

IRAQ AND THE KURDS: RESOLVING THE KIRKUK CRISIS

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

With every day and each exploding bomb that kills schoolchildren or shoppers, hopes for peaceful resolution of the Kirkuk question recede. The approach favoured by the Kurds, constitution-based steps culminating in a referendum by year's end, is bitterly opposed by Kirkuk's other principal communities – Arabs and Turkomans – who see it as a rigged process with predetermined outcome. Their preference, to keep Kirkuk under federal government control, is rejected by the Kurds. With all sides dug in and the Kurds believing Kirkuk is a lost heirloom they are about to regain, the debate should move off outcomes to focus on a fair and acceptable process. For the Kurds, that means postponing the referendum, implementing confidence-building measures and seeking a new mechanism prioritising consensus. The U.S. needs to recognise the risk of an explosion in Kirkuk and press the Kurds, the Baghdad government and Turkey alike to adjust policies and facilitate a peaceful settlement.

The studied bystander mode assumed by Washington, the Kurds' sole ally, has not been helpful. Preoccupied with their attempt to save Iraq by implementing a new security plan in Baghdad, the Bush administration has left the looming Kirkuk crisis to the side. This neglect can cost the U.S. severely. If the referendum is held later this year over the objections of the other communities, the civil war is very likely to spread to Kirkuk and the Kurdish region, until now Iraq's only area of quiet and progress. If the referendum is postponed without a viable face-saving alternative for the Kurds, their leaders may withdraw from the Maliki cabinet and thus precipitate a governmental crisis in Baghdad just when the security plan is, in theory, supposed to yield its political returns.

Vigorous international diplomatic efforts on the Kirkuk question are overdue. Along with its allies, and assisted by the UN's political and technical expertise, the U.S. should forge an alternative strategy on Kirkuk that is acceptable to all parties. Given the complex regional situation, it will need to incorporate two additional critical elements: progress on Iraq's hydrocarbons law (major parts of which are yet to be negotiated) to cement the Kurdish region securely within a federal Iraq; and Turkey's concerns about the PKK, the Turkish-Kurd guerrilla group whose fighters are holed up in the mountains of Iraqi Kurdistan, in order to remove Ankara's potential spoiler role.

If a ray of hope shines through this dismal tangle, it is that all sides in Kirkuk currently seem to agree on the need for dialogue. This includes the Kurds who, having pursued single-mindedly for four years a strategy that, even if it were to lead to the acquisition of Kirkuk, offered no prospect of holding onto it peaceably, have come to recognise its futility. Some are signalling they may be prepared to try something new, even if they continue to insist on a referendum in 2007. The international community should build on this and encourage the Kurds, with a gentle but firm nudge, to step back from the referendum and embrace instead a deliberative consensus-based process that could produce far greater dividends – peace and stability in a shared Kirkuk – than the imposition of their exclusionary rule via an ethnically-based, simple-majority vote and annexation.

RECOMMENDATIONS

To the Government of Iraq:

1. Invite the United Nations Assistance Mission in Iraq (UNAMI) to assume a greater role in mediating the Kirkuk crisis and invoke if necessary Article 58(B) of the Transitional Administrative Law, as absorbed into the constitution, to request the UN secretary-general to appoint an independent international arbiter for Kirkuk.
2. Implement the decisions of the Article 140 Committee regarding normalising the Kirkuk situation with the proviso that any departure of Arabs settled in Kirkuk by the previous regime should be strictly voluntary.
3. Agree with the Kurdistan Regional Government (KRG) and other Iraqi interested parties to an oil-revenue-sharing law that allows for the equitable distribution to all Iraqis of royalties from oil and gas sales.

To the Kurdistan Regional Government:

4. Forge internal PUK-KDP unity on a new approach toward the Kirkuk question, including agreement to postpone a referendum and to start serious dialogue over status with other primary stakeholders,

as outlined below, so as to prevent one party from undermining accommodating proposals offered by the other.

5. Initiate serious dialogue at senior leadership level with the full spectrum of Arab, Turkoman and Chaldo-Assyrian parties in Kirkuk, as well as the Iraqi government.
6. In return for U.S. guarantees that it will protect the federal Kurdish region, cancel or at least postpone the referendum planned for the end of 2007 until a mutually satisfactory arrangement for determining Kirkuk's status is reached with all other interested parties.
7. Implement confidence-building measures as serious negotiations begin, including release of prisoners held without charge in detention centres in the Kurdish region, return of confiscated properties to Turkoman owners and reallocation of administrative posts in Kirkuk to reflect the city's and governorate's ethnic balance.
8. Prepare the Kurdish public for necessary compromises on Kirkuk and Kurdish national aspirations.
9. Agree with other interested Iraqi parties to an oil-revenue-sharing law.
10. State publicly that it will not tolerate the PKK in the Kurdish region unless it agrees to abandon its armed struggle and disarms, and in the meantime:
 - (a) continue to contain and isolate it and deny it freedom of movement within the Kurdish region;
 - (b) halt all supplies to it; and
 - (c) shut down its media operations and prevent journalists from visiting it on Qandil Mountain.
11. In response to a Turkish amnesty for lower- and mid-level PKK cadres, allow senior leaders, once disarmed, to integrate into the Kurdish region and similarly agree to absorb any refugees from the Makhmour camp who refuse to return to Turkey.

