the March 2010 elections themselves and subsequent protracted negotiations over the government halted the process, so the matter remained dormant. UNAMI started exploring Iraqi and Kurdish leaders' potential interest in reviving high-level talks only in January 2011, a few weeks after the government was seated.

The March 2010 elections marked a turning point in the Kurds' prospects in Kirkuk, just as the January 2009 provincial elections in Ninewa had put them on notice that their relative dominance there since 2003 had come to an end. These two events witnessed the return of Sunni Arab politics, a phenomenon most keenly observed in the disputed territories, which Sunni Arabs co-inhabit with Kurds as well as other minority groups. All 43 Arab lawmakers elected in the disputed territories belonged to Al-Iraqiya, giving that coalition of parties significant political influence in resolving these territories' status. (The rival Tawafuq list, which dominated the Arab scene in previous elections, was marginalised). In Kirkuk, the Kurdistan Alliance Bloc and Al-Iraqiya each garnered six seats. In Ninewa, the Kurdistan Alliance Bloc won eight seats against Al-Iraqiya's twenty. An Iraqi official noted:

The election results have changed almost everything, especially in Kirkuk and Ninewa. The Kurds' fortunes have gone down a bit, and they have new fears, while the Sunnis have fresh expectations. They each realise that the other is a fact. It took time – and an election – to have them come to this realisation.<sup>52</sup>

As a result, voices within the Kurdish community have begun to question the Kurdish leadership's strategy on Article 140. Mahmoud Othman, an independent lawmaker and old-time Kurdish negotiator, has derided the notion of a referendum deadline; instead he has embraced UNAMI's proposal for negotiations leading to an agreement to be put to a referendum:

I'm not with the idea of a timetable. When you impose a deadline, everyone will work against it, and when it doesn't happen, people get frustrated and angry. We can't force something onto others [Arabs and Turkomans]. The U.S. and UN now propose to have an agree-

ment first and then a referendum. This is logical. The result would be having Kirkuk as a region by itself. The Kurdish leadership is not prepared for this, and they don't have a Plan B. They don't want to discuss possibilities they don't like. If you insist it should be all or none, you will get none. They shouldn't have created illusions; they should have been frank toward the [Kurdish] public all these years.<sup>53</sup>

On the ground in Kirkuk, many already are working on the assumption that a referendum will not take place soon, at least not before a negotiated solution is achieved. In various workshops attended by Kirkuki politicians representing the main ethnic groups and political perspectives in 2009 and 2010, all sides appeared to assume some type of negotiated special status and power-sharing arrangement was the only realistic way forward.<sup>54</sup>

## B. THE CENSUS CRISIS

Because at its heart the Kirkuk crisis is over its status and because its ethnic groups and their political representatives seem to believe that the matter will be resolved based on who is the majority, the primary fight has been over demographics: how many of each group live in Kirkuk or have the right to live there; and how these numbers should be determined.<sup>55</sup> Disagreement over who has the right of

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<sup>53</sup> Crisis Group interview, Baghdad, 25 May 2010.

<sup>54</sup> Such workshops were organised by the Friedrich Naumann Foundation in Berlin in April 2009 and Beirut in October 2010, and by the Dialogue Advisory Group in Amsterdam in February 2009 and July 2010.

<sup>55</sup> While Kirkuk's status is the primary issue for which demographics are critical, power-sharing is another: although Kirkuk's communities consent to it in principle, they argue with one another over perceived biases in current public-sector employment levels and hiring practices. For example, an Arab analyst in Kirkuk claimed that all hiring decisions in Kirkuk "are made locally and then sent to Baghdad for approval, and locally all positions are given to Kurds, except for the education and electricity sectors, in which Turkomans are hired. Baghdad routinely approves these appointments, because it does not want to get into a fight with the Kurdistan regional government. The only exception has been the North Oil Company, whose director [a Shiite Arab not born in Kirkuk] was appointed by Baghdad directly – over the Kurds' objections". Crisis Group interview, Kirkuk, 18 September 2010. A Kurdish official complained of bias against Kurds: "Last month, the North Oil Company hired 600 people, all Arabs. Teachers appointed in Tuz Khurmatu and Daqouq are all Turkomans. Sons of Iraq [members of the Awakening militias] merged into the police force are all Arabs, including former intelligence officers and Baathists. We are not acting against Arabs when we call for our rights. This upsets us. The government in Baghdad is working against us [the Kurds]. Arabisation is continuing today". Crisis Group interview, Halo Najat Hamza, Kirkuk director, KDP security police (*asaesh*), Kirkuk, 20 September 2010.

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<sup>51</sup> UNAMI has not made the report public.

<sup>52</sup> Crisis Group interview, Safa al-Sheikh, acting director, National Security Council, Baghdad, 26 May 2010.

residence – and its derivative, the right to vote – bedevilled efforts in 2008 and 2009 to draft laws for both the provincial and the national elections. This led to Kirkuk's exclusion from the January 2009 provincial polls, mainly because the residency question, was not settled;<sup>56</sup> elections have not taken place, and there is little expectation that they will soon. In 2009, lawmakers reached a hard-fought compromise on Kirkuk's voter registry,<sup>57</sup> thus ensuring the governorate's participation in the March 2010 legislative elections, but failed to resolve the underlying conflict despite the fact that the elections proceeded successfully in Kirkuk.

For varying reasons, a number of political groups continue to insist on conditioning Kirkuk provincial elections on implementing Article 23 of the 2008 provincial elections law, which seeks to address the pressing questions of power-sharing and property restitution in addition to a vetting of the voter registry. Some genuinely believe the solution to Kirkuk's crisis is a package deal involving these three main elements; others arguably are hiding behind Article 23 in order to postpone elections indefinitely for fear the outcome might be in their disfavour.

With demographics playing a central part, there has been temptation to induce both voluntary and involuntary population movements,<sup>58</sup> troubling signs of which appeared in the months preceding the nationwide census planned for 24 October 2010.<sup>59</sup> All sides attach great significance to

the decennial population count for two main reasons: it is one of three successive steps in Article 140 to resolve the status of Kirkuk and other disputed territories, and the census form includes a question on respondents' self-described ethnic affiliation. A census in the disputed territories thus assumes the form of a proto-referendum, its outcome previewing the likely results of a future vote. Masrour Barzani told Crisis Group: "The census will be a big help. It will determine which areas belong where. This will be a key factor in making decisions afterward".<sup>60</sup>

As a result, the census unleashed great controversy, resulting in its repeated postponement: first in 2007 (the year in which it originally was to have taken place), then in 2009, and twice in 2010, the last time indefinitely.<sup>61</sup> If held, the census could spawn greater problems than mere pressures on people to move in or out of Kirkuk. Emotions in Kirkuk run sky-high, and any move perceived as advancing the agenda of either Baghdad or Erbil could

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in 2006, claiming they were illegal residents. A local Kurdish security police director defended the action (carried out by police units not under his command) as a lawful attempt to prevent displaced people from building homes without government permission. "There are some 8,000 families, all from Diyala. These are large families of ten or eleven. They were fleeing violence in 2006, but now they are building here without a permit. This creates problems, and so the police are trying to stop them". Crisis Group interview, Halo Najat Hamza, Kirkuk director of the KDP's security police (*asaesh*), Kirkuk, 20 September 2010. Around the same time in the Dibs district, local Arab leaders reported threats, distributed on paper to individual homes, urging Arab residents to leave the area to save their lives. Crisis Group interviews, Kirkuk, September 2010; and Beirut, 15 October 2010. The North Oil Company reportedly threatened to remove Kurdish villagers from areas too close to its installations, which local Kurdish authorities saw as a continuation of Saddam Hussein's Arabisation policy. See *Iraq Oil Report*, 7 October 2010, at [www.iraqoilreport.com](http://www.iraqoilreport.com).

<sup>60</sup> He added, however, that he thought the census would not be as important as the referendum; that it would not solve anything by itself. Crisis Group interview, Salah al-Din, 21 September 2010. An independent Kurdish politician in Kirkuk warned against seeing things this way, noting that the PUK's TV station had referred to the census as a pre-referendum, scaring Kirkuk's Arabs and Turkomans and leading them to oppose the census. Crisis Group interview, Kirkuk, 19 September 2010. Indeed, an Arab leader said, "the Kurds think that after the census they will no longer need a referendum". Crisis Group interview, Abd-al-Rahman Manshed al-Obeidi, Kirkuk, 18 September 2010.

<sup>61</sup> Leaders of all Kirkuk communities accept the 1957 census as Iraq's last reliable population count. The Kurds reject all subsequent censuses, because they took place against the backdrop of Arabisation (the forced removal of Kurds and other non-Arabs from Kirkuk and other areas), while Arab and Turkomans reject a census under current conditions because, they say, the Kurds have inflated Kirkuk's population with Kurds not originally from Kirkuk. Crisis Group interview, Rakan Saeed, Kirkuk deputy governor, Erbil, 17 September 2010.

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<sup>56</sup> The other two matters were property restitution and power sharing. For a discussion of ill-fated efforts to implement Article 23 of the provincial elections law, see Crisis Group Middle East Report N°88, *Iraq and the Kurds: Trouble Along the Trigger Line*, 8 July 2009, pp. 4-7.

<sup>57</sup> Lawmakers agreed to use the 2009 voter registry conditionally. For a discussion, see Crisis Group Report, *Iraq's Uncertain Future*, op. cit., pp. 20-21.

<sup>58</sup> The Kurdistan regional government has worked consistently to keep Kirkuki Kurds in Kirkuk and encourage displaced Kirkuki Kurds living in the Kurdistan region to move back to the city. For example, it does not allow Kirkuki Kurds to buy real estate in the Kurdistan region or to register their new-born children there; it has transferred government employees, such as teachers, to Kirkuk and given them land there; and it has imposed other restrictions. A Kurd originally from Kirkuk but living in Erbil said, "my father in Kirkuk wanted to register his new car in Erbil, but the KDP wouldn't let him do it without a local guarantor. He is a Kurd! This drives Kirkuki Kurds crazy. They [Kurdish leaders] should move to Kirkuk! They are treating Kirkuki Kurds the way they are treating Arabs. It is a shame". Crisis Group interview, Erbil, 3 October 2009.

<sup>59</sup> There have been a number of reported threats against members of one or another ethnic group in a given area, as well as the attempted expulsion of people whose presence was deemed illegal. For example, in September 2010 Kurdish police authorities in Kirkuk detained and sought to expel Arab families displaced as a result of sectarian fighting in and around Baghdad

spark violence. Emma Sky, who served for three years as a senior political adviser to General Ray Odierno, the former U.S. commander in Iraq, and as the Coalition Provisional Authority's governorate coordinator in Kirkuk in 2003-2004, took a special interest in Kirkuk during her tenure argues that there and in other disputed areas whose inhabitants have intermarried over generations and speak each other's languages:

... including the ethnicity question in the census will force people to identify themselves in narrow terms when they often have many different aspects to their identity. You are making people define themselves in a way that is not conducive to the healing process at a time when there is a desperate need to focus on issues which bring people together. Rafiq Hariri [Lebanon's assassinated prime minister] once said about Lebanon: "If you want a civil war, hold a census".<sup>62</sup>

In deciding to delay the census first from 24 October 2010 until 5 December and then again until an unspecified date, Nouri al-Maliki's caretaker cabinet appeared to acknowledge the risks entailed in proceeding with so divisive a project in the absence of a fully empowered government. Even the new government, however, will need to take the politically sensitive decision whether to move forward with the census as planned, under some other configuration or not at all. Thus, some politicians have suggested removing the ethnicity question, as it serves no national development, economic or social purpose but rather reflects a Kurdish political agenda in the disputed territories.<sup>63</sup> One problem is that a 2008 law on the census mentions ethnicity among the statistical data to be obtained,<sup>64</sup> only parliament could repeal or amend it, a move the Kurds have said they would strongly resist. More importantly,

Kurdish officials have threatened to boycott the census if the ethnicity question is removed.<sup>65</sup>

The Iraqi Supreme Court added a wrinkle to the debate with its 19 October 2010 ruling that the general census (then still scheduled for 5 December) has development, economic and social purposes and is consequently different in terms of both objectives and impact from the census mentioned in Article 140 of the constitution concerning disputed territories – and should not replace it. Since the inclusion of the ethnicity question is primarily a Kurdish demand tied to their quest to incorporate majority-Kurdish areas into the Kurdistan region, this ruling would suggest that if there will be a separate census for the disputed territories, the national census as currently planned need not include a question regarding ethnicity. A future special census in disputed territories to satisfy the requirements of Article 140 could then include a question about ethnicity, if the parties deemed it necessary. However, if the national census is to go forward without the ethnicity question, parliament would still have to amend the 2008 law which requires it.

This may not suffice to break the census deadlock. Arab and Turkoman politicians in Kirkuk have indicated that neither separating the national census from a census in disputed territories,<sup>66</sup> nor removing the ethnicity question from the census form would be an acceptable way forward.<sup>67</sup> They argue that the problem in Kirkuk is that politically-manipulated post-2003 demographic changes have inflated Kurdish ranks, and a census would legitimise their presence ahead of a referendum over the area's status. They therefore insist that a census (with or without the ethnicity question) should follow implementation of Article 23 of the 2008 provincial elections law, mentioned above.<sup>68</sup> An Arab representative from Kirkuk in the na-

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<sup>62</sup> Crisis Group interview, London, 24 September 2010.

<sup>63</sup> Crisis Group interviews, parliament member for Al-Iraqiya, Washington, 2 November 2010; Hasan Turan, Kirkuk provincial council member for the Turkoman Justice Party, Kirkuk, 19 September 2010. Turan said, "only the Kurds need the ethnicity question – for the disputed territories. It's a political project. It's not needed for the development of Iraq".

<sup>64</sup> Article 1 – Definitions of Law 40 of 2008 (passed by parliament in October 2008) includes: "Statistical data: All figures and data related to social, economic, cultural and health aspects of the population. It includes data on education, living standards, ethnicity, religion, housing and other data". In Article 6, it makes the Supreme Census Commission responsible for, inter alia: "Collecting demographic, economic and social data about the population and statistical data on houses and their occupants during a specific period of time". This seems to suggest that "statistical data on houses and their occupants" would have to include data on ethnicity.

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<sup>65</sup> After Planning Minister Ali Baban suggested this step, his KRG counterpart reportedly said, "if a reference to ethnicity is removed from the questionnaire, the region of Kurdistan will probably not participate in the census". He added that removing the question would be in "clear violation of the constitution". Quoted in Agence France-Presse, 20 October 2010. The decision would likely be a violation of Iraqi law rather than the constitution, which contains no specific requirements for a census.

<sup>66</sup> They argue that referring to the national census as legally different from a special census in the disputed territories would be a symbolic gesture at best, as everyone would still use the national census results for the disputed territories in political discourse, and that the issue is first and foremost political. Kurdish politicians agree that the distinction has no real meaning. Crisis Group interviews, Baghdad, 17 January 2011.

<sup>67</sup> One possible compromise might be to make the ethnicity question optional (as it is on the U.S. census form, for example).

<sup>68</sup> Crisis Group interviews, Abdullah Sami (Arab), Burhan Mizher al-Asi (Arab) and Hasan Turan (Turkoman), provincial council members, Kirkuk, 19 January 2011.

tional legislature, Omar Jbouri, has gone further, arguing that no census should be held in Kirkuk and other disputed territories until the situation is “stable” and the federal government fully in charge:

According to both the constitution and the 2008 census law, the national census must be carried out by the federal government. The government has very little authority in Kirkuk, however, and none at all in many districts of Ninewa and one in Diyala, not to mention the three Kurdish governorates. As long as the federal government cannot carry out a census nationwide in a stable environment, the census should be postponed.<sup>69</sup>

The Arabs’ and Turkomans’ principal fear is that the census will establish the existence of a Kurdish majority in Kirkuk. “They expect to represent 60 per cent”, said an Arab politician, intimating that the Kurds could use subterfuge to inflate their numbers, for example by including Kurds not originally from Kirkuk.<sup>70</sup> The fear could well be exaggerated, especially if there is an impartial mechanism for determining who is a resident of Kirkuk, and international monitoring prevents fraudulent activity.

If the Kurds’ performance in the March 2010 legislative elections is any indication, and if one assumes (as most politicians in Kirkuk appear to) that members of a given ethnic group tend to vote for candidates from that group,<sup>71</sup> Kurds represent significantly less than 60 per cent of the population, despite the influx of Kurds and outflow of Arabs since 2003. The difference between the Kurdistan Alliance Bloc and (Arab/Turkoman) Al-Iraqiya in Kirkuk was negligible.<sup>72</sup> This outcome should be treated with some circumspection: Kurds claim that fraud committed in the (Arab) Hawija district benefited Al-Iraqiya,<sup>73</sup> while

their opponents allege that the Kurdistan Alliance’s performance was inflated by the presence of Kurds not originally from Kirkuk.<sup>74</sup> Moreover, participation rates should be taken into account: an Arab politician argued that turnout was greater among Arabs than Kurds, allegedly because of Kurdish discontent with their leaders.<sup>75</sup>

Maverick Kurdish lawmaker Mahmoud Othman rejected the Kurdish leadership’s strong push for a census in the disputed territories to establish the size of ethnic communities, saying that a census might reduce the Kurdistan region’s annual share of the federal budget. The region has been receiving a yearly allocation of 17 per cent (before deductions for federal responsibilities and strategic projects), but the figure is somewhat arbitrary in the absence of a census.<sup>76</sup> He said, “not having a census is not a problem for the Kurds, because now we are getting 17 per cent of the budget, while the population in Suleimaniya, Erbil and Dohuk is 12.8 per cent. If a census were to be held, the Kurds would stand to lose billions of dollars”.<sup>77</sup> This likely would be true if the Kurds failed to bring the

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also fraud in Hawija. We lodged a complaint [with the electoral commission], but we let it go for the sake of national unity”. Crisis Group interview, Kirkuk, 23 May 2010. An Al-Iraqiya lawmaker did not deny that electoral shenanigans in Hawija helped his list gain additional votes. He added that Arabs had benefited because Goran was closely watching the count in the Kurdish areas, but there was no similar oversight of the count in Arab areas such as Hawija. Crisis Group interview, Amman, 6 November 2010.