To All the Parties in Kirkuk:

12. Reduce inflammatory rhetoric in public addresses and the media and agree to use dialogue and consensus as essential bases for resolving the Kirkuk dispute.
13. Make a public commitment to refrain from violence and take all necessary measures to prevent others from carrying out acts of violence.

To the U.S. Government:

14. Formulate and implement with full diplomatic and financial support a proactive strategy on Kirkuk that will enable a peaceful resolution of the conflict through dialogue and consensus building.
15. Promise to protect the Kurdish region in exchange for the Kurdistan Regional Government's agreement to abandon, or at least postpone, its referendum bid.
16. Continue to push the Baghdad government, the Kurdistan Regional Government and the various political parties toward a compromise oil-revenue-sharing law.
17. Allocate significant funds to rehabilitate the Kirkuk countryside and reconstruct the city and governorate, making sure to fairly distribute such funds among all communities.
18. Persuade the Kurdistan Regional Government to further restrict the PKK's freedom of movement and Turkey to amnesty lower- and mid-level PKK cadres.

To the United Nations Assistance Mission in Iraq:

19. Provide political and technical support, once the referendum has been postponed or cancelled, to pursuit of an alternative Kirkuk solution through dialogue and consensus building and begin discussions with the Government of Iraq and the Kurdistan Regional Government to delineate the Kurdish region's boundaries.

To the Government of Turkey:

20. Reduce inflammatory rhetoric and commit to the peaceful resolution of the Kirkuk question, including not to send military forces into Iraq or to undertake measures of coercive diplomacy.
21. Issue an amnesty for lower- and mid-level PKK cadres, allow senior leaders, once disarmed, to be absorbed into the Kurdish region in Iraq and allow refugees from the Makhmour camp to return to homes in Turkey.

To the PKK:

22. Extend indefinitely the unilateral ceasefire declared in September 2006 and agree to disarm in response to a Turkish amnesty.

Kirkuk/Amman/Brussels, 19 April 2007

IRAQ AND THE KURDS: RESOLVING THE KIRKUK CRISIS

I. INTRODUCTION: GROWING TENSIONS

Security in Kirkuk is deteriorating sharply. Two main factors are to blame. First, following the death of al-Qaeda in Iraq leader Abu Mus‘ab al-Zarqawi on 7 June 2006, jihadi fighters partly moved operations there, finding in the multi-ethnic region fertile ground for chaos by exacerbating communal tensions. An unrelenting series of suicide bombings began to shake the city and its surroundings, blind to their victims’ primary identity or political affiliation. Today Kirkuk resembles Baghdad in miniature, with shops shuttered in the normally teeming downtown market area, and Arabs, Kurds, Turkomans and Chaldo-Assyrians hunkered down in neighbourhoods which, while not entirely segregated, are distinctly hostile to members of whatever community happens to be the minority. Violence at first predominated downtown, where communities commingled, as well as in areas inhabited by the *Wafidin* (Arab “newcomers” settled in Kirkuk as part of previous regimes’ Arabisation campaigns). But in February 2007 it moved into the heart of Kurdish neighbourhoods as if to show that the Kurdish parties’ control over Kirkuk’s security apparatus did not guarantee safety for the Kurdish civilian population.¹

The second contributing factor to growing tensions, expertly exploited by the jihadis, is the Kurds’ insistence on proceeding with plans to stage a referendum on the region’s status before year’s end. This is bitterly opposed by Arabs and Turkomans, thus giving jihadis a permissive environment. The Kurds contend they merely seek justice for past abuse, invoking Article 140 of the Iraqi constitution, which prescribes resolution of the status of Kirkuk “and other disputed territories” within that

timeframe via a process called “normalisation” – a multi-faceted reversal of Arabisation – as well as a census and referendum.² Arab and Turkoman community leaders in turn accuse the Kurds of having loaded the dice, using predominance in Iraq’s transitional institutions to draft Art. 140 to serve their interests and inflating Kirkuk’s Kurdish population by bringing in persons with no proven ties to the region.³

As the calendar inches inexorably toward the constitutionally mandated 31 December deadline, numbers have become the name of the game, given that the referendum will be determined by a simple-majority vote. The fiercest disputes concern the alleged influx of Kurds (including non-Iraqis, according to the Kurds’ detractors), and the alleged expulsion of Arabs. The fact that there appears to be no strong evidence of either new Kurdish arrivals (the opposite may even be true) or fresh Arab departures is, in this inflamed context, immaterial.