<sup>74</sup> Irshad Salehi, the top Al-Iraqiya candidate in Kirkuk, said, “the election results don’t reflect the population size. There are too many illegal Kurds, people who are not originally from Kirkuk”. Crisis Group interview, Kirkuk, 23 May 2010.

<sup>75</sup> Mohammed Tammeem, a successful Al-Iraqiya candidate in Kirkuk, said that despite obstacles erected by the Kurds in areas where Arabs are the minority (he mentioned villages in Leilan, Dibs and Daqouq districts), Arab voters reached the polls, sometimes helped by the army, which protected polling stations and used its vehicles to transport voters into the city. “Arab voters crawled to voting booths like army commandos”, he said, suggesting both the difficulty and their determination. “The Kurds would have won had they had a higher turnout. But there is unhappiness with the main parties [KDP and PUK]”. Crisis Group interview, Baghdad, 27 May 2010.

<sup>76</sup> The figure of 17 per cent stems from the UN “Oil for Food” program in the 1990s, when the Kurdistan region received a fixed amount of Iraq’s revenues directly from the UN at a time when the region fell outside Baghdad’s control. While there has been no census, other means have been used to calculate population, for example the food ration system, which is not very accurate but has served as a basis for elections. The need to encourage Kurds originally from the disputed territories but living in the Kurdistan region to return to their erstwhile areas of residence to increase their numbers there ahead of a census would further decrease the region’s real population and its annual budget allocation.

<sup>77</sup> Crisis Group interview, Baghdad, 12 January 2011.

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<sup>69</sup> Crisis Group interview, Baghdad, 12 January 2011.

<sup>70</sup> Group interview, Abd-al-Rahman Manshed al-Obeidi, Kirkuk, 18 September 2010.

<sup>71</sup> An independent Kurdish politician noted that people in Kirkuk are preoccupied with services and would support whoever provides them, but that in an election Kurds would vote for Kurdish parties because they feel their presence in Kirkuk is not secure, and they need the Kurdish parties’ armed protection. Crisis Group interview, Kirkuk, 20 January 2011.

<sup>72</sup> Al-Iraqiya gained 5,000 votes more than the Kurdistan Alliance Bloc. However, the latter lost more votes (58,500) to rival Kurdish parties (notably, Goran) than Al-Iraqiya lost to other Arab parties (40,000), so the balance (again assuming that Kurds voted for the Kurdish parties and Arabs/Turkomans for the predominantly Arab lists) was just over 13,000 votes in the Kurds’ favour – far short of the kind of super majority they had expected and wanted in order to strengthen their case for incorporating Kirkuk into the Kurdistan region.

<sup>73</sup> Khaled Shwani, the top Kurdistan Alliance candidate in Kirkuk, said, “the election result did not reflect Kirkuk’s ethnic makeup. The Kurdish vote was split, while the Arab/Turkoman side was more organised and disciplined. Moreover, there was



Kurdish-majority parts of the disputed territories into the Kurdistan region; the population of an expanded region might well reach 17 per cent.

For now, the census question appears as frozen as other aspects of the Kirkuk conundrum<sup>78</sup> – with adverse consequences for the country as a whole, which desperately needs to have accurate socio-economic data for development and other purposes.

### C. NEGOTIATIONS IN NINEWA

Developments in Ninewa governorate – six of whose nine districts are disputed, either in whole or in part<sup>79</sup> – could prove a significant bellwether for the fate of Kirkuk. The outcome of the March 2010 legislative elections there ratified the sea change in local politics first effected by the 2009 provincial polls in the governorate, when the Arab Al-Hadbaa list assumed power after several years of Kurdish domination. After Al-Iraqiya captured twenty seats against the Kurdistan Alliance Bloc's eight, Usama al-Nujayfi, a top vote winner for Al-Iraqiya and brother of Ninewa Governor Atheel al-Nujayfi, said:

In the past, we had a political conflict with the Kurds. They didn't acknowledge our right to power, and this is why they refused to talk to us. But then, in the national elections, we were able to achieve a majority, and our stand was reinforced. Both Al-Iraqiya list and Al-Hadbaa [in the 2009 provincial elections] did very well in Ninewa, and now the Kurds cannot deny our rights as the majority. It has changed things. It became very clear to them that we are the ones who are actually

ruling and controlling things on the ground here in Ninewa, just as they do in Kurdistan.<sup>80</sup>

The new power balance in Ninewa could have led to open conflict. However, to the surprise of many, it was followed by steady improvements in relations between principal antagonists; Masoud Barzani blessed Usama al-Nujayfi's ascension to parliamentary speakership in November 2010, a development unthinkable just months before, and Nujayfi attended the opening day of the KDP's Congress in Erbil on 11 December 2010 and delivered a speech.<sup>81</sup> Much credit is due one of Iraq's deputy prime ministers, Rafea al-Issawi, whose efforts from 2009 onward to reach a power-sharing deal in Ninewa produced a civil dialogue where previously there had been only harsh rhetoric and dangerous tensions, even if a concrete accord remains elusive.<sup>82</sup>

The Ninewa conflict stems from two related issues. The January 2009 provincial elections brought to power an Arab list, Al-Hadbaa, with a narrow majority (nineteen of 37 provincial council seats) that gave it the ability to rule alone. The Kurdish list, which had ruled Ninewa until then, expressed anger over its exclusion from government, despite its twelve seats, and boycotted the council. In turn, the new governor, Al-Hadbaa's Atheel Nujayfi, expressed frustration about his inability to exercise governance over the entire governorate, in light of the KDP's military and administrative control over districts that form part of the disputed territories.<sup>83</sup> The standoff threatened to erupt into violence on several occasions, leading the U.S. to establish joint security mechanisms in late 2009 designed to prevent flare-ups and a wider conflict between the governorate's security forces (and the federal army) on one side

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<sup>78</sup> A complication has arisen in Ninewa as well. It has minority groups that have been classified as religious or ethnic, such as the Yazidis and Shabak. To many Kurds, the Yazidis are non-Muslim ethnic Kurds, but to many others, including many Yazidis themselves, they are a distinct ethnic group. The same is true, on different grounds, for the Shabak. These groups' ethnic designation is politically relevant given their presence in Ninewa's disputed districts and has obstructed progress toward a census there. Crisis Group interview, Nassar al-Rubaie, acting planning minister, Baghdad, 17 January 2011. Moreover, Ninewa has three separate areas that are controlled by Kurdish security forces. The governor and provincial council both insist that the governorate should administer the census in these areas, as in the rest of the governorate, whereas the KRG say it should be done by them. The federal government could assume this responsibility instead, but until now no agreement has been reached due to mutual lack of trust between the Ninewa leadership and the KRG. Crisis Group interview, Mehdi al-Allaq, deputy planning minister in charge of the census, Baghdad, 6 March 2011.

<sup>79</sup> The six districts are: Aqra, Hamdaniya, Sheikhan, Sinjar, Tel Afar and Tel Kayf.

<sup>80</sup> Crisis Group interview, Baghdad, 22 May 2010.

<sup>81</sup> Nujayfi's attendance was surprising but even more so was that he remained despite comments by Masoud Barzani supporting the Kurds' right to self-determination and to Kirkuk, which caused quite a stir, especially within Nujayfi's Iraqiya bloc.

<sup>82</sup> Deputy Prime Minister Rafea al-Issawi, a Sunni Arab from Falluja, initiated discussions with Ninewa politicians shortly after the January 2009 provincial elections. He attended a meeting in Rabea district in Ninewa in April 2009, during which it was decided that Nujayfi would be governor. His mediation between Nujayfi and local Kurdish leaders (as well as the KRG) began in June 2009; in July 2009, the National Security Council asked him to lead a Ninewa committee to investigate the cause of the tensions and propose solutions. This took flight in August 2009 when General Ray Odierno, the U.S. commander in Iraq, proposed establishing joint checkpoints and patrols along the trigger line. Crisis Group interview, official close to the negotiations, Baghdad, 26 September 2009. See also Crisis Group Report, *Iraq's New Battlefield*, op. cit., p. 37. After a number of successful meetings, the mediation ground to a halt in January 2010 because of the upcoming elections, then resumed in April once the vote had clarified the political picture.

<sup>83</sup> See Crisis Group Report, *Iraq's New Battlefield*, op. cit.

and Kurdish regional guard forces and party-controlled security police on the other.

The essential quid pro quo that Issawi, backed by the U.S. military, has pursued in Ninewa is the allocation of senior local government positions to the Kurds in exchange for the absorption of Kurdish security forces into the local police and federal army – tantamount to the Kurds' relinquishing exclusive security control over disputed districts.<sup>84</sup> There are other parts to a potential overall package, including Kurdish-language training in Kurdish-majority areas and special protection for minority communities.<sup>85</sup> In April 2010, UNAMI embraced his effort and has since facilitated talks between the two sides with Issawi as principal mediator. For Issawi, a senior Al-Iraqiya leader, the goal also was political: addressing the Ninewa question could help forge an Al-Iraqiya-Kurdish coalition to oppose Maliki's State of Law after the March elections.<sup>86</sup> For its part, UNAMI hoped that progress on Ninewa could provide a foundation for eventual talks on Kirkuk.<sup>87</sup>

Remarkably, given their long differences and repeated instances of both heated rhetoric and near-lethal incidents along the trigger line, Arab and Kurdish politicians in Ninewa (as well as in Baghdad and Erbil) found a way to

develop a dialogue and even make progress. They set up several committees to study aspects of the Ninewa crisis, including on security, detainees and minorities. The highlight was the unprecedented visit by Atheel Nujayfi to Erbil in May 2010.<sup>88</sup> This was followed some months later by a similar visit by his brother, Usama, that heralded a real thaw in relations between the two sides.<sup>89</sup> Despite these developments, however, no deal was reached, and, in the event, Maliki formed a government with the Kurds and Al-Iraqiya as junior partners rather than the other way around.

Kurdish leaders and politicians appear divided over the thaw's significance. Fuad Hussein, chief of staff to President Barzani, noted a "better understanding" with the Nujayfi brothers that allowed better communication.<sup>90</sup> PUK and Goran lawmakers, however, noted that while Usama al-Nujayfi was aspiring to act as a statesman, during his speech at the KDP Congress he did not use the words "Kurd" or "Kurdistan region", terms that to the Kurds have huge symbolic importance when pronounced by non-Kurds.<sup>91</sup> Moreover, Western diplomats warned that the Kurds might be overestimating the Nujayfi brothers' willingness or ability to deliver a deal in Ninewa.<sup>92</sup> Internal Al-Iraqiya divisions are also threatening to block progress on a negotiated solution. Nevertheless, the door to an eventual breakthrough in the Ninewa talks is open, and an agreement could be an important building block for a solution to the Kirkuk crisis.<sup>93</sup>

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<sup>84</sup> In September 2009, the U.S. military proposed a phased solution: the Kurds would recognise Ninewa's boundaries as legitimate and accept that its government would exercise sovereignty over all of the governorate's districts, in exchange for which it would receive the deputy governor and provincial council chairman posts. This would be followed by six months of joint patrols by U.S., Iraqi and Kurdish forces. Finally, the *pesh-merga* and *asaesh* would be integrated into the Iraqi army and police, with local recruitment. Crisis Group interview, aide to General Ray Odierno, Baghdad, 25 September 2009. The joint patrols began in January 2010, but the overall deal has proved elusive.

<sup>85</sup> Crisis Group interviews, Karim Sinjari, KRG interior minister, Erbil, 9 March 2010; and Hunein Qaddu, secretary-general of the Democratic Shabak Gathering, Baghdad, 28 May 2010.

<sup>86</sup> "We are hoping that negotiations with positive results will aid in the formation of the new government. If we can agree with the Kurds about Ninewa, this will make everything easier. We could even go together in a coalition to establish the government". Crisis Group interview, Usama al-Nujayfi of Al-Iraqiya, Baghdad, 22 May 2010. Both sides understood that no final deal would be concluded on Ninewa until and unless a government was formed that included Al-Iraqiya as an essential component, with the Kurds as partners. Crisis Group interviews, Usama al-Nujayfi, Baghdad, 7 August 2010; and Karim Sinjari, interior minister, Kurdistan regional government, Erbil, 22 May 2010. A U.S. official explained: "We have seen the process run as far as it can, absent government formation. This is because neither party is willing to give up meaningful concessions unless they are sure they are going to be a partner in a governing coalition with the other". Crisis Group interview, Baghdad, 7 July 2010.

<sup>87</sup> Crisis Group interview, UNAMI official, 12 April 2010.

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<sup>88</sup> On 15 May 2010, Atheel Nujayfi, the governor, and Ajeel al-Yawar, an important tribal leader and parliament member from Ninewa, visited Erbil as part of negotiations with the KRG. "It was a very big step for all", said a participant. Crisis Group interview, Baghdad, 27 May 2010.

<sup>89</sup> Usama Nujayfi visited Erbil on 26 October 2010, accompanied by Al-Iraqiya leader Iyad Allawi and Al-Iraqiya parliamentarians Saleh Mutlak and Rafea al-Issawi. A participant reported that Nujayfi told his Kurdish interlocutors he was ready to turn a page, and time had arrived for a political solution. Crisis Group interview, 2 November 2010. On 11 November, Nujayfi (with Prime Minister Maliki, Allawi and others) attended the first day of the KDP's thirteenth congress in Erbil, at which Masoud Barzani declared that the Kurds are entitled to Kirkuk, and the Kurdistan region has the right to self-determination.

<sup>90</sup> Crisis Group interview, Erbil, 20 January 2011.

<sup>91</sup> Crisis Group interviews, Baghdad, 17 January 2011.

<sup>92</sup> A diplomat noted that the Nujayfi brothers do not fully control security in Ninewa. Arab tribes toward the Syrian border and nominally allied with them may not accept a deal with the Kurds. Crisis Group interview, Erbil, 21 January 2011. Another diplomat said Kurdish leaders were counting on their relationship with Turkey to keep Usama Nujayfi committed to a deal, but he was likely to develop his own heft and approach to the conflict. Crisis Group interview, Erbil, 22 January 2011.

<sup>93</sup> There have been other encouraging signs. As part of the Ninewa talks, Kurdish negotiators reportedly indicated they ac-

### III. THE SECURITY CONUNDRUM IN KIRKUK

Crisis Group previously has emphasised the combustible environment along the so-called trigger line that separates from the rest of Iraq areas the Kurds claim as part of historical Kurdistan and Kurdish authorities say they intend to incorporate into the Kurdistan region and have instructed the region's security forces to defend from federal government encroachment.<sup>94</sup> This line runs approximately through the middle of disputed territories and could well foreshadow an eventual boundary between an expanded Kurdistan region and the rest of Iraq, if the Article 140 process is allowed to bear fruit. While much focus has been on Ninewa governorate over the past year and a half following a series of incidents along the trigger line,<sup>95</sup> Kirkuk governorate presents the most dangerous long-term challenge due to dogged Kurdish territorial claims and the presence of vast oil reserves.

A key concern in both Ninewa and Kirkuk (and, to a lesser extent, Diyala governorate) is the presence of Kurdish security forces that answer to the Kurdistan regional government or the two main Kurdish parties rather than to federal or local (governorate) authorities. These are the *peshmergas*, former guerrilla fighters who constitute the Kurdistan region's guard force, a paramilitary force (the

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cept the Green Line as the formal boundary between the Kurdistan region and the rest of Iraq, pending resolution on the disputed territories. This reversed the position the Kurds adopted in 2009, when they disavowed the legitimacy of the Green Line (referred to in the constitution as representing the boundary of the Kurdistan region) out of frustration with the government's unwillingness to implement Article 140. See Crisis Group Report, *Trouble Along the Trigger Line*, op. cit., pp. 10-12. Kurdish leaders also agreed to remove *asaesh* from a joint checkpoint in Ninewa in 2010. Crisis Group interview, Masrour Barzani, chief of KRG intelligence and security, Salah al-Din, 21 September 2010.

<sup>94</sup> See Crisis Group Report, *Trouble Along the Trigger Line*, op. cit., especially pp. 13-14.

<sup>95</sup> These incidents have been reported in Crisis Group Reports, *ibid*; and *Iraq's New Battlefield*, op. cit. In addition, in a near-fatal incident in February 2010, Ninewa Governor Atheel al-Nujayfi proposed to go to the town of Tel Kayf in the disputed territories, but Kurdish authorities said they would block him. The U.S. military weighed in for freedom of movement and offered a security escort. As Nujayfi tried to enter the Tel Kayf area, a standoff ensued in which he was nearly killed; the U.S. sent an F-16 to buzz overhead as a warning to both sides to step back, U.S. forces arrested eight Kurds, and, in retaliation, Kurdish security forces grabbed a number of Arabs. U.S. officials had to convince Kurdish leaders in Erbil to trade their Arab hostages for the Kurds held by U.S. forces, over the protest of the latter, who claimed the deal undermined the rule of law. Crisis Group interview, U.S. official, Washington, October 2010.

*zerevani*) and party-controlled security police (the *asaesh*), as well as intelligence agencies, called *parastin* by the KDP and *zanyari* by the PUK.<sup>96</sup>

The status of Kurdish forces in the Kurdistan region, including who should pay for them (as they also serve as border guards along the northern frontier with Syria, Turkey and Iran), has been a source of debate between the Kurdistan regional government and the federal government for years. The issue is part of the broader question of power and resource allocation between Baghdad and Erbil that the inclusive process of forming a new government has now invested with fresh hope. A separate, even trickier, question is what to do with Kurdish security forces deployed in areas outside the Kurdistan region the constitution considers disputed. For the regional government, they must remain to protect Kurdish populations, given memories of past repression and extensive Arabisation, and to solidify the chances of these areas' eventual incorporation into Kurdistan. By contrast, the federal government and local authorities want to extend their writ to these territories, over which they lost control in the aftermath of the 2003 U.S. invasion.

To reduce tensions, the U.S. placed what are known as combined security mechanisms at key points along the trigger line in late 2009 and early 2010.<sup>97</sup> These involve joint checkpoints and patrols comprising elements from all key stakeholders: Kurdish guard forces and Iraqi army or police, as well as U.S. officers who are embedded to improve cooperation and communications. They also involve coordination at special centres and frequent meetings in which senior commanders from opposing sides have an opportunity to discuss problems. Initially controversial – local Arab and Turkoman politicians in Kirkuk saw it as favouring a pro-Kurdish status quo – the endeavour has proved useful and has been broadly accepted, at least in Kirkuk, albeit less so in Ninewa. People across the political spectrum in the disputed territories, especially in Kirkuk, now openly express fears regarding what might happen should U.S. troops – a form of glue holding the mechanisms together – leave as scheduled before the end of 2011.

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<sup>96</sup> The *zerevani* ("special guards") are a gendarmerie-like paramilitary force created by the KDP but operating under the authority of the KDP-dominated KRG. The *asaesh* are referred to in Kurdistan by party affiliation: the Hezakani Asaishi Yaketi are the PUK's security forces, the Hezakani Asaishi Parti the KDP's. The *parastin*'s full name is Azhansi Parastni Asaishi Haremi Kurdistan (Kurdistan region security protection agency) and belong to the KDP. The *zanyari*'s name is Dazgay Zanyari (intelligence agency) and belong to the PUK.

<sup>97</sup> *The New York Times*, 27 January 2010.

The question has become: what next? Is there something that could replace the joint checkpoints and patrols and prevent a small incident from sparking a wider conflagration absent progress on the political front? Opinions vary greatly, and the matter is further confused by the apparently unshakable conviction on the part of many in the disputed territories that U.S. troops will not leave this year. They say that the Obama administration would not risk sacrificing what it has achieved at great cost and would not commit the strategic error of ignoring regional threats – a veiled reference to suspected Iranian meddling.<sup>98</sup> And they warn that a U.S. troop departure likely would lead to an explosion in Kirkuk and elsewhere in the disputed territories.<sup>99</sup>

### A. THE COMBINED SECURITY MECHANISMS

Kirkuk may be the most difficult to tackle because, unlike Ninewa,<sup>100</sup> Kurdish leaders claim the governorate in its entirety and insist that, in contrast to other parts of the disputed territories, they cannot make concessions here. Even if they agreed to a territorial compromise, they likely would insist on absorbing all of the city of Kirkuk into the Kurdistan region, as well as areas to its north and east that are predominantly Kurdish. The main tensions stem from a combination of factors: a low-level but unremitting insurgency (see below), the presence and activities of the Kurdish *asaesh* security police (see below) and an ongoing standoff between Kurdish regional guard and Iraqi army forces.

Security forces around the city, belonging to the Iraqi army and police, as well as the Kurdistan regional guard, are deployed in three rings or layers. The two inner rings are controlled by the police (discussed further below), but the outer layer, dominating the approaches to Kirkuk, is provided by the PUK-affiliated Kurdistan regional guard force's 10th Brigade and the federal army's 12th Division. The 10th Brigade controls the area roughly north and east of the city – adjacent to the Kurdistan region – from its headquarters at Qara Hanjir (a village on the Kirkuk to Suleimaniya road), while the 12th Division controls the

southern and western access routes from its base, the K-1 Location Command.<sup>101</sup>

Since the 12th Division's arrival in January 2009, multiple incidents have come close to provoking open conflict.<sup>102</sup> In the minds of many Kurds, this division, reportedly about 75 per cent Arab, was deployed by the Maliki government to replace the Kurdish-led 15th Brigade of the 4th Division in order to contain Kurdish influence and re-establish Arab control over Kirkuk. They argue that Maliki specifically selected its commander, General Abd-al-Amir Ridha al-Zaydi, because he had previous area experience in the 1990s, when Iraqi army forces and Kurdish *peshmergas* were arrayed along the Green Line, the line of control demarcating the autonomous Kurdish region from 1991 until 2003, and Kirkuk was subject to Arabisation. They further believe the division was looking for a reason to enter Kirkuk.<sup>103</sup>

U.S. military officers in Kirkuk expressed concern in 2009 that both sides might harbour military ambitions: Kurdish forces, deployed already well beyond the Green Line, might seek to push past the trigger line and take control of the city and other parts of the governorate;<sup>104</sup> likewise, the army might try to enter the city to control the roads leading to Suleimaniya and Erbil.<sup>105</sup> A confrontation rapidly could escalate.<sup>106</sup> In late February 2011, some 10,000 Kurdish troops were indeed sent to areas south and west of Kirkuk city, setting off a crisis. (See below.)

<sup>98</sup> Many Iraqis routinely express concern that any vacuum following a U.S. troop withdrawal will be exploited by neighbouring states, especially Iran. All of Iraq's neighbours have interfered in its affairs in various ways since 2003, but in doing so they appear to have kept each other in balance, with no state able to impose its will. Invoking an Iranian threat could be part of a rhetorical strategy, informed by various considerations unrelated to Iran, to persuade the U.S. not to pull out all of its troops in 2011.

<sup>99</sup> Crisis Group interviews, Baghdad, Kirkuk and Erbil, January 2011.

<sup>100</sup> The same is true for Diyala, which is not covered in this report.

<sup>101</sup> Elsewhere in the predominantly non-Kurdish areas of Kirkuk governorate, from the north west to the south of the city, the army patrols the non-urban areas as well as the oil fields.

<sup>102</sup> Crisis Group Report, *Trouble Along the Trigger Line*, op. cit., pp. 13-14.

<sup>103</sup> Crisis Group interview, U.S. military officer, Kirkuk, 19 December 2009. See also, *The Los Angeles Times*, 26 March 2009; and *The Independent*, 10 August 2009.

<sup>104</sup> The Kurdistan regional guard force's 10th Brigade commander said his task was military, not political, and his force's only objective was "to go after terrorists". Crisis Group interview, Brig. General Sherko Fatah Nameq, Qara Hanjir, 2 October 2009.

<sup>105</sup> A U.S. military officer expressed serious concern that "the 12th Division wants to come in to secure the city. And if they do, so will the *peshmerga*. There is a potential for this to snowball". Crisis Group interview, Kirkuk, 19 December 2009.

<sup>106</sup> Both the police commander in Kirkuk, Maj. General Jamal Taher Baker, a Kurd, and his deputy, Maj. General Turhan Yousef Abd-al-Rahman, a Turkoman, allegedly declared willingness to fire on 12th Division troops attempting to enter the city. Crisis Group interview, U.S. military officer, Kirkuk, 19 December 2009. Jabar Yawar, the Kurdistan regional government's *peshmerga* affairs deputy minister, warned: "In just one area, if a bullet is shot, it could light a fire". Quoted in *The Los Angeles Times*, 26 March 2009.

In August 2009, two months after the U.S. troop withdrawal from urban areas and in response to heightened tensions in Ninewa after Al-Hadbaa's victory in the January provincial elections, General Odierno, the U.S. commander in Iraq, proposed placing his troops alongside Iraqi army soldiers and Kurdish *peshmergas* in disputed areas to conduct joint operations. The goal was to encourage communication, cooperation and coordination between the adversaries and thus lessen chances of violence.<sup>107</sup> According to Odierno, the proposal followed a request for U.S. security aid along the entire trigger line from both Prime Minister Maliki and KRG President Barzani.<sup>108</sup> He convened a meeting with the Iraqi defence and interior

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<sup>107</sup> After the 30 June 2009 withdrawal from Iraq's cities, Odierno proposed to insert U.S. troops in joint army-*peshmerga* patrols in disputed territories, saying "they'd [Arabs and Kurds] all feel more comfortable with us there [in the north] .... It won't be full-on if we do it. It will just be to build confidence, then we will slowly pull ourselves out .... It's a recognition of where we think the bigger problem areas are". See *The Los Angeles Times*, 18 August 2009. Separately he declared: "Al Qaeda is exploiting these fissures you are seeing between Arabs and the Kurds in Nineveh Province and the KRG. What we're trying to do is close that fissure .... Once they get used to working with each other, it becomes very easy". Quoted in *The New York Times*, 18 August 2009.

<sup>108</sup> On 2 August 2009, Maliki met Barzani in Dukan, near Suleimaniya, breaking the ice after a long frost, described in Crisis Group Report, *Trouble Along the Trigger Line*, op. cit., pp. 1-3. Maliki subsequently asked Odierno for help in dealing with the security situation in Ninewa, where bombings attributed to al-Qaeda in Iraq had exploited what U.S. officials referred to as "seams and gaps" in security. Crisis Group interview, U.S. officials, Kirkuk, 2 October 2010. About a month before this, events in the predominantly Arab district town of Hawija in Kirkuk governorate pushed the tense security standoff to the foreground. The 12th Division commander, General Abd-al-Amir Ridha al-Zaydi, reportedly asked his superiors in Baghdad to give the army security primacy over the police there without consulting either Kurdish security forces, which had been carrying out joint raids with U.S. forces against insurgents to the dismay of the local population, or his U.S. advisers. The Kurds viewed this as part of a "salami tactic" intended to establish a precedent for interventions in Kirkuk. From the perspective of many Arabs, however, it was a legitimate act by the army to bring security to an insecure area blighted by both insurgents and U.S./Kurdish reprisals. The gambit set off alarm bells at U.S. military headquarters in Kirkuk. By reaching out to all sides, the U.S. sought to prevent more provocative steps, including the dispatch of T-72 tanks from Baghdad. Following all-party negotiations at the U.S. base, they agreed to establish a "combined security area" and conduct tripartite joint patrols in Hawija involving the U.S. 1st Armoured Division, the Iraqi army's 12th Division and the local police. Baghdad agreed, because it expanded the 12th Division's role; the Kurds accepted, because the U.S. reassured them it would prevent the 12th Division from taking full control of the area. Crisis Group interview, U.S. military officer, Kirkuk, 19 December 2009.

ministers as well as the Kurdistan region's interior and *peshmerga* affairs ministers in Baghdad on 16 August.<sup>109</sup> This was followed by a similar meeting in September and finally one in October during which all sides signed a formal declaration of principles to guide the new security mechanisms. The ministers continued to operate as part of a high-level committee on security that manages combined security mechanisms.

Meetings between military leaders in Baghdad were complemented by meetings of a new local security committee in Kirkuk comprising the commanders of the Kurdistan regional guard force's 10th Brigade, the federal army's 12th Division and Kirkuk police, as well as U.S. military commanders. In September 2009, it reached agreement on six points: Kirkuk city is a disputed area; security in it is the responsibility of the governor and the police; areas south and west of it are under Iraqi army authority; areas north and east of it are under Kurdistan regional guard authority; checkpoints on roads will be manned by the police under U.S. military supervision; and a 500-men joint force should be created at the U.S. military base in Kirkuk to fight insurgents throughout the governorate (including in urban areas).<sup>110</sup>

By January 2010, the combined security mechanisms were fully functioning. Six joint checkpoints were placed around Kirkuk city, fifteen in Ninewa governorate and five in Diyala. They are highly integrated but remain fixed in circumscribed areas, especially roads in and out of Kirkuk, Mosul and Khanaqin. In Ninewa and Diyala, they are military checkpoints outside urban areas; in Kirkuk, by contrast, they are manned strictly by the police, because they are in the city's immediate environs. Each side has veto power over operations, so far successfully.<sup>111</sup>

In Kirkuk, the effort has been overseen by the Kirkuk Coordination Centre, which brings together the pertinent security commanders. The task of manning joint checkpoints has been given to the police's Emergency Support Unit, a paramilitary brigade (three battalions) of about 2,500 men commanded by Brig. General Khattab Omar Aref, a Kurd, under the overall leadership of Maj. General Jamal Taher Baker, the police commander for Kirkuk governorate, also a Kurd. Checkpoint duty ties up about half the brigade.

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<sup>109</sup> Crisis Group interview, General Ray Odierno, U.S. commander in Iraq, Baghdad, 25 September 2010.

<sup>110</sup> Crisis Group interview, General Sherko, 10th Brigade commander, Qara Hanir, 2 October 2009.

<sup>111</sup> Crisis Group interview, Western military expert, September 2010.

Moreover, the U.S. established a Combined Security Force, the size of a company (about 200) led by a U.S. captain and identifiable by its symbol, a lion's head. It patrols inside Kirkuk city, referred to as the egg yolk, as well as the city's boundaries, called the egg white, except the areas to the south and south west, which are predominantly Arab and Turkoman in composition and which the Kurdish 10th Brigade is not permitted to enter either; in turn, the army's 12th Brigade cannot cross into the areas to the city's north and east, and neither the 10th Brigade nor the 12th Brigade is allowed to penetrate the city centre. (In effect, in Kirkuk governorate the trigger line runs from the north west to the south east, interrupted only by the city itself.) This is a complex arrangement but, having been in operation for more than a year, appears to be fully accepted by the local population.

Kirkuk's Arabs and Turkomans initially rejected the new arrangement, primarily because they viewed it as a way for the Kurds, with U.S. support, to legitimise their security presence in disputed territory – and thus take another step toward the de facto incorporation of part of that territory into the Kurdistan region.<sup>112</sup> A Turkoman politician said:

I agree we need forces to protect the people and the city, but in this case the chosen method is based on a mistake: the participation of Kurdish forces coming from Kurdistan. They are legal inside Kurdistan only, not outside of it. The Kurds block Iraqi forces from entering Kurdistan without their permission, while Kurdish forces can leave their jurisdiction and come to Kirkuk. This is to satisfy Kurdish policies, not the people of Kirkuk. We are not against the Kurds but what we want is for all Kirkuk's people [ethnic groups] to be represented in such a force. We are afraid that this small Kurdish force will grow in size and take absolute control over the city's security as part of a plan to incorporate Kirkuk into Kurdistan, whether legally or by force. We are concerned about the American

policy, which is always right beside the Kurds. We are all aware of this American-Kurdish alliance.<sup>113</sup>

Arab and Turkoman politicians also deeply resented the presence of Kurdish security police in their towns and neighbourhoods. Even a Kurdish local police commander saw merit to the argument:

When this idea came up, there were a lot of objections from Arabs and Turkomans, and they were totally justified in rejecting it. The reason behind many of these objections was that the *asaesh* in the past years have arrested, kidnapped and threatened a lot of people and used violence during arrests. Many of the detained were taken to unknown places in Suleimaniya and Erbil; their families remain ignorant of their fate. They only know that their sons were arrested by the Kurdish *asaesh*. They don't know if they are still alive or dead.<sup>114</sup>

Most importantly, however, Arab and Turkoman politicians were caught unprepared when U.S. officials first broached the idea of establishing the combined security mechanisms. Once U.S. military officers and diplomats explained the concept and brought the area's key commanders and politicians together, they defused resistance.<sup>115</sup> Since then, U.S. military officers in Kirkuk have convened bi-weekly meetings with all senior military and police commanders in the area, initially to break the ice and then to build cross-ethnic confidence in the absence of a political settlement of Kirkuk's status.<sup>116</sup> The U.S. also has provided training to joint groups of *peshmergas* and Iraqi army soldiers in order to promote mutual respect, in addition to improving skills and cooperation. All agree

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<sup>112</sup> Turkoman politicians also argued that the deployment of Kurdish regional guard forces in disputed territories violates the constitution, whose Article 121 (5) places such forces inside the Kurdistan region, while Article 110 (2) grants the federal government exclusive authority in establishing and managing armed forces. Upon consideration, they accepted the integration of Kurdistan regional guard force units in the disputed territories directly under the federal government's authority. Crisis Group interviews, Tahsin Kahyeh, Kirkuk provincial council member (Turkoman Islamic Union), and Hasan Turan, Kirkuk provincial council member (Turkoman Justice Party), Kirkuk, 1 October 2009.

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<sup>113</sup> Crisis Group interview, Jamal Shan, head of the Iraqi National Turkoman Party, Kirkuk, 11 May 2010. See also, *Iraq Oil Report*, 2 February 2010. Already in September 2009, a Shabak political leader had told Crisis Group: "The Americans' suggestion to have a presence there is going to help us, but at the same time, it will give some kind of legitimacy to the presence of the Kurds in the area. This is a dilemma, really". Crisis Group interview, Hunein Qaddu, secretary general, Democratic Shabak Gathering, Baghdad, 13 September 2009.

<sup>114</sup> Crisis Group, police officer, Kirkuk, 12 May 2010.

<sup>115</sup> Kirkuk's deputy police chief, a Turkoman, said, "in the beginning, there were some misunderstandings among some of the politicians, especially the Arabs and the Turkomans, about the nature of the joint checkpoints and patrols – how much power the Kurds would have. However, after discussions things became clearer, and now the joint effort has become a normal matter that causes no problems". Crisis Group interview, General Turhan Yousef Abd-al-Rahman, 11 May 2010.

<sup>116</sup> These meetings are held on the U.S. base in Kirkuk, as none of the commanders agrees to convene off the base. In other words, U.S. facilitation remains critical. Crisis Group interview, Kirkuk, 18 September 2010.

that relations have warmed and tensions eased, even if they continue to eye each other warily.<sup>117</sup>

A local police officer praised the joint patrols for bringing security and building trust: “We should thank the coalition forces for supporting such an idea and making it real. Before the creation of this force, the relationship between the police and the 12th Division wasn’t good; there was no cooperation whatever. The Americans were able to bring them together, solve their problems and make them work together”. He added:

The Kurds don’t like having the Iraqi army patrolling their areas. They think that this army and the government’s policy are the same as in old times. They fear the army, but when they saw it patrolling along with the Americans and the *peshmerga* forces, they changed their mind. The same thing happened with Arabs as well; they don’t like having the *peshmergas* in their areas either, but they too came to terms with it.<sup>118</sup>

Trust in the new set-up was such that the army was able to enter Kirkuk city during the 7 March 2010 legislative elections without facing serious criticism – the only Iraqi city it entered that day. The army acted in response to a request from the U.S., which was intent on securing polling stations and deterring insurgent attacks or other violence. While the deployment was successful, with the army staying some distance from the polls, some (non-Kurdish) politicians complained it appeared only in the Arab and Turkoman, not Kurdish, neighbourhoods, as if it was prohibited from entering these because of Kurdish objections.<sup>119</sup>

Notwithstanding occasional grumbling about instances of perceived bias or favouritism, the consensus in Kirkuk appears to be that the joint checkpoints and patrols, with U.S. soldiers embedded in Kurdish/Arab units, facilitating communications and providing early-warning, have become indispensable to the area’s security and stability. With their extensive fleet of armoured vehicles, the U.S. units based in Kirkuk until the August 2010 drawdown –

the 1st Brigade of the 1st Armoured Division and the 2nd Brigade of the 1st Cavalry Division – were among the heaviest in the entire U.S. army (not just in Iraq), representing a major increase in combat power over the single battalion the U.S. had deployed in Kirkuk in late 2008. When the U.S. combat mission officially ended in August 2010, the 1st Brigade was re-designated as an “advise and assistance task force”. While several of its heaviest armoured units left Iraq, the brigade retained substantial combat power in its subordinate elements.<sup>120</sup>

Dependence on U.S. troops to keep the peace may work for now, but the situation will become more problematic as the withdrawal proceeds. In the absence of a follow-on treaty to the security agreement that the Maliki government and Bush administration signed in late 2008, the joint checkpoints and patrols along the trigger line will be without their U.S. glue beyond December 2011. Many have voiced fears that things could start to fall apart. A Turkoman politician asked: “Right now these units work under the control of the Americans. The question is: when the Americans leave, who will take charge of them?”<sup>121</sup> The deputy police commander, General Turhan Yousef, put it more starkly:

Forget their nationalistic slogans: everyone here agrees – Arabs, Kurds and Turkomans – that we need the American forces in Kirkuk. They are what keep us in balance. The reality in Kirkuk is that security is good, but politics are unstable. We need time for the political situation to stabilise. The American withdrawal is a deadly mistake.<sup>122</sup>

A few months later, he put it more strongly still: “American troops should stay, or there will be civil war”.<sup>123</sup> A Kurdish police commander was no less pessimistic: “I’m totally confident that the city of Kirkuk will have a civil war within 24 hours after U.S. troops leave. I guarantee it.

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<sup>117</sup> Crisis Group interviews, Brig. General Serhad Qader Muhammad, Kirkuk, 19 December 2009; Brig. General Sherko Fatah Nameq, Qara Hanjir, 19 December 2009; Maj. General Abd-al-Amir Ridha al-Zaydi, Kirkuk, 20 December 2009; and Karim Sinjari, KRG interior minister, Erbil, 9 March 2010. See also, *The Washington Post*, 8 February 2011.

<sup>118</sup> Crisis Group, police officer, Kirkuk, 12 May 2010.

<sup>119</sup> Crisis Group observations, Kirkuk, 7 March 2010; Crisis Group interview, Irshad Salehi, elected to parliament for Al-Iraqiya, Kirkuk, 23 May 2010. In Kirkuk, the semblance of ethnic balance is critical; the commonly held assumption is that if, for example, the army comes into the city, it should cover the entire city even if security threats are limited to only part.

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<sup>120</sup> Following the August 2010 drawdown, the U.S. no longer has combat brigades in Iraq. In Kirkuk it retained a combat brigade headquarters: commanding officers but no brigade as such. *The New York Times*, 7 August 2010. However, the headquarters still commands units that, while designated “advise and assist”, have real combat power. For example, as of February 2011 the 1st Advise and Assist Task Force of the 1st Infantry Division, based on part of that division’s 1st Heavy Brigade Combat Team, has both an infantry and a cavalry battalion. See “Kurdish Regional Guard officers strive to be proficient leaders”, USF-I press release, 4 February 2011; and “Kirkuk’s elite police unit tests reaction skills”, USF-I press release, 27 January 2011.

<sup>121</sup> Crisis Group interview, Jamal Shan, head of the Iraqi National Turkoman Party, Kirkuk, 11 May 2010.

<sup>122</sup> Crisis Group interview, General Turhan Yousef Abd-al-Rahman, deputy police chief, Kirkuk, 11 May 2010.

<sup>123</sup> Crisis Group interview, Kirkuk, 20 September 2010.

The reason is that there is no trust among the sides. A disaster will take place, and when it explodes here, even Basra will be affected". He explained:

There are different [ethnic] groups within local government departments and other institutions, and they are not really loyal [to the state]. If and when the Americans withdraw, these elements will go back to working for the best interests of the parties that helped them get their jobs in the first place. I am not just talking about a breakdown of the security forces that would occur with an American withdrawal; it is civil war we fear. I can see it coming. Just mark my words and see.<sup>124</sup>

General Odierno reflected both these local fears and the concern that the combined security mechanisms he established might not survive the U.S. troop departure, when he intimated in an early July 2010 interview (two months before he left Iraq) that a UN peacekeeping force might have to keep the sides apart after 2011.<sup>125</sup> No formal discussions have taken place about such a deployment, in part because the Iraqi government has not made a request to the UN, and the Security Council has not suggested such a force; indeed, there has been no serious discussion concerning deployment of UN peacekeepers in Iraq.<sup>126</sup>

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<sup>124</sup> Crisis group interview, police officer, Kirkuk, 12 May 2010. Interviews in January 2011 suggest that Kirkukis had not changed their dire views about the consequences of a U.S. troop pullout. For example, an Arab provincial council member said, "the Americans did not ask our permission to enter Iraq, and they aren't asking for it in order to exit either". The U.S. shouldn't leave, he said, because "there are a lot of unsettled issues. Ever since 2003 it has been delay, delay, delay in Kirkuk. We should first create a balance of forces between the groups here [before U.S. troops leave]. *Everyone* is scared". Crisis Group interview, Abdallah Sami al-Asi al-Obeidi, Kirkuk, 19 January 2011. A Kurdish lawmaker said, "the U.S. presence is essential and there will be a big problem when they leave. We need a referee because of our fear". Crisis Group interview, Najmaldin Karim, Baghdad, 17 January 2011. Karim was appointed Kirkuk governor in March 2011.

<sup>125</sup> In an interview with the Associated Press, Odierno said, referring to plans to integrate Kurdish forces into federal security forces, "if we have not integrated [them by the end of 2011], we might have to think of some other mechanism. I don't know what that is yet. Is it a Chapter 6 UN force? I don't know. But that's something that has to be worked out, and it'll be depending on how far we are able to bring this process". Associated Press, 6 July 2010.

<sup>126</sup> A UN official indicated that, barring a crisis, deployment of a UN peacekeeping force is almost certain not to happen. Crisis Group interview, January 2011.

## B. THE STRUGGLE OVER SECURITY

If the army occupies the outer layer of security, the police are critical to the populated areas in the middle and inner layers. The middle layer, which covers the governorate's districts and sub-districts, is composed of police under Brig. General Serhad Qader Muhammad, a Kurd. The inner layer, Kirkuk city proper, is controlled by police under Brig. General Burhan Tayib Taha, a Turkoman. Both report to the provincial police commander, Maj. General Jamal Taher Baker, a Kurd, and his deputy, Maj. General Turhan Yousef Abd-al-Rahman, a Turkoman.<sup>127</sup> In addition, the middle and inner layers also contain Kurdish *asaesh* and *parastin/zanyari* intelligence forces.<sup>128</sup>

Since the creation of the combined security mechanisms, cooperation between police and army has improved. Representatives of the security branches operate out of a joint office, the Kirkuk Coordination Centre, on the Iraqi military base on Kirkuk's outskirts and meet at a senior level on a regular basis. The (Kurdish) police commander for the districts and sub-districts described an evolving division of labour with the (Arab-dominated) army, which is not allowed to enter villages unless accompanied by the police: "We have very good coordination with the army now, while before it used to be a sensitive matter. The army's job is to surround a given area; our job is to arrest people based on warrants, as the army [in Kirkuk] is not authorised to detain anyone".<sup>129</sup> Such coordination is critical because, while the insurgent threat has receded just as it has in other parts of the country, attacks still occur. Several groups remain active in the Kirkuk area, preying on the governorate's ethnicity-based political troubles.<sup>130</sup>

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<sup>127</sup> Crisis Group interviews, U.S. official, Washington, 3 November 2009; Brig. General Serhad Qader Muhammad al-Ozeiri, Kirkuk, 19 December 2009; and U.S. military officer, Kirkuk, 19 December 2009.

<sup>128</sup> The partisan affiliation of Kurdish security forces is readily apparent, as a framed picture of either PUK leader Jalal Talabani or KDP leader Masoud Barzani is visible upon entering one of their offices in Kirkuk.

<sup>129</sup> Crisis Group interview, General Serhad Qader Muhammad, Kirkuk, 20 September 2010.

<sup>130</sup> Kirkuk's deputy police commander said, "the security situation is very good, but there are still gaps and groups trying to exploit these. Ansar al-Islam, the Naqshbandi group [Jaysh Rijal al-Tariqat al-Naqshbandiya] and al-Qaeda in Iraq, working separately with separate views and agendas, are reorganising, attracting new funding and making new plans. Their leaders are from outside Kirkuk (al-Qaeda from Ninewa and Ansar and the Naqshbandis from Ninewa), but they are able to recruit here because of our differences, for example over the national census". Crisis Group interview, General Turhan Yousef Abd-al-Rahman, Kirkuk, 20 September 2010. For an analysis of insurgent groups in Iraq see, Crisis Group Middle East Reports N°74,



For all the progress, the police remain plagued by the question of ethnic balance, with Arab and Turkoman politicians accusing the Kurds of dominating it, with the ultimate aim of dominating Kirkuk and incorporating it into the Kurdistan region. The force of about 6,300 (both middle and inner layers) is roughly 40 per cent Kurd, 30 per cent Arab and 30 per cent Turkoman.<sup>131</sup> The (Turkoman) deputy police commander confirmed these figures but added that they reflect the entire force, not the officer corps. The latter, he said, was 52 per cent Kurd (400 officers), 39 per cent Arab (300), 8 per cent Turkoman (62) and between 1 and 2 per cent Chaldo-Assyrian Christian (12).<sup>132</sup>

The (Kurdish) police commander of the middle layer contested his colleague's figures, saying that of the 4,000 police under his command, 47 per cent were Arab, 27 per cent Kurd, 24 per cent Turkoman and 2 per cent Chaldo-Assyrian. The discrepancy – another example of the contentious nature of the demographic debate in Kirkuk – could reflect the interior ministry's yet to be implemented decision to integrate 400 former insurgents (subsequent members of Awakening militias) into the police over this commander's stated objection. As a result, he said, "Arab and Turkoman numbers will be going up, and the Kurds' will be going down. It is a political issue".<sup>133</sup>

The problem is not only one of numbers but also of political pressures on police commanders regarding various aspects of their operations, especially recruitment, appointments and transfers. General Turhan complained:

The problem is the politicisation of the police by political parties. When the interior ministry in Baghdad issues an order, we receive a million phone calls from political parties, telling us to act in such and such a way. We are trying to create a professional, not a sectarian, force. Our loyalty should be to the Iraqi flag, even if we value our ethnicity. We must separate politics from our professional work.

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*Iraq after the Surge I: The New Sunni Landscape*, 30 April 2008; and N°50, *In Their Own Words: Reading the Iraqi Insurgency*, 15 February 2006.

<sup>131</sup> "District Analysis Summary: Kirkuk District", UNAMI (unpublished, April 2009), p. 52.

<sup>132</sup> Crisis Group interview, Kirkuk, General Turhan Yousef Abd-al-Rahman, 20 September 2010. An Arab provincial council member complained that Arabs were underrepresented in the police officer corps. In Kirkuk city, he said, "we have only one police commander – at the Adala police station. Overall, we have only 1 or 2 per cent Arabs in the police's command structure". Crisis Group interview, Abdullah Sami al-Asi, Kirkuk, 19 January 2011.

<sup>133</sup> Crisis Group interview, General Serhad Qader Muhammad, Kirkuk, 20 September 2010.

He singled out the Kurdish parties for special criticism.<sup>134</sup> A Turkoman provincial council member dismissed the police as "useless" because "it doesn't act on complaints, for example criminal extortion threats. Criminals feel they have immunity". He, too, suggested that the Kurds' control of the police force was to blame.<sup>135</sup>

A related problem that has led to the greatest tensions is the presence of Kurdish party-affiliated security police, the *asaesh*, and of undercover intelligence operatives working for the *parastin* (KDP) and *zanyari* (PUK). Controlling large swathes of the disputed territories, these forces have enjoyed close cooperation with the U.S. military. This may have enabled them to improve their professionalism and upgrade their equipment, but it also gave them a free hand in what Kurds and the U.S. consider counter-terrorism operations but what their Arab (and to a lesser extent Turkoman) targets see as indiscriminate attacks against the area's non-Kurdish population. The *asaesh* have carved out an autonomous security role in Kirkuk and elsewhere, accountable only to their political bosses. While the U.S. has credited the *asaesh* with maintaining security in Kirkuk and the *asaesh* themselves have emphasised their professionalism,<sup>136</sup> there is no doubt that much of the ethnic tension in Kirkuk has focused on what are seen as arbitrary and discriminatory practices by this irregular security force.

Here too, estimates vary. In the view of Kirkuk's (Turkoman) deputy police commander, some 8,000 *asaesh* operate inside the city and another 6,000 in the rest of the governorate.<sup>137</sup> In contrast, the head of the PUK's *asaesh* claimed that the PUK and KDP combined had only 4,000 security men in the entire governorate.<sup>138</sup> Whatever the

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<sup>134</sup> Crisis Group interview, General Turhan Yousef Abd-al-Rahman, Kirkuk, 20 September 2010. While a Turkoman police chief in Kirkuk can be expected to be critical of the Kurdish parties and their motives, General Turhan's background does not suggest he would be automatically ill-disposed toward the Kurds. His mother is a Kurd from Koysinjaq in the Kurdistan region, and he went to school in Suleimaniya. He spent a good part of his professional career in the Kurdistan region.

<sup>135</sup> Crisis Group interview, Kirkuk, 20 January 2011.

<sup>136</sup> From the Kurdish parties' perspective, their security forces are not irregulars but a regional guard under civilian control with military command hierarchy, discipline and training camps. An *asaesh* officer (PUK) said the agency includes officers who specialise in preventing human rights violations, and across the force officers have availed themselves of training opportunities sponsored by NATO or the Multi-National Security Transition Command – Iraq. Crisis Group interview, Kirkuk, 20 December 2009.

<sup>137</sup> Crisis Group interview, Kirkuk, General Turhan Yousef Abd-al-Rahman, 20 September 2010.

<sup>138</sup> Crisis Group interview, Halkawt Abdulla Aziz, Kirkuk director, PUK security police (*asaesh*), Kirkuk, 20 September 2010.

exact number, which may be difficult to verify, their impact has been enormous from the moment they arrived in 2003 to fill the vacuum left by the former regime's overthrow and the disappearance of its security police, Public Security *amn al-aameh*. The PUK's Kirkuk *asaesh* director recalled:

There was no security in the disputed territories in 2003, and so the Americans asked us to work here. There were police in Kirkuk, but not enough, so we increased their numbers [with Kurdish recruits]. When the Americans detained someone, they didn't trust the local police, so they handed these guys over to us for detention in jails in the Kurdistan region. Once their jails are ok, we'll transfer these people back from our jails. Our main job in Kirkuk is to collect information on terrorists and help the security forces in tracking them down. We do not deal with crime or tribal issues.<sup>139</sup>

He asserted that the police performance had been improving and that, as a result, the *asaesh* had started to trust them and coordinate operations, with the *asaesh* focusing on intelligence gathering. Arrests are carried out by the police based on warrants issued by a judge, he said; detainees are handed over to the police's major crimes unit, headed by an investigative judge, and brought to court. He added that the parties' *parastin/zanyari* agents in Kirkuk, who operate undercover, also collect intelligence but do not carry weapons and do not go on police raids like the *asaesh* do.<sup>140</sup>

Non-Kurdish Kirkukis accuse Kurdish security forces of involvement in arbitrary arrests, illegal transfer of detainees to prisons in the Kurdistan region and detention without trial. An NGO worker said the *asaesh* originally (in 2003) devoted themselves to guarding buildings but that "the U.S. began to use them for other tasks, including intelligence collection and arresting people – without warrants".<sup>141</sup> A police officer said, "the *asaesh* create a bad situation. They involve themselves in things that are not their business".<sup>142</sup>

*Asaesh* directors in Kirkuk have rejected such criticism, complaining they have not received due credit for Kirkuk's relative stability and are being blamed unreasonably for the fact that most insurgent attacks originate in the

governorate's Arab areas. The PUK's *asaesh* director said, "Arabs and Turkomans give us a hard time, but they forget that the security situation has improved a lot thanks to us. And yes, we are unpopular in Arab areas, especially, but this is where the terrorists are active".<sup>143</sup> His KDP colleague went further:

90 per cent of the terrorists are Arabs, while most of the common crimes are committed by Kurds. We can't help it that most of the terrorists are Arab! On 16 July 2007, a huge car bomb went off in the city, killing some 200 people. To find the perpetrators, we carried out raids in [Arab] Hawija. Then we were denounced for raiding an Arab area! People hate the *asaesh* because we belong to the Kurdistan region. They accuse us of wanting to implement Article 140 [of the constitution regarding disputed territories].<sup>144</sup>

Both directors said U.S. forces, not the *asaesh*, were responsible for transferring detainees to the Kurdistan region. During the height of the civil war, 2005-2007, Iraqi institutions were incapable of dealing with the challenges, they said. The police and judiciary, in particular, were targets of violence and thus often failed to carry out their prescribed tasks. Judges were under threat, police were intimidated, and jails were poorly guarded. Because U.S. detention facilities were overflowing, the Bush administration asked its Kurdish allies to hold some of the people gathered up in its sweeps in detention centres in the Kurdistan region, and Kurdish leaders complied. The KDP *asaesh* director said, "this was a collaboration between the U.S., the Iraqi police and the *asaesh*, but we received all the blame, because we ran the prisons. But we were only holding these guys, not interrogating them. The U.S. did that".<sup>145</sup>

Once the violence subsided in 2008 and institutions started to recover, the Kurds were eager to return the detainees to their original governorates, given the damage done to their reputation. Many were released, but hardcore insurgents were transferred to jails in Kirkuk and then Baghdad. The judiciary refused to deal with them, its judges not having issued the original arrest warrants, if these even existed, and so they were set free as well.<sup>146</sup> This de-

<sup>139</sup> Ibid.

<sup>140</sup> Ibid. Technically, the *asaesh* implement security policy, whereas the *parastin/zanyari* only collect intelligence. For this reason, Kirkuk residents have not been aware of the latter's activities, which are undercover and have no known centres. Crisis Group interview, Turkoman provincial council member, Kirkuk, 20 January 2011.

<sup>141</sup> Crisis Group interview, Kirkuk, 18 September 2010.

<sup>142</sup> Crisis Group interview, Kirkuk, 21 September 2010.

<sup>143</sup> Crisis Group interview, Halkawt Abdulla Aziz, Kirkuk director, PUK security police (*asaesh*), Kirkuk, 20 September 2010.

<sup>144</sup> Crisis Group interview, Halo Najat Hamza, Kirkuk director, KDP security police (*asaesh*), Kirkuk, 20 September 2010.

<sup>145</sup> Ibid.

<sup>146</sup> "The Kurds started transferring back these detainees a year ago. The judges here in Kirkuk refused to take them, because they had not issued arrest warrants; many were let go, but the bad ones were sent to Baghdad. Three months ago, they were released. The Baghdad judge said he had not issued arrest warrants in their cases – indeed there were none – and he had not

fused Arab anger over the original transfers, but complaints persist concerning arbitrary arrests carried out by the police assisted by the Kurdish *asaesh* and other actions that have provoked the ire of non-Kurds.<sup>147</sup>

A particularly provocative incident occurred during the Muslim feast Eid al-Adha (Festival of Sacrifice) that in 2010 fell in the middle of November. Citing recent attacks and raising concerns about potential security threats during the holiday, the *asaesh* said they would provide extra security to the city for two weeks. A Kurdish provincial council member said that the deployment was also intended “to show the Kurds that the *asaesh* are there to protect them”.<sup>148</sup> In the event, the *asaesh* spread out throughout the city, setting up checkpoints, checking passersby, arresting several Arabs and generally angering Arabs and Turkomans, who felt that suspicion was directed toward them.

A Turkoman provincial council member denounced the deployment as a violation of the agreement covering the joint security mechanisms and said that U.S. diplomats and military commanders persuaded the *asaesh* to pull out after about ten days.<sup>149</sup> An Arab parliamentarian rejected the *asaesh*'s argument that insurgent violence preceding the Eid al-Adha necessitated added protection, dismissing a triple car bomb attack in Kurdish neighbourhoods on 6 November as a mere pretext for a Kurdish show of force.<sup>150</sup> Hasan Turan, a Turkoman provincial council member, said that this and previous incidents had shown that:

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seen the original paperwork, so there was no legal basis to hold them. But these were very bad guys. It's the *asaesh*'s fault; they made the mistake [of accepting the detainees from the U.S.]”. Crisis Group interview, General Turhan Yousef Abd-al-Rahman, Kirkuk, 20 September 2010.

<sup>147</sup> Examples of such actions: A Turkoman resident of Kirkuk allegedly was taken in and beaten by the KDP's *asaesh* after he protested its move to build on city land he owned; the land case has since gone to court. Crisis Group interview, provincial council member, Kirkuk, 20 January 2011. In December 2010, the PUK's *asaesh* allegedly kidnapped a Turkoman woman after an insurgent group kidnapped a female relative of a (Kurdish) police intelligence commander. The woman was released several hours later, but the action caused an uproar in Kirkuk's socially conservative society. Crisis Group interview, parliament member from Kirkuk, Baghdad, 13 January 2011.

<sup>148</sup> Crisis Group interview, Kirkuk, 20 January 2011.

<sup>149</sup> Crisis Group interview, Kirkuk, 20 January 2011.

<sup>150</sup> He said the booby-trapped cars had targeted the homes of three Kurdish politicians, but that the attacks had been at an hour – six in the morning – when few people were about, and the houses had been empty, suggesting the *asaesh* had been the perpetrator to create a rationale for deployment during the Eid al-Adha, Crisis Group interview, Omar al-Jbouri, Baghdad, 12 January 2011. At least eighteen persons were reported injured in the attacks, however. *Aswat al-Iraq*, 6 November 2010.

The *asaesh* are a symbol of the Kurdish parties' power to control Kirkuk. They are here to shut up any voice that speaks against the two Kurdish parties. They do so without a legal basis, without obtaining arrest warrants. They use the police to get a warrant from a judge, and this is the same as during Saddam's time: the police were weak then, too, and under the control of the regime's security police, the *amn*. The *amn* and *asaesh* both used/use terrorism as an excuse for political control.<sup>151</sup>

From the Arab and Turkoman perspective, the *asaesh* are an illegal militia with a hidden political agenda to bring disputed territories into the Kurdistan region. For the Kurds, they are protection against Arab insurgents and an insurance policy against the resumption of Arabisation by the central government and its local allies in disputed areas with heavy concentrations of Kurds.<sup>152</sup> Whatever the *asaesh*'s true purpose in Kirkuk – it is likely a combination of the above – their presence has done precisely the opposite of what the Kurdish parties say is one of their principal objectives, namely to increase local Turkomans' and Arabs' trust in the Kurdish administration as a prelude to a referendum that the Kurds hope will place Kirkuk inside the Kurdistan region. If anything, non-Kurds' trust in the parties' management of Kirkuk appears to have deteriorated steadily since 2003, in large part because of the presence and conduct of the Kurdish security forces – the *asaesh* as well as the *peshmergas* (discussed below).

In December 2007, the U.S. mediated a power-sharing agreement between Kirkuk's Arab and Kurdish political leaders that was only partially implemented; in particular, its injunction that “unofficial security agencies currently operating in Kirkuk shall be returned to the territories from which they were brought” was ignored.<sup>153</sup> Having operated under U.S. protection since 2003, the *asaesh* in the disputed territories face an uncertain future as U.S. troops prepare to withdraw. While Kurdish security control of Kirkuk seems firm, it could be a matter of time before the Maliki government starts testing the Kurds' strength in Kirkuk, if no progress is made on a political resolution of the Kirkuk crisis.

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<sup>151</sup> Crisis Group interview, Kirkuk, 20 January 2011. During Saddam Hussein's regime, Kurdish insurgents attacked state institutions in Kirkuk and elsewhere.

<sup>152</sup> Even Goran, the Kurdish opposition party, supports the *asaesh* as protection for Kurds in the disputed territories, but it wants them removed from KDP and PUK control and under direct KRG authority. Crisis Group interview, Goran official, January 2011.

<sup>153</sup> “Text of Final Agreement between Kirkuk Brotherhood List and the Iraqi Republican Group List”, Kirkuk, 2 December 2007 (in Arabic).

#### IV. FIXING THE SECURITY ARCHITECTURE ALONG THE TRIGGER LINE

When U.S. forces pull out of Iraq, the question is what will happen along the trigger line. Will the combined security mechanisms survive without their embedded U.S. military officers, or will a tug of war develop over who controls security in a given location in the disputed territories? KRG Prime Minister Barham Salih played down the dangers and stressed the importance of working out a political deal:

The combined security mechanisms are working well. To sustain them beyond 2011, we have to find a common interest with the Arabs in the areas of security and economics. As long as the status of the disputed territories remains unresolved, both federal and Kurdistan guard forces will remain there. But if the matter is resolved, we can work out a unique arrangement. The current common threat is from terrorists. Let's pool our resources and go after them. We need to change the subject from the current tug of war over who controls security. I recognise there is a problem with the *asaesh*, and we have already dealt with some of the excesses. But the security question is at the heart of the dispute. We need a political solution first and then fix the security arrangement.<sup>154</sup>

As the political process is slowly taking off, there are separate developments on the security front as well that will affect the outcome of the Baghdad-Erbil conflict and the disputed internal boundaries. Discussions have begun on integrating the Kurdistan regional guard force, the *peshmergas*, into the Iraqi army, at least nominally; separately, there has been talk of possibly bringing the *asaesh* deployed in disputed territories under the authority of the Iraqi police, and therefore the interior ministry. What is important, however, is that while the security situation is sensitive along the length of the trigger line, conditions in Kirkuk differ from those in Ninewa, Diyala and Salah al-Din.<sup>155</sup>

In Kirkuk, Kurds feel confident that the situation in the city will remain under control thanks to the *asaesh* and police, as long as the army can be held at bay – something that the combined security mechanisms have ensured during the past two years but could change as U.S. troops pull out. Kirkuk's Arabs and Turkomans resent the *asaesh*'s presence and count on the army to eventually push the

Kurdish security forces out of the governorate back to the Green Line. The questions in Kirkuk, therefore, are how to manage relations between the army and Kurdish forces and whether, to reduce ethnic tensions in the city in particular, the *asaesh* – which Kurdish residents see as an insurance policy against renewed Arabisation – could be brought under a different control, in which the Kurds in Kirkuk would play a dominant but not exclusive role, for example the police (a force under the authority of the interior ministry in Baghdad).

In Ninewa, by contrast, the trigger line lies outside the main city, Mosul, which the Kurds do not claim as part of Kurdistan. Moreover, Kurds see the army deployed in Ninewa, a federal force under Baghdad's control, as a potential ally against the governorate's police force, which falls under the authority of Governor Atheel al-Nujayfi, who has been in conflict with the first Maliki government and with whom the Kurds had an adversarial relationship until the above-mentioned late-2010 thaw. The questions in Ninewa are how to integrate Kurdish security forces in the disputed districts into the local police and Ninewa-based Iraqi army units (both formally under Baghdad's control), protect minority communities and allow the governor to extend his writ to the entire governorate.

#### A. THE KURDISH PESHMERGAS AND THE IRAQI ARMY

Discussions are underway to bring the Kurdistan regional guard force inside Iraq's security architecture. Baghdad considers such a move critical, as it would help cement the Kurdistan region into the Iraqi state fabric and thus reduce the chances of secession; moreover, the guard force would patrol and protect Iraq's border with Turkey as well as part of its border with Iran. The move would be advantageous to the Kurds as well: it would guarantee funding out of the national budget for Kurdish forces guarding their own territory and people and secure the provision of equipment and training, including from the U.S.;<sup>156</sup> it also would keep the Iraqi army out of the Kurdistan region.<sup>157</sup>

In the view of U.S. officials, the critical first step preceding such integration should be to consolidate the two Kurdish parties' *peshmerga* commands into the KRG's *peshmerga* affairs ministry – away from the KDP and PUK's direct

<sup>154</sup> Crisis Group interview, Erbil, 19 January 2011.

<sup>155</sup> Conditions along the trigger line in Diyala and Salah al-Din are not covered in this report.

<sup>156</sup> The U.S. reportedly is delaying military equipment for the KRG until there is Baghdad-Erbil agreement on the Kurdistan regional guard force's integration into the Iraqi army. Crisis Group interview, senior army official, Baghdad, 16 January 2011.

<sup>157</sup> Crisis Group interviews, defence ministry and army officials, Baghdad, 14 and 16 January 2011.

control.<sup>158</sup> Like their federal counterparts, Kurdish troops remain highly politicised and divided in loyalties,<sup>159</sup> in this case between two parties that fought a bloody fratricidal war in 1994-1998 and have yet to fully overcome its legacy.

These forces' politicisation is manifested in a lack of unified command. KDP and PUK *peshmerga* branches were unified at the highest level in April 2009 with the creation of a single ministry.<sup>160</sup> Below this level, however, and certainly in operational terms, they remain separate. A politician of the opposition Goran movement said, "the *peshmergas* are far from unified. No PUK *peshmerga* will obey an order from Erbil, and no KDP *peshmerga* will listen to Suleimaniya. They remain party militias. And they don't recruit anyone who isn't either a KDP or PUK member".<sup>161</sup>

Efforts are proceeding to further reorganise and unify the two forces under KRG authority, but progress has been slow. Short of their full unification, it is hard to envision how these two party militias could be integrated into the federal army, yet the two developments – militia unification within the Kurdistan region and guard force integration into the Iraqi army – are taking place simultaneously, the latter providing a stimulus to complete the former.

According to plans approved by Prime Minister Maliki in April 2010 and currently being implemented by Baghdad and Erbil, the unified Kurdistan regional guard force will be trimmed from 190,000 to 100,000. It will be financed from the federal budget and trained and equipped by the Iraqi army, yet it will remain under a separate command structure in the Kurdistan region. Of the 100,000, 70,000 will remain directly under the KRG as a regional guard force; the other 30,000 will be distributed over four brigades, currently being formed, that will be part of the Iraqi army but stationed in the Kurdistan region.<sup>162</sup> Whether the

30,000 will be anything more than *peshmergas* wearing Iraqi army uniforms, who they will report to and under what conditions Baghdad could request the four brigades' deployment outside the Kurdistan region remain open questions, but it is safe to say that the process will take time as trust is built gradually through these very steps.<sup>163</sup> Karim Sinjari, the KRG's interior minister, declared unambiguously that "the four brigades will be part of the Iraqi army but deployed only in the Kurdistan region. They will not go across the Green Line".<sup>164</sup>

The problem is that Kurdish *peshmerga* forces are across the Green Line, namely in the disputed territories under the KRG's control and against Baghdad's will, and especially in Kirkuk. This post-2003 de facto situation will face a challenge after the U.S. troop withdrawal. To the Kurds,

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eral government has not disbursed any funds to the KRG for the guard force.

<sup>163</sup> Crisis Group interviews, defence ministry and army officials, Baghdad, 14 and 16 January 2011. These same officials expressed some resentment at the Kurds' push to have the *peshmerga* integrated into the Iraqi army, saying the Kurds are represented at the Iraqi military's highest levels already. (The following senior positions are currently occupied by Kurds: joint forces chief of staff; air force commander; military intelligence director; inspector general; and defence ministry director general for personnel.) They said they are concerned that the Kurds have both authority in Baghdad and a fully-fledged military force under their control in the Kurdistan region, while Baghdad has no role in Erbil, and its forces cannot be deployed inside the Kurdistan region. A defence ministry official said, "the Kurds will agree to such an arrangement because they want Baghdad to pay their salaries and supply the equipment they need while keeping their *peshmerga* separate within the Iraqi army framework. The army cannot enter the Kurdistan region, and the defence ministry cannot rotate the *peshmerga* to other parts of Iraq. The Kurds are the winners". Crisis Group interview, Baghdad, 14 January 2011. He added as an afterthought: "They should declare their independence. Let the Turks and Iranians eat them". The presence of Kurds in senior security posts may be insufficient reassurance to Kurdish leaders. When Maliki sent the army into the Kurdish district of Khanaqin in Diyala in August 2008, he bypassed the joint forces chief of staff, General Babakr Zeibari, a Kurd, highlighting his lack of authority in the command chain. In response, a close Maliki supporter claimed Zeibari was part of a Kurdish strategy to keep the army weak: "The *peshmerga* are getting stronger, and they are weakening the Iraqi army. The chief of staff was put there to ensure that the army will never be developed. The Kurds always put obstacles when new weapons need to be bought. This is true, for example, for helicopters". He added: "As long as Kurds are mixed in with the army, they will strengthen it, but if they are in separate units, this will weaken it". Crisis Group interview, Ali Adeeb, parliament member for the United Iraqi Alliance (Daawa Party), Baghdad, 27 May 2010.

<sup>164</sup> There are plans for eight additional brigades, for a total of two Iraqi army divisions in the Kurdistan region. Crisis Group interview, Erbil, 18 January 2011.

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<sup>158</sup> Crisis Group interview, U.S. official, Washington, 13 August 2010.

<sup>159</sup> See, Crisis Group Report, *Loose Ends*, op. cit.

<sup>160</sup> "New deputy prime minister sworn in as KRG takes another step towards unification", KRG press release, 7 April 2009.

<sup>161</sup> Crisis Group interview, Shorsh Haji, parliament member (Goran), Baghdad, 12 January 2011. He said that in Goran's view, the two parties' *peshmerga* should not be unified, but the KRG should create an entirely new force independent of the KDP and PUK and open to all Kurds regardless of political views or affiliation.

<sup>162</sup> Crisis Group interviews, U.S. diplomat, Baghdad, 22 January 2011; and KRG official, Erbil, 18 January 2011. The pensions of the 90,000 guard force members to be retired are also supposed to be covered by the Iraqi budget, which has had a line item for the past few years with a rider suggesting that federal payments to the regional guard force depend on a Baghdad/Erbil agreement. In the absence of such an agreement, the fed-

the presence of Kurdish forces in Kurdish-majority areas in the disputed territories is an existential requirement. Khaled Shwani, a parliamentarian from Kirkuk, said:

The *peshmergas* must protect the Kurdish population. Look at the situation in Saadiya and Jalawla [mixed-population subdistricts of Khanaqin in Diyala governorate]. There are no *peshmergas* there, and the Kurds are under constant pressure and threat. They are being displaced by terrorists who enjoy the support of the Iraqi army and police. This is why we will not leave the Kurdish areas where we are present, such as Kirkuk: there is no crime, no terrorism; they are stable. We cannot put our destiny in the hands of an army we don't trust.<sup>165</sup>

Arab and Turkoman leaders have decried the presence of Kurdish security forces as an illegal land grab – de facto through security control today, potentially de jure once a referendum is held according to the Kurds' interpretation of Article 140. Omar Jbouri, an Arab lawmaker from Kirkuk, said:

The *perhmergas* should be made to leave and be replaced by the Iraqi army, which has representatives from all communities in its ranks. The joint forces chief is Kurdish and so is the air force commander. Of the 12th Division's three brigades [deployed in Kirkuk], the 49th brigade has a Kurdish commander, the 15th a Turkoman commander and the 46th an Arab commander. The division's deputy commander is also Kurdish, and there are many Kurds in the ranks; they are well-represented.<sup>166</sup>

Irshad Salehi, a Turkoman lawmaker from Kirkuk, said he rejected the Kurdistan regional guard force's integration into the Iraqi army as a Kurdish ploy to solidify control over the disputed territories. He stated this was done with the connivance of Maliki and his Shiite allies who, he claimed, have little interest in what happens in these areas, unlike Salehi's own Iraqiya bloc, many of whose members live in the disputed territories. He added:

The Kurds are trying to convince the Americans that the *peshmergas* constitute an integral part of the Iraqi defence forces. We all know, however, that the Kurds

take from Baghdad and don't give back. The *peshmergas* are deployed in Kirkuk, but the Iraqi army cannot go to the Kurdistan region. Once the U.S. withdraws from the joint checkpoints, the *peshmergas* will take these areas under their control on the argument that they are part of the country's national defence.<sup>167</sup>

In a deeply troubling development on 25 February 2011, the Kurdish leadership deployed an estimated 10,000 additional *peshmergas* and *zerevanis* (paramilitary "special guards") in Kirkuk. The move came as a wave of protest inspired by events in North Africa and the Gulf washed over cities throughout Iraq, including Kirkuk and Suleimaniya, a major city in the Kurdistan region. What shocked many was not only the troops' sheer number but their deployment to the city's south and west, no-go zones until then,<sup>168</sup> where they cut off the main arteries leading into the city from its Arab hinterland. This included the district town of Hawija, where protests earlier that day had led to three deaths.<sup>169</sup> The rationale, KRG officials stated, was to prevent insurgents from taking advantage of popular protests to infiltrate into the city and incite violence during a mass demonstration planned by Arab political leaders in its centre for 1 March.<sup>170</sup> In the event, a dawn-to-dusk curfew and the deployment jointly prevented the demonstration from taking place.<sup>171</sup>

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<sup>167</sup> Crisis Group interview, Baghdad, 13 January 2011.

<sup>168</sup> An Arab legislator said the *peshmerga* had been deployed on the false pretext that violence might ensue if Arab leaders staged a mass protest in Kirkuk on 1 March. The purpose, he claimed, was to reduce pressure on the KRG, which had been the target of demonstrations in Suleimaniya the preceding week, when several protesters were killed. He also noted that six Arabs had been assassinated in Kirkuk since the *peshmerga* deployment (a fact confirmed by a local Kurdish police commander), acts for which he blamed the Kurdish force. Crisis Group interview, Omar Jbouri, parliament member for Al-Iraqiya (Kirkuk), 2 March 2011.

<sup>169</sup> Protesters stormed the district council building and police station; three police were reported killed. *AK News*, 25 February 2011.

<sup>170</sup> Jaafar Sheikh Mustafa, the KRG's *peshmerga* affairs minister, said, "there was a serious danger awaiting the Kurds in Kirkuk because of these events [demonstrations]. So *peshmerga* were deployed around Kirkuk to secure it from the threats". Quoted in Reuters, 3 March 2011. Kirkuk's Kurdish police chief said, "Our forces are on alert because saboteurs want to destabilise the city of Kirkuk under the name of demonstrations". Quoted in *AK News*, 3 March 2011.

<sup>171</sup> A (Kurdish) police commander in Kirkuk said, "the curfew was a good call, because if it hadn't been imposed, God only knows what would have happened today. It saved lives. People were going to demonstrate and cause tremendous damage and violence". Crisis Group telephone interview, Kirkuk, 1 March 2011. A demonstration planned for 4 March was also blocked.

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<sup>165</sup> Crisis Group interview, Baghdad, 13 January 2011. The *peshmerga* presence in these areas also provides the Kurdistan region with a buffer to the west of the Green Line, the region's constitutional boundary.

<sup>166</sup> Crisis Group interview, Baghdad, 12 January 2011. Khaled Shwani said he saw things differently: "The 12th Division is 95 per cent Arab. It has only two Kurdish commanders, and of its 30,000 soldiers only 2,000 are Kurds". Crisis Group interview, Baghdad, 13 January 2011.

The deployment appeared to come as a surprise to Kirkuk's political leadership and had reportedly not been requested by local Kurdish officials such as the governor.<sup>172</sup> This prompted suspicions that the KRG was less concerned about the situation in Kirkuk than instability in Suleimaniya, where protests over preceding days that cost the lives of seven people<sup>173</sup> had targeted both the KRG's corruption and governance record and the KDP's predominance in Kurdish politics. As a Kirkuk politician put it, "they came to Kirkuk to solve their Suleimaniya problem",<sup>174</sup> ie, they deflected attention from internal problems by raising the Kirkuk issue, which deeply resonates with the Kurdish public.<sup>175</sup> Asked about a possible connection with events in Suleimaniya, Mahmoud Othman, the independent Kurdish lawmaker, said, "I don't say it has nothing to do with it. I can't say there is no connection".<sup>176</sup> As if to emphasise the point, on 7 March Jalal Talabani, the Iraqi president and PUK leader, publicly repeated an inflammatory statement he had made in the past that is intended to rally Kurds, referring to Kirkuk as "Kurdistan's Jerusalem".<sup>177</sup>

The Iraqi army's 12th Division did not move, suggesting it tolerated the *peshmerga* presence (including in the immediate environs of its K-1 headquarters on the city's western edges) or was under orders to not interfere with *peshmerga* movements.<sup>178</sup> A Kurdish official suggested Maliki had issued such an order after he struck a deal with the KRG and the U.S. military.<sup>179</sup> The U.S. denied it was party to

any such agreement,<sup>180</sup> while Maliki's office declared after some days that "these troops were deployed without the permission of the central government, and the prime minister has asked them to draw down immediately".<sup>181</sup> Had the 12th Division moved out of its barracks, a confrontation would have been very likely. This suggests at least initial tolerance by Maliki of the Kurdish forces' role in blocking demonstrations that could prove embarrassing not only to Kirkuk's Kurdish leadership but also to him. He had already deployed security forces widely to stifle protests and may have seen the Kurds' move in Kirkuk as an advantage<sup>182</sup> that would offer the chance to challenge their aggressive posture at a more politically convenient time.

The *peshmerga* and *zerevani* forces stayed beyond the announced protest dates, with KRG leaders declaring they would not leave as long as there continued to be a threat to Kirkuk's stability.<sup>183</sup> This open-ended determination to control Kirkuk city heightened Arab and Turkoman fears that the objective of the deployment was to facilitate its incorporation, along with the governorate's majority-Kurdish parts, into the Kurdistan region, and that the new development, whatever the trigger, served to preposition Kurdish forces around the city ahead of the expected U.S. withdrawal. There was also concern that Maliki's Shiite-dominated government, including the Iraqi army it controls, could not be trusted to protect non-Kurds from the Kurdish parties' designs on the governorate.<sup>184</sup>

The events, still ongoing, served as a reminder that Kurdish parties could instrumentalise internal developments in Kurdistan – anti-KRG protests and KDP-PUK rivalry – to whip up nationalist fervour over disputed territories, spawning unilateral military manoeuvres with potentially

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<sup>172</sup> Kirkuk's deputy governor said, "we talked about this with the governor and the representatives [in parliament] from Kirkuk, and he said clearly that he never sent any request. As far as I know, there has been no official request from Kirkuk". Crisis Group interview, Rakan Saeed, Kirkuk, 3 March 2011. However, KRG officials reportedly claimed the forces were sent to Kirkuk after being requested by the Kirkuk provincial council. *AK News*, 3 March 2011.

<sup>173</sup> As of 8 March 2011, three protesters had died from injuries sustained when security forces opened fire in Suleimaniya city, two in Kalar and one in Chamchamal, while a policeman was killed in a melee in Halabja.

<sup>174</sup> Crisis Group email communication, 4 March 2011.

<sup>175</sup> Crisis Group telephone interview, local observer, Kirkuk, 5 March 2011.

<sup>176</sup> Crisis Group interview, Baghdad, 14 March 2011.

<sup>177</sup> *AK News*, 9 March 2011.

<sup>178</sup> This was certainly the impression of some local observers. Crisis Group telephone interview, Kirkuk, 5 March 2011. Mahmoud Othman, an independent Kurdish lawmaker, said that a deal to bring the *peshmergas* into Kirkuk had been negotiated by the Kurdish parties and Maliki, and that "as long as Maliki doesn't mind, the army turns a blind eye". Crisis Group interview, Baghdad, 14 March 2011.

<sup>179</sup> "The federal government and the Americans agreed that it was completely necessary because of what happened in the previous demonstrations [elsewhere]. These people were making real threats and unreasonable demands. They were threaten-

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ing to burn down the provincial council building, the records rooms, where identity cards are made and kept – everything". Crisis Group telephone interview, 2 March 2011.

<sup>180</sup> Crisis Group interview, Washington, 3 March 2011.

<sup>181</sup> Quoted in Reuters, 3 March 2011. A lawmaker close to the prime minister said that "the prime minister's office was aware" of the decision to bring the *peshmergas* into Kirkuk and likewise was involved in the agreement with Kurdish leaders to have them withdrawn. Crisis Group interview, Baghdad, 16 March 2011.

<sup>182</sup> While Maliki's office denied any formal coordination, much less approval, a State of Law parliamentarian said obliquely, "coordination between federal forces and KRG forces is always needed and imperative, due to the sensitivity of the region". Crisis Group interview, Ali Shala, Baghdad, 6 March 2011.

<sup>183</sup> KRG *Peshmerga* Affairs Minister Jaafar Sheikh Mustafa said, "whoever asks us to withdraw our troops from Kirkuk province before the situation is alleviated, his demand will be turned down". Quoted in *AK News*, 4 March 2011.

<sup>184</sup> Crisis Group email communication, local Arab leader, Kirkuk, 28 February 2011.

dangerous consequences. In this instance, the combined security mechanisms failed to prevent the foray; moreover, a KRG official claimed that the KRG's agreement with the Iraqi army and the U.S. forces in Kirkuk permitted the *peshmerga* deployment to the city's south and west.<sup>185</sup> Indeed, the presence of tripartite security arrangements in the disputed territories may have encouraged the KRG to test their limits, believing that its action would not precipitate a military crisis, because it would be able to explain immediately via the established communication channels that the move was not directed at the Iraqi army but intended to protect Kirkuk city from insurgent infiltration, a common objective. If this is what the KRG believed, it was proven partly right.

The military deployment did not trigger an armed conflict but may not have earned the KRG any goodwill either. Both U.S. and UN officials indicated off the record that the Kurds' move violated the tripartite security agreement. Moreover, the KRG's unilateral action could vastly complicate future efforts to reach a negotiated compromise on Kirkuk's status, especially if it refuses to abandon the new positions and in the expected absence of the combined security mechanisms after 2011. Whatever was Maliki's initial motivation to tolerate the *peshmerga* deployment, he might yet turn the tables on the Kurds in Kirkuk as he solidifies his position in Baghdad and the Iraqi army gains strength. In the end, the Kurds' military move reflects a zero-sum-game ethnic mindset that afflicts both sides in this conflict.

The situation in Ninewa is different from Kirkuk. Unlike their Arab colleagues there, Ninewa's Arab governor, Atheel al-Nujayfi, and his political allies have not advocated an Iraqi army presence. They deem the Shiite-dominated forces sent from Baghdad, over which the governor has no legal authority under the 2008 Provincial Powers Law, as a virtual occupation army inimical to Sunni interests in a city and governorate that produced the mainstay of the Iraqi armed forces from independence in 1932 until the fall of Saddam Hussein's regime.<sup>186</sup> As a result, during the May 2010 Ninewa negotiations (see above), Nujayfi agreed with Kurdish leaders to create ethnically diverse security forces, so as to increase the governor's role over Baghdad's in security matters while keeping the army present and Baghdad's authority over its command untouched. For Kurds, the army's presence

in Ninewa is less of a threat, as long as Baghdad and Mosul remain at loggerheads and is preferable to the police, which the governor fully controls.<sup>187</sup>

The council of ministers gave its approval soon afterward, instructing the defence ministry to locally recruit 6,000 soldiers for Ninewa-based army units.<sup>188</sup> As a first step, Kurdish and Arab negotiators informally agreed to replace Kurdistan regional guard units in disputed districts in Ninewa with Iraqi army units that initially would consist of Kurds only but over time would be diluted via recruits from other ethnic groups. This is where matters stopped, however, along with the Ninewa talks, as all sides awaited the outcome of government formation. If it is to go forward as negotiations resume, key for the Kurds will be a degree of command and control ensuring that predominantly Kurdish – and eventually mixed – army units will not be rotated out of disputed areas at the central government's whim but remain deployed to reassure the population they will not be intimidated, attacked or expelled by a hostile force.

To accompany the regional guard's gradual integration into the Iraqi army and manage security along the trigger line, some officials have proposed a system of mutual liaisons: KRG officers at the National Operations Centre in Baghdad, and (non-Kurdish) Iraqi army officers at a similar headquarters in Erbil.<sup>189</sup> Others have proposed in addition the appointment of a senior non-voting official from each side to, respectively, the Iraqi cabinet and the KRG's council of ministers to promote early flagging of emerging disputes.<sup>190</sup> This would go some way toward perpetuating a key effective component of the combined security mechanisms: prompt and high-level communication between the two sides designed to prevent an incident along the trigger line from escalating because of misinterpretation or misunderstanding. The U.S. would continue to train and equip mixed army/*peshmerga* units in disputed territories in order to further build trust through operational interaction.

<sup>185</sup> Rudaw.net, 9 March 2011.

<sup>186</sup> In a telling incident, Atheel al-Nujayfi's bodyguards got into a scuffle with Iraqi army soldiers at the Nebi Yousef mosque in Mosul when he visited during the Eid al-Adha in November 2010. It took high-level intervention from the army command in Baghdad to defuse the situation that resulted from a dispute over security authority. Crisis Group interview, person familiar with the incident, Kirkuk, 20 January 2011.

<sup>187</sup> Crisis Group interview, Karim Sinjari, KRG interior minister, Erbil, 18 January 2011.

<sup>188</sup> Crisis Group interview, Baghdad, 27 May 2010.

<sup>189</sup> Crisis Group interview, senior security official, Baghdad, 17 January 2011.

<sup>190</sup> Crisis Group interview, Mahmoud Othman, independent lawmaker of the Kurdistan Alliance Bloc, Baghdad, 27 February 2011.



## **B. THE KURDISH *ASAESH* AND THE IRAQI POLICE**

The other dimension of the security equation is the police. Here complications arise because the Iraqi police's counterpart in Kirkuk is not the Kurdistan region's police but the *asaesh*, for which Iraq has had no equivalent since 2003, and – at the joint checkpoints in Ninewa – the paramilitary *zerevani*, a gendarmerie-like force. The question in Kirkuk is what to do with the *asaesh*. Many there, including some non-Kurds, praise the *asaesh* for bringing security to the streets, but non-Kurds in particular say it has abused its role by furthering the Kurdish leadership's political interests in Kirkuk and other disputed territories (see above).

Kurdish leaders reportedly have suggested absorbing the *asaesh* into the local Iraqi police, including its Emergency Support Unit, but they may have done so in response to, and possibly to prevent, the impending integration of Awakening Council (“Sons of Iraq”) fighters into local security forces.<sup>191</sup> For Kurds, this development, ordered by the interior ministry but yet to be implemented, would be an unwarranted and unwanted infusion of Arabs into a force of which, for the first time in decades, the Kurds were in charge and into which they gradually have been inducting more Kurdish officers. Moreover, it would incorporate Arabs who, in the Kurdish view, have a suspect past with ties, possibly ongoing, to the insurgency.<sup>192</sup> By raising the possibility of bringing the *asaesh* into the police, they may hope to convince the interior ministry to change its plans; if the order is implemented regardless, the entry of the *asaesh* would restore the police force's ethnic balance in their favour.<sup>193</sup>

The Kurds are known to have at least suggested integrating the *asaesh* into an entirely new security force, to be called the *amn*, that would operate alongside the police, like the *asaesh* currently operate alongside the police in Kirkuk. The PUK's Kirkuk *asaesh* director declared that the first Maliki government “discussed establishing a new security police here, but a more mixed force. We want an ethnic balance, because right now we have very few Arabs and Turkomans. This is our initiative, and we don't mind being placed under the authority of the federal government. For now, Kirkuk belongs to the federal government”.<sup>194</sup>

While this sounds encouraging, a problem may arise over which Arabs and Turkomans the Kurds would accept in a mixed force, whether *amn* or police. Kurdish parties are known to have spent large amounts of money to bring Arab and Turkoman politicians to their side, or to encourage them to vote for them during elections, and they have clear preferences and red lines, especially in the security sector.<sup>195</sup> The KDP's Kirkuk *asaesh* director said he recognised there could be a problem:

In Kirkuk an integrated police force would be very important. We already have some Arabs, Turkomans and Christians working for us. But the Arabs of Kirkuk don't consider our Arabs as Arabs. There are two kinds of Arabs in Kirkuk: those inside the city, a minority, with whom we have had good relations historically; and those outside, the majority, as well as the newcomers [*wafidin*], who took over Kurdish and Turkoman properties, thousands of acres worth of land.<sup>196</sup>

Since 2003, the Kurdish parties in Kirkuk have worked with local Arabs and Turkomans they either trusted because of a longstanding prior relationship or brought to

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<sup>191</sup> Crisis Group interview, Turkoman provincial council member, Kirkuk, 20 January 2011.

<sup>192</sup> A local (Kurdish) police commander said he has been told he will have to accept 400 Awakening members on orders directly from the interior ministry in Baghdad: “Normally, when we receive an order from the interior ministry, let's say to recruit 1,000 men, we hire proportionally [across ethnic communities], between the ages of eighteen and 30, with a secondary degree and no past record. This means there is a problem when we are told to hire 400 Sons of Iraq who are all Arabs. At first we didn't accept this. But the ministry ordered it as a special case, and so we will have to do it”. Crisis Group interview, General Serhad Qader Muhammad, Kirkuk, 20 September 2010. He said that in addition to the 400 Awakening members absorbed into the Kirkuk force, Hawija district police received orders to take in 120 Awakening men. Of the governorate's estimated 9,000 Awakening members, some will be placed in the army, others in the police, but most will remain in their militia units, working alongside the army.

<sup>193</sup> The idea of integrating the *asaesh* into the police remains controversial, even among Kurdish politicians in Kirkuk. While

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they say they trust it to protect the Kurdish population, they were less confident about the police, which they claim are divided along ethnic lines and riddled with corruption; alternatively, they fear diminished Kurdish control would open the door to infiltration by Arab insurgents intent on harming the Kurds. Crisis Group interviews, Kurdish provincial council members, Kirkuk, 19 and 20 January 2011.

<sup>194</sup> Crisis Group interview, Halkawt Abdulla Aziz, Kirkuk director, PUK security police (*asaesh*), Kirkuk, 20 September 2010. Later in the interview he said, in contrast, that “unlike Mosul, we consider Kirkuk as part of Kurdistan”.

<sup>195</sup> The PUK, for example, paid an Arab politician to establish a party under its aegis to support its objectives in Kirkuk. Crisis Group interviews with that Arab politician and a senior PUK official, Kirkuk, 3 February 2009. According to other politicians critical of this arrangement, many Arabs joined the party and took advantage of its largesse but then failed to vote for the PUK in the March 2010 national elections. Crisis Group interview, Beirut, October 2010.

<sup>196</sup> Crisis Group interview, Halo Najat Hamza, Kirkuk director, KDP security police (*asaesh*), Kirkuk, 20 September 2010.

their side with money. If that trend continues, they might accept an integrated security force (*amn* or police) in Kirkuk and other disputed territories as long as they are in charge and can control its composition. According to Kurdish politicians, Baghdad rejected the idea of creating a new security police force in Kirkuk.<sup>197</sup> If that option is off the table, the alternative is to integrate the *asaesh* into the police. However, because Arab and Turkoman leaders contend that the police already are fully under Kurdish control,<sup>198</sup> they argue the police should become more diverse ethnically, be placed under the interior ministry's authority and be counter-balanced by the presence of the army, in which they place greater trust. Abdullah Sami, an Arab provincial council member, said:

I am fine with the idea of bringing the *asaesh* under police and interior ministry control; we have no issue with individual *asaesh* members who are Kirkuk residents. The problem is that the *asaesh* are acting on the orders of the Kurdish parties, not the laws of the country or the governorate. The *asaesh* are always going after Arabs and Turkomans, not Kurds. If security improved in Kirkuk, it is not because of the *asaesh* but because the Awakening groups started operating in unstable [Arab] areas. The police are fine, but we want more balance in the officer corps. We need a colour-blind security department.<sup>199</sup>

If there is to be any form of *asaesh* integration into Kirkuk security forces, it would have to strike a balance between Kurdish concerns about the safety and welfare of the governorate's Kurdish population and the Arab/Turkoman perspective that the *asaesh* are political party militias seeking to advance the Kurds' political agenda. As in the case of the *pesmargas*, they would first need to be brought under the KRG's direct control rather than the individual KDP and PUK party commands. *Asaesh* unification appears to be even more difficult, however. While the KRG consolidated the KDP and PUK interior ministries in April 2009, which led to unification of the regular police in the

Kurdistan region, the *asaesh* continue to report to their respective parties. Talks are underway to unify them, with U.S. support if not outright pressure,<sup>200</sup> and, in 2010, the Kurdistan regional parliament began considering a draft law under which they would be placed under the KRG council of ministers.<sup>201</sup>

As with past efforts at accommodating competing KDP and PUK interests in a single regional government, Erbil and Dohuk would likely have a KDP *asaesh* director with a PUK deputy, and the roles would be reversed in Suleimaniya and Kirkuk; this would be done from governorate level down into districts and sub-districts. The Kirkuk *asaesh* might prove the most eager to move forward: "It is a very slow process, because we have a different ideology, style, everything. It will be very hard, but we need it, especially in Kirkuk. Why? Because Arabs and Turkomans are exploiting our differences".<sup>202</sup>

In Ninewa, the ministerial-level committee on security supervising the combined security mechanisms initiated discussions on security force integration within the context of negotiations over a power-sharing deal (see above). In 2010, a joint security committee looked at possible configurations of police deployments in the governorate's disputed districts, while a minorities committee

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<sup>197</sup> Crisis Group interview, Khaled Shwani, parliament member, Kurdistan Alliance Bloc (PUK-Kirkuk), Baghdad, 13 January 2011.

<sup>198</sup> In fact, said a Turkoman lawmaker, "the police in Kirkuk are worse than the *asaesh*, because they are fully under *asaesh* control but, unlike the *asaesh*, conduct arrests in the name of the law [via a judge's warrant]. All the police commanders were appointed by the Kurdish parties". Crisis Group interview, Irshad Salehi, parliament member for Al-Iraqiya (Kirkuk), Baghdad, 13 January 2011. A Western diplomat noted that many police officers are former *asaesh* officers, including the Kirkuk commander, and that ongoing informal links make for close coordination between the two forces "at the expense of inter-ethnic reconciliation efforts". Crisis Group interview, Baghdad, 11 January 2011.

<sup>199</sup> Crisis Group interview, Kirkuk, 19 January 2011.

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<sup>200</sup> Crisis Group interview, U.S. official, Kirkuk, 23 May 2010. See also, "Caught in the Whirlwind: Torture and Denial of Due Process by the Kurdistan Security Forces", Human Rights Watch, (New York, 2007). Section V has a useful overview of the *asaesh* structure.

<sup>201</sup> The KRG is first establishing a coordinating committee for all its security and intelligence services in the presidency's office. This is to be followed by *asaesh* unification, then by merger of the two intelligence agencies, the KDP's *parastin* and the PUK's *zanyari*. The parties' respective military intelligence services, the *hawalgeri*, already have been unified. Crisis Group interview, Karim Sinjari, KRG interior minister, Erbil, 18 January 2011. In an interview almost a year earlier, Sinjari promised that *asaesh* unification was only a matter of time, as "there is a signed document. Masoud Barzani insists on it, Jalal Talabani agrees and [KRG Prime Minister] Barham Salih is ready to implement it". Crisis Group interview, Erbil, 9 March 2010. From the KDP's perspective, the *asaesh* of both the KDP and PUK have been under the KRG chief for intelligence and security, Masrour Barzani, since 2007. But Barzani noted that while the legal framework places him in charge of both agencies, the actual merger has been delayed. He blamed the PUK's reluctance to discuss unifying the *parastin* and *zanyari* as part of the process of unifying the *asaesh*. Crisis Group interview, Salah al-Din, 21 September 2010.

<sup>202</sup> Crisis Group interview, Halo Najat Hamza, Kirkuk director, KDP security police (*asaesh*), Kirkuk, 20 September 2010.

studied ethnic and religious groups' requirements in areas that are neither majority-Arab nor majority-Kurd.<sup>203</sup>

Minority leaders emphasise the need for ethnically mixed security units in these ethnically mixed areas,<sup>204</sup> while Arab police would serve in predominantly Arab areas and Kurdish police in predominantly Kurdish areas.<sup>205</sup> In May 2010, negotiators reached initial agreement on such a plan. Soon afterward, the council of ministers gave approval for the interior ministry to recruit 8,000 new members in the Ninewa police department (including 1,000 officers). However, Maliki's critics claim that the deputy interior minister, his ally, blocked implementation.<sup>206</sup> The prime minister subsequently gave an order to proceed as part of the November 2010 government coalition deal, and recruitment began.

At that point the KRG raised objections, saying the two sides disagreed over the mechanism to determine how many members each ethnic and religious group would be asked to contribute to the new police force in the absence of an agreed population headcount and breakdown by group. Moreover, the KRG complained that recruitment was organised in Mosul, where, it said, the Yazidis feel

unsafe to visit, given past attacks on members of their non-Muslim minority.<sup>207</sup> "The Ninewa police now have 8,000 names", said the KRG interior minister, "but the Ninewa governor did it without us, so we don't accept it".<sup>208</sup> Kurdish leaders also do not yet accept *asaesh* integration into the national police, even if this is discussed by their officials in the disputed territories. To these leaders, a solution to the disputed territories' security quandary could come only after Baghdad and Erbil reach a political deal, not before it. Maliki has yet to indicate how he wants to proceed. The U.S. troop withdrawal could force all sides to reach a decision.

### C. A CONTINUED U.S. ROLE?

If no agreement is reached to prolong the U.S. military presence, or the Maliki government does not extend an invitation to that effect, U.S. forces likely will start to pull out of the disputed territories by May 2011 and be done by October, at which point they will transfer their bases to the Iraqi military. What will remain in Kirkuk and Mosul are so-called embassy branch offices, temporary diplomatic outposts in areas of expected continuing instability meant to assure the local population that the U.S. remains committed to supporting local peacebuilding efforts.<sup>209</sup>

The removal of the U.S. military component from joint checkpoints and patrols along the trigger line could be a shock, if no follow-on mechanism is put in place. Kirkuki politicians across the political and ethnic divide appear fearful of a U.S. military departure before political talks

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<sup>203</sup> For a discussion of minorities in Ninewa, see Crisis Group Report, *Iraq's New Battlefield*, op. cit., pp. 22-36.

<sup>204</sup> Crisis Group interview, Hunein Qaddu, secretary general, Democratic Shabak Gathering, Baghdad, 28 May 2010. Some minority activists claim they have been under-represented in these talks and that those at the table were pro-Kurdish or accepted by the KRG. Crisis Group interview, Muhammad al-Shabaki, Baghdad, 28 May 2010. A Yazidi parliamentarian said, "The UN feels it is playing a sufficient role by talking to the minorities and getting our opinions but then not actually involving us in any way in the actual process. We are not part of it. Another problem is that the UN gets some of its information about the region from the Kurds, so when they are looking for a Yazidi to represent us, they mostly talk to a Yazidi the Kurds know and who is loyal to them. We are not all the same, but they feel that they have talked to a proper representative of all Yazidis. They can miss a lot this way. They need to understand this". Crisis Group interview, Amin Farhan Jejo, Yazidi Movement for Reform and Progress, Baghdad, 29 June 2010.

<sup>205</sup> In talks between the Ninewa governor, Atheel al-Nujayfi, and Kurdish leaders in Erbil on 15 May 2010, it was agreed to recruit 8,000 police and 6,000 army soldiers in Ninewa. A participant said, "once these men have been trained, we will place Arab police in Arab areas and Kurdish police in Kurdish areas and the same for minorities. We studied the population in each locality, and we will give each the number of men it needs according to the size of the ethnic or religious group present". Crisis Group interview, Baghdad, 27 May 2010.

<sup>206</sup> Crisis Group interview, Usama al-Nujayfi, parliamentarian for Al-Iraqiya, Baghdad, 7 August 2010. Another Al-Iraqiya parliamentarian said, "Maliki agrees in front of everyone [in the council of ministers], then blocks progress by other means". Crisis Group interview, Washington, 2 November 2010.

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<sup>207</sup> As stated above, many Kurds consider the Yazidis non-Muslim ethnic Kurds, but many Yazidis disagree. The Yazidis are members of a distinct religious community who speak a Kurdish dialect that borrows heavily from Arabic. For reasons having to do with northern Iraq's cultural diversity and survival in a world of complex and competing social groups, the Yazidis have shifted their self-identification, alternatively claiming to be Kurds, Turkomans, Arabs or Assyrians. The Kurdish leadership has forcefully promoted the notion that they are Kurds. See Crisis Group Report, *Iraq's New Battlefield*, op. cit., pp. 30-33.

<sup>208</sup> Crisis Group interview, Erbil, 18 January 2011.

<sup>209</sup> These two embassy branch offices are in addition to U.S. consulates in Basra and Erbil. Unlike the consulates, their presence is supposed to be for a limited number of years only. Their staff will continue the mission of the provincial reconstruction teams in Kirkuk and Ninewa but rely on far fewer technical staff and be much more concerned about their own security in the absence of the U.S. military (which will be replaced by civilian security personnel contracted by the State Department). In addition to promoting economic growth and trade, the branch offices will engage in conflict mediation and monitoring, as well as police training and other rule-of-law activities. Crisis Group interview, U.S. officials, Kirkuk, 21 January 2011.

have yielded a durable agreement,<sup>210</sup> and fear itself could trigger misperceptions and ill-advised responses to what, judging from the past, might be inevitable security incidents.

The U.S. military is in a bind: it must have either a robust presence in the form of combat units with armoured vehicles for maximum force protection, as it anticipates insurgents would, as a U.S. official put it, “hit us with everything they’ve got”;<sup>211</sup> or such low visibility as not to become a target. The latter option would in effect eliminate the combined security mechanisms’ critical psychological dimension. If the U.S. cannot have a high-end military presence in the disputed territories, it can only work around the edges. Some have proposed a fall-back option: a training mission under the U.S. embassy’s Office for Security Cooperation, whose staff members have diplomatic immunity under the Vienna Convention and whose presence therefore would not require a status-of-forces agreement; U.S. officers would provide training to Iraqi and Kurdish security forces much as they would to military forces in other countries. This would ensure a physical presence along the trigger line but preclude the kind of combat role that the current set-up allows even if it does not mandate it.<sup>212</sup>

From discussions with U.S. officials in Iraq and Washington, it appears that the administration is hoping that either the Maliki government will ask for a troop extension that can be successfully negotiated or, failing that, the withdrawal will concentrate Iraqi minds sufficiently to produce an interim agreement on the status of disputed territories before the end of 2011. It does not seem to have a contingency plan if neither materialises.

## V. CONCLUSION

Given great uncertainty over how security conditions will develop along the trigger line in the coming year, progress in political negotiations over the disputed territories’ status has become more imperative than ever. While neither Baghdad nor Erbil appears to have an interest in armed confrontation,<sup>213</sup> and both sides seem intent for the moment to capitalise on the mutual goodwill that arose from formation of the new coalition government, the disputed territories conflict is so fundamental to Baghdad-Erbil relations that a single incident could trigger a dangerous escalation. The unilateral deployment of Kurdish *asaesh* in Kirkuk city in November 2010 and of *peshmergas/zerevanis* into Kirkuk governorate in February 2011 were two such incidents. Violence has been avoided so far, in large measure because of the Baghdad-Erbil-U.S. security arrangement, but these moves stoked local anger as well as unease over the Kurds’ long-term plans; they could still give rise to violent response and will vastly complicate negotiations for a deal, especially if the Kurds’ military forces are not withdrawn to the Kurdistan region.

Yet, despite awareness of the risks, neither side appears eager to engage in serious status talks; instead, both appear content with leaving the issue to whatever understandings currently exist and to the default option of managing flare-ups rather than seeking to prevent them. From Baghdad’s perspective, time is on its side. The impending U.S. troop withdrawal will remove the Kurds’ main protector, or at least significantly reduce its influence. With time, Iraqi security forces expect to increase their operational capacity through U.S.-supplied equipment (such as helicopters and perhaps F-16 fighter jets) and training. Conversations with scores of politicians and officials betray a pervasive animus against the Kurds for having “overreached” and “taken more than they deserve” since 2003, including senior positions in the federal government, untouchable power in the Kurdistan region and de facto control over a large chunk of the disputed territories.

<sup>210</sup> Crisis Group interviews, Kirkuk, 19 and 20 January 2011; and lawmakers from Kirkuk, Baghdad, 12-17 January 2011.

<sup>211</sup> Crisis Group interview, Baghdad, 15 January 2011.

<sup>212</sup> Although the U.S. combat mission in Iraq formally ended on 31 August 2010, close to 50,000 heavily armed soldiers remain who will fight in self-defence if attacked.

<sup>213</sup> Kurdish security forces control majority-Kurdish areas in the disputed territories (in Diyala, Salah al-Din, Kirkuk and Nine-wa), as well as in Kirkuk city. They have no interest in projecting themselves militarily beyond these areas, only in retaining them. Government forces, by contrast, have an interest in pushing the Kurds back from the trigger line to the Green Line, or at least out of mixed-population areas such as Kirkuk city. They currently lack the strength to successfully fight Kurdish forces, and the Kurds’ political presence in Baghdad places an additional check on Iraqi military ambitions in the disputed territories. Over time, this equation could change, most likely in the government’s favour as it builds up its capabilities with U.S. assistance.

Even those who openly express sympathy for the Kurds' historic plight and say they support their aspiration for statehood – as many Iraqi politicians do – part ways with them over Kirkuk's status, an absolute red line.<sup>214</sup> On this issue, Baghdad knows it has the support of neighbouring Turkey, Iran and Syria, which see the Iraqi Kurds' acquisition of Kirkuk, with its presumed huge hydrocarbons potential, as a stepping stone toward independence, a scenario that none is prepared to countenance given long-standing unfulfilled claims from their own Kurdish populations.

From the Kurds' perspective, time may not be on their side but whatever deal they could realistically expect to extract before U.S. troops leave would fall short of their principal demand to incorporate both Kirkuk city and majority-Kurdish areas into the Kurdistan region. The Obama administration has come out unequivocally in support of the UN plan for a negotiated solution, which could only produce a compromise, while the Kurds' position on the location of their region's boundary does not allow flexibility.<sup>215</sup> They therefore might prefer not to negotiate but rather to allow the issue to linger or, alternatively, to settle for an interim deal that would leave the door open to resolving the matter in their favour, as they continue to extend their political, administrative and security control over Kurdish-majority parts of the disputed territories, as well as Kirkuk city, while Baghdad is distracted by efforts to assert its control over the rest of the country.

With U.S. support, UNAMI has started exploring both sides' receptivity to reviving the 2009 high-level task force, whose activities – very limited to begin with – were frozen in the run-up to the March 2010 elections.<sup>216</sup> The task force should implement confidence-building measures in the disputed territories and work toward resolving their ultimate status within Iraq. This effort should not be limited to senior leaders in Baghdad and Erbil, however, but include local leaders in the disputed territories, as the successful implementation of any arrangement will depend largely on them.

Given both sides' capabilities and expectations, this effort is unlikely to yield quick results. As Crisis Group previously argued, the territorial question is wrapped up in the larger conflict over power (how it is divided or shared between Baghdad and Erbil) and resources, especially oil and gas. In the end, the only workable solution might be a trade-off in which the Kurds gain significant control over the management of their own hydrocarbons resources in exchange for flexibility on Kirkuk.

While successful grand bargains are exceedingly difficult to accomplish, tackling this complex web of interdependent issues piecemeal is almost certainly bound to fail. What is required is a strategy that sequences necessary components of an overall deal, as well as other confidence-building steps, in such a way as to create trust by delivering concrete benefits to all stakeholders within the broad outlines of a known and accepted comprehensive settlement. Crisis Group has argued that,<sup>217</sup> as part of such a deal:

- ❑ Kirkuk would gain special status as a stand-alone governorate, under neither Baghdad's nor Erbil's direct control. This would be for an interim period and include a mechanism for resolving Kirkuk's status at its end.
- ❑ In governorates other than Kirkuk, disputed areas with a significant majority of Kurds would be joined to the Kurdistan region. The rest would stay linked to Baghdad as they are today, with security provisions and power-sharing arrangements designed to protect all minorities living in them.
- ❑ A territorial bargain of this sort would be submitted to ratification by a popular referendum in the disputed territories, as stipulated by Article 140 of the constitution.
- ❑ The Kurdistan region would obtain demarcation and security guarantees for its internal boundary with the rest of Iraq.
- ❑ Revenues from oil and gas sales would be divided between Baghdad and Erbil based on an agreed percentage for the Kurdistan region following a national population census.
- ❑ The federal government would continue to set national standards for oil and gas contracts, including in the Kurdistan region, but would grant special rights to the Kurdistan region for hydrocarbons management and contracting. The Kurdistan region would have the right to export its oil and gas through the national pipelines.
- ❑ Article 115 and similar articles of the constitution that delineate the powers of federal regions would be amended to refer to the Kurdistan region only.

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<sup>214</sup> The standard line of those who say they support Kurdish statehood is: "We sympathise with the Kurds. They deserve to be independent. Indeed we support their independence – but without Kirkuk". Crisis Group interviews, Iraq, 2005-2011.

<sup>215</sup> The Kurds insist on incorporation of majority-Kurdish areas as well as Kirkuk city into the Kurdistan region. They consider giving up on other disputed areas, be they majority-Arab or ethnically thoroughly mixed, as their side of the quid pro quo.

<sup>216</sup> UNAMI says it has two primary areas of focus in 2011: the dispute between Iraq and Kuwait over reparations for Iraq's 1991 invasion and the demarcation of the two countries' international border; and the matter of Iraq's disputed internal boundaries, referred to as the DIBs. Crisis Group interview, UNAMI officials, Baghdad, 15 January 2011.

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<sup>217</sup> See Crisis Group Report, *Oil for Soil*, op. cit.

As it is negotiating these components, the high-level task force should also institute confidence-building measures in the disputed territories, as well as other steps designed to prevent flare-ups from escalating and thus undermining negotiations. These should include:

- ❑ clear commitment by both Baghdad and Erbil that their respective security forces will stay in their designated areas, subject to monitoring by a joint monitoring team;
- ❑ appointment of a senior non-voting official from each side to, respectively, the Iraqi cabinet and the KRG's council of ministers to promote early flagging of emerging disputes;
- ❑ appointment of a senior military officer from each side to, respectively, the National Operations Centre in Baghdad and the KRG's equivalent in Erbil for the same purpose;
- ❑ complete unification of Kurdish party-affiliated security forces and intelligence agencies under the authority of the Kurdistan regional government;
- ❑ efforts to integrate Kurdish *peshmerga* and police forces (including the paramilitary *zerevani*) under the respective defence and interior ministries within the national security architecture;
- ❑ clear commitment by both Baghdad and Erbil to move toward police primacy in security enforcement in the disputed territories, withdraw all military and paramilitary forces from these areas and turn the disputed territories into a demilitarised zone;
- ❑ gradual creation of police forces that fairly represent the disputed territories' ethnic and religious minorities in addition to Arabs and Kurds;
- ❑ creation of power-sharing arrangements in the disputed territories in which political representatives of the main ethnic and religious groups are represented fairly;
- ❑ promotion of economic development and fair allocation of resources, including the so-called petrodollars (additional funds allocated to governorates that produce and or refine oil and gas);
- ❑ UNAMI's assistance in creating and monitoring such mechanisms; and
- ❑ U.S. support of joint Baghdad-Erbil security efforts, including through aid conditionality.

However difficult the road ahead, the alternative would almost certainly be a violent breakdown along the trigger line sometime after U.S. troops depart. Whatever the distractions – for Baghdad and Erbil, the growing popular demand for better services, jobs and an end to corruption; for Washington, turmoil in the Arab world and its mili-

tary engagements in Afghanistan and elsewhere – both the parties concerned and the external mediators should expend all efforts to prevent such a scenario and instead lay the groundwork for a durable peace.

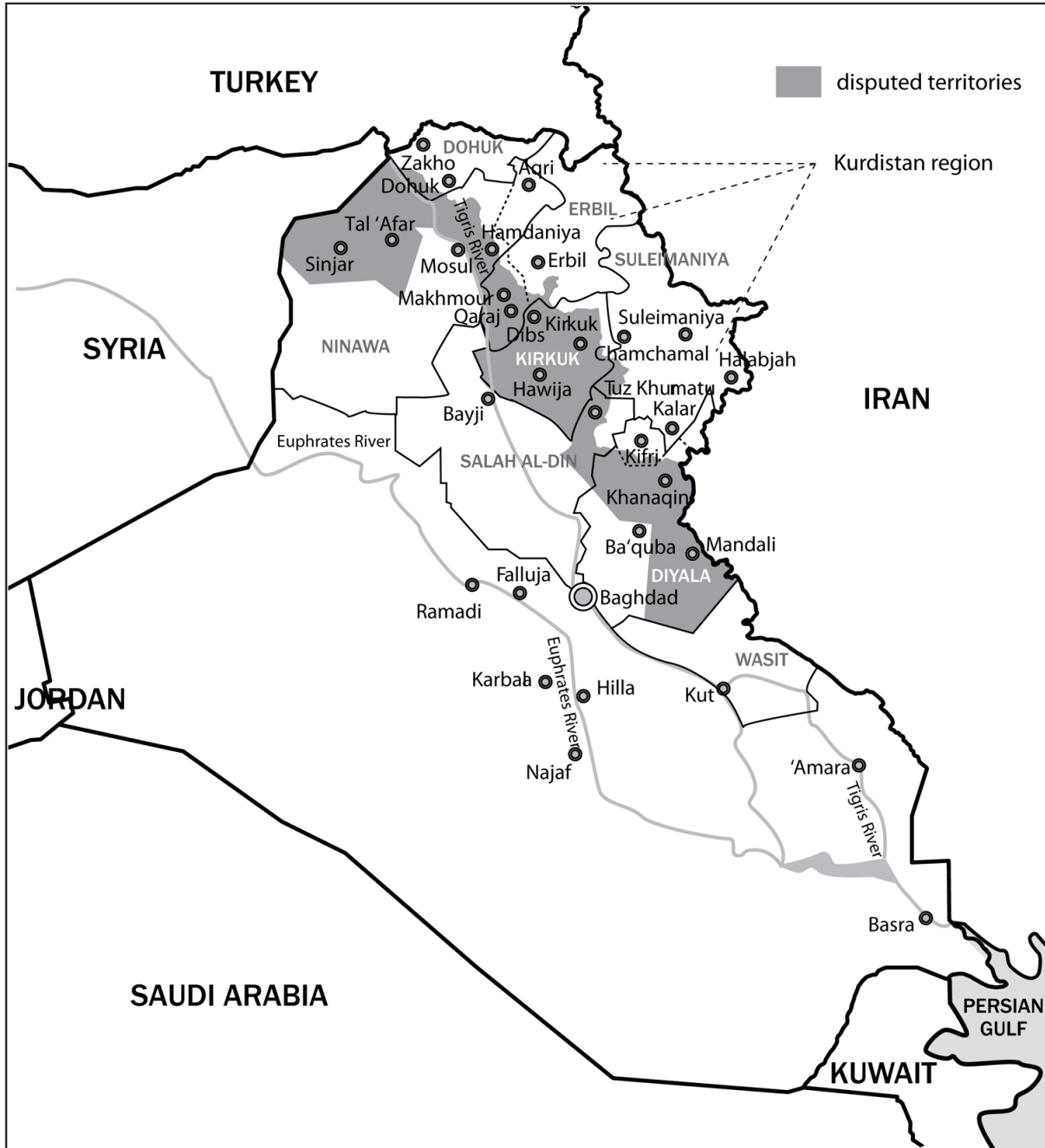
**Erbil/Baghdad/Brussels, 28 March 2011**





## APPENDIX B

### DISPUTED TERRITORIES CLAIMED BY THE KRG

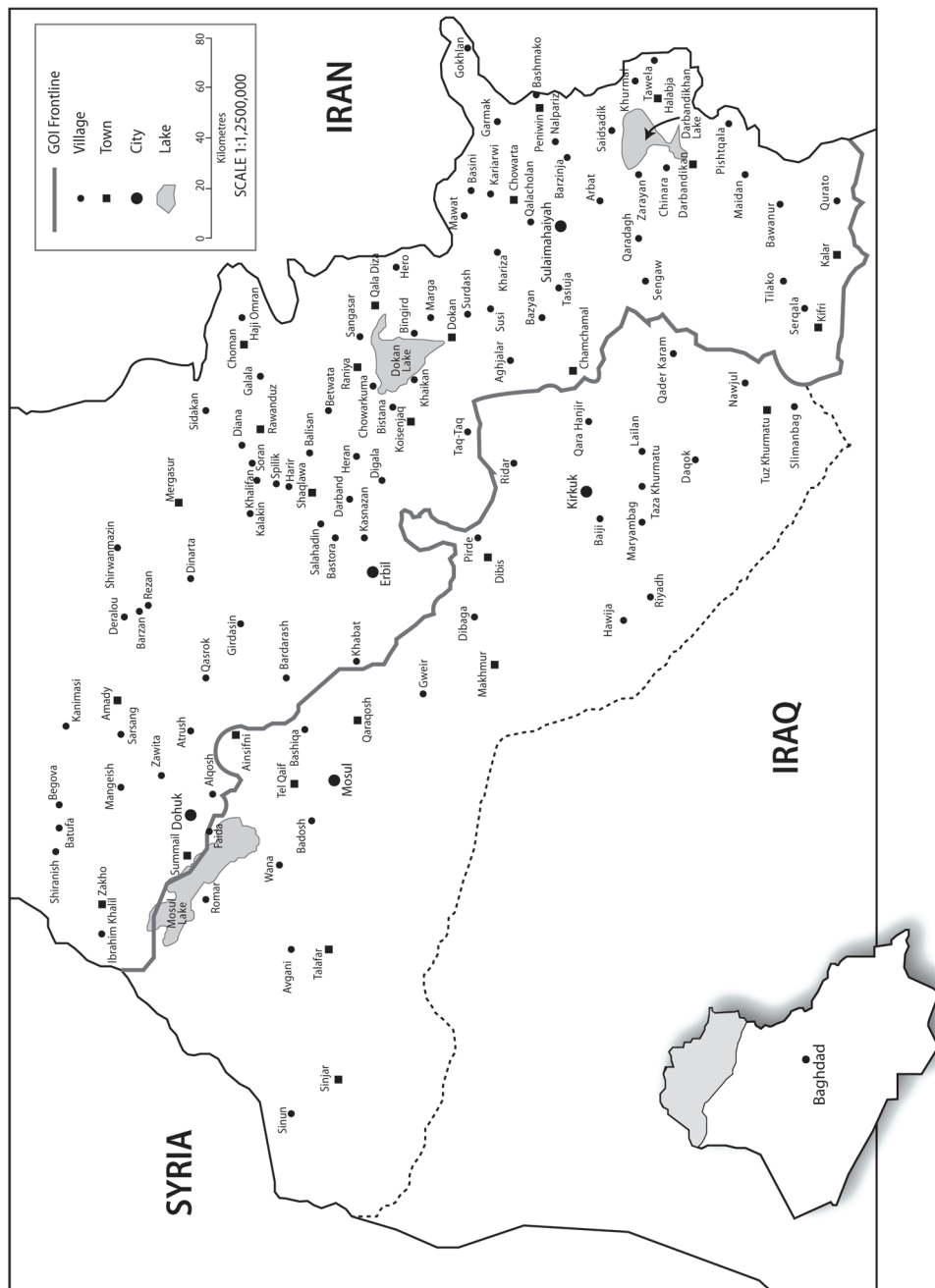


This map has been produced by the International Crisis Group. It is a modified version of a similar map appearing in Crisis Group Middle East Report N°80, *Oil for Soil: Toward a Grand Bargain on Iraq and the Kurds* (28 October 2008). Only the northern boundary of the disputed territories has been adjusted to add more detail.



## APPENDIX C

### THE GREEN LINE, 1991-2003



This map has been reproduced by the International Crisis Group based on a 1996 UNICEF map. Nothing has been added to the map; only the quality has been enhanced to improve clarity and spellings of place names have been updated.

## APPENDIX D

### ABOUT THE INTERNATIONAL CRISIS GROUP

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh,

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**March 2011**

## APPENDIX E

### CRISIS GROUP REPORTS AND BRIEFINGS ON THE MIDDLE EAST SINCE 2008

#### *Arab-Israeli Conflict*

- Ruling Palestine I: Gaza Under Hamas*, Middle East Report N°73, 19 March 2008 (also available in Arabic).
- Lebanon: Hizbollah's Weapons Turn Inward*, Middle East Briefing N°23, 15 May 2008 (also available in Arabic).
- The New Lebanese Equation: The Christians' Central Role*, Middle East Report N°78, 15 July 2008 (also available in French).
- Ruling Palestine II: The West Bank Model?*, Middle East Report N°79, 17 July 2008 (also available in Arabic).
- Round Two in Gaza*, Middle East Briefing N°24, 11 September 2008 (also available in Arabic).
- Palestine Divided*, Middle East Briefing N°25, 17 December 2008 (also available in Arabic).
- Ending the War in Gaza*, Middle East Briefing N°26, 05 January 2009 (also available in Arabic and Hebrew).
- Engaging Syria? Lessons from the French Experience*, Middle East Briefing N°27, 15 January 2009 (also available in Arabic and French).
- Engaging Syria? U.S. Constraints and Opportunities*, Middle East Report N°83, 11 February 2009 (also available in Arabic).
- Nurturing Instability: Lebanon's Palestinian Refugee Camps*, Middle East Report N°84, 19 February 2009 (also available in Arabic and Hebrew).
- Gaza's Unfinished Business*, Middle East Report N°85, 23 April 2009 (also available in Hebrew and Arabic).
- Lebanon's Elections: Avoiding a New Cycle of Confrontation*, Middle East Report N°87, 4 June 2009 (also available in French).
- Israel's Religious Right and the Question of Settlements*, Middle East Report N°89, 20 July 2009 (also available in Arabic and Hebrew).
- Palestine: Salvaging Fatah*, Middle East Report N°91, 12 November 2009 (also available in Arabic).
- Reshuffling the Cards? (I): Syria's Evolving Strategy*, Middle East Report N°92, 14 December 2009 (also available in Arabic).
- Reshuffling the Cards? (II): Syria's New Hand*, Middle East Report N°93, 16 December 2009 (also available in Arabic).
- Tipping Point? Palestinians and the Search for a New Strategy*, Middle East Report N°95, 26 April 2010 (also available in Arabic and Hebrew).
- Lebanon's Politics: The Sunni Community and Hariri's Future Current*, Middle East Report N°96, 26 May 2010 (also available in Arabic).
- Drums of War: Israel and the "Axis of Resistance"*, Middle East Report N°97, 2 August 2010 (also available in Hebrew and Arabic).
- Squaring the Circle: Palestinian Security Reform under Occupation*, Middle East Report N°98, 7 September 2010 (also available in Arabic and Hebrew).
- Nouvelle crise, vieux démons au Liban: les leçons oubliées de Bab Tebbaneh/Jabal Mohsen*, Middle East Briefing N°29, 14 October 2010 (only available in French).
- Trial by Fire: The Politics of the Special Tribunal for Lebanon*, Middle East Report N°100, 2 December 2010.
- Gaza: The Next Israeli-Palestinian War?*, Middle East/North Africa Briefing N°30, 24 March 2011.
- December 2009* (also available in Arabic).
- Oil for Soil: Toward a Grand Bargain on Iraq and the Kurds*, Middle East Report N°80, 28 October 2008 (also available in Arabic and Kurdish).
- Turkey and Iraqi Kurds: Conflict or Cooperation?*, Middle East Report N°81, 13 November 2008 (also available in Arabic, Kurdish and Turkish).
- Iraq's Provincial Elections: The Stakes*, Middle East Report N°82, 27 January 2009 (also available in Arabic).
- Yemen: Defusing the Saada Time Bomb*, Middle East Report N°86, 27 May 2009 (also available in Arabic).
- U.S.-Iranian Engagement: The View from Tehran*, Middle East Briefing N°28, 2 June 2009 (also available in Farsi and Arabic).
- Iraq and the Kurds: Trouble Along the Trigger Line*, Middle East Report N°88, 8 July 2009 (also available in Kurdish and Arabic).
- Iraq's New Battlefield: The Struggle over Ninewa*, Middle East Report N°89, 28 September 2009 (also available in Kurdish and Arabic).
- Iraq's Uncertain Future: Elections and Beyond*, Middle East Report N°94, 25 February 2010 (also available in Arabic).
- Loose Ends: Iraq's Security Forces between U.S. Drawdown and Withdrawal*, Middle East Report N°99, 26 October 2010 (also available in Arabic).
- Popular Protest in North Africa and the Middle East (II): Yemen between Reform and Revolution*, Middle East/North Africa Report N°102, 10 March 2011.

#### *North Africa*

*Egypt's Muslim Brothers: Confrontation or Integration?*, Middle East/North Africa Report N°76, 18 June 2008 (also available in Arabic).

*Popular Protest in North Africa and the Middle East (I): Egypt Victorious?*, Middle East/North Africa Report N°101, 24 February 2011.

#### *Iraq/Iran/Gulf*

*Iraq's Civil War, the Sadrists and the Surge*, Middle East Report N°72, 7 February 2008 (also available in Arabic).

*Iraq after the Surge I: The New Sunni Landscape*, Middle East Report N°74, 30 April 2008 (also available in Arabic).

*Iraq after the Surge II: The Need for a New Political Strategy*, Middle East Report N°75, 30 April 2008 (also available in Arabic).

*Failed Responsibility: Iraqi Refugees in Syria, Jordan and Lebanon*, Middle East Report N°77, 10 July 2008 (also available in Arabic).

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