These debates are fanned by overheated media campaigns by all concerned.⁴ They are fuelled, as well, by a hyperactive rumour mill that, for example, has the Kurds infiltrating 10,000 security men into Kirkuk ostensibly to protect the Kurdish community but who in reality are said to be primed to force out the Arabs. The Kurds also are accused of having sought control of the ministry of foreign affairs (the minister is Hoshiyar Zeibari, a Kurd) so as to churn out passports to non-Iraqi Kurds living abroad who agree to be settled in Kirkuk. Conversely, the Kurds depict all Arab and Turkoman referendum opponents as unreconstructed former regime elements responsible for

¹ Two primarily Kurdish brigades of the Iraqi army were redeployed to Baghdad in February 2007 as part of the U.S. administration’s security plan for the capital. According to a Kurdish politician, this led to a sharp deterioration in security in Kirkuk. These brigades had been patrolling the road between that city and Hawija, he said; with their departure the influx of insurgents from Arab parts of Kirkuk governorate could no longer be stemmed. Crisis Group interview, Ahmad al-Askari, PUK member of the Kirkuk provincial council, Kirkuk, 20 February 2007.

² See Crisis Group Middle East Report N°56, *Iraq and the Kurds: The Brewing Battle Over Kirkuk*, 18 July 2006.

³ One Turkoman said that while his party was not opposed to the normalisation process, “you cannot have a census, because this will only legitimate this fraud [from the Kurds’ alleged demographic tricks]. This is what the Turkomans feel. The people are boiling, and the politicians cannot control the situation.... Of course, we will boycott the referendum. We saw only forgery during the [2005] elections”. Crisis Group interview, Murad Abd-al-Wahed of the Turkoman Justice Party, Kirkuk, 21 March 2007.

⁴ For example, Kurdish papers dedicate at least a full page every day to implementation of Article 140 of the Iraqi constitution, which offers something akin to a roadmap to resolving Kirkuk’s status in the Kurds’ favour.

armed attacks, assisted by shadowy security services from neighbouring states (Turkey and Syria mostly) whose agents dole out money and roam through Kirkuk at will.

Demonstrations elicit counter-demonstrations, books and maps cancel out another community's existence,⁵ recriminations fly across communal boundaries, and assassinations have become a means of political expression. The unlucky coincidence of an election year in Turkey has not helped, as ultra-nationalist Turks have escalated their own rhetoric, mostly to score points against the more conciliatory Adalet ve Kalkinma Partisi (Justice and Development Party, AKP) government, whose leader, Prime Minister Recep Tayyip Erdoğan, has made overtures to the Iraqi Kurdish parties and, in a move resisted by the military, is expected to seek the presidency in May.

II. A TRAINWRECK IN THE MAKING

A. NORMALISATION

The centrepiece of the Kurdish drive to annex Kirkuk is implementation of Art. 140, which lays out a three-step, sequential process: normalisation, census and referendum. The governing accord that underlies the national unity government formed in May 2006 stipulates that normalisation should have been completed by 31 March 2007, a census by 31 July and a referendum by 30 November. The referendum is to determine the status of Kirkuk and other "disputed territories", i.e., areas claimed by the Kurds.⁶

At the heart of normalisation lies the demographic question, especially the twin fates of the *Wafidin* and of displaced Kirkukis. The Kurdish parties want the *Wafidin* removed and displaced Kirkukis, the majority of whom are Kurds, returned ahead of the referendum.

Like most issues pertaining to Kirkuk, the definition of *Wafidin* (literally, "those who have come", that is, "newcomers") is contested. To the Kurds, they are settlers brought by a regime intent on Arabising this oil-rich region, or their descendants. This apparently includes children born in Kirkuk to a Kurdish mother and Arab (*Wafed*) father whose primary language is Kurdish – an exception, no doubt, but one that shows the lengths to which the definition is extended.⁷ Some *Wafidin* reject the definition altogether, declaring that most came to Kirkuk as Iraqis moving inside Iraq, not for political reasons but because their jobs were transferred there or they received inducements from the government to settle, such as land and money.⁸ They claim that "in Kirkuk, we have *Wafidin* of all backgrounds and from all governorates. We are all Iraqis. And those who were forced out of Kirkuk include not only Kurds but also Turkomans and Arabs".⁹

⁵ Two examples: An official Kurdistan Regional Government map shows the boundaries of the Kurdistan region arcing from Sinjar on the frontier with Syria to the town of Badra close to the border with Iran south of Baghdad, with Kirkuk not at the edge but in the region's very centre. This putative federal region swallows up oil-rich, mixed-population territories to which the Kurds have laid exclusive claim. Likewise, a professionally produced book by a Turkoman author on Turkic influences on Kirkuk's architecture, while making passing reference to Arabs, Christians and Jews in its chapter on the city's history, does not use the word "Kurd" once. Suphi Saatçi, *The Urban Fabric and Traditional Houses of Kirkuk* (Istanbul, 2007).

⁶ Art. 140(2) of the constitution states: "The responsibility placed upon the executive branch of the Transitional Government stipulated in Article 58 of the Law of Administration for the State of Iraq for the Transitional Period shall be extended and conferred upon the executive authority elected in accordance with this constitution, provided that it completes normalisation, a census, and a referendum in Kirkuk and other disputed territories to determine the will of their citizens before 31 December 2007".

⁷ Crisis Group interview, a *Wafed* representing such a case, Kirkuk, 20 March 2007.

⁸ One man said he rejected the term *Wafed* because it suggested an act of volition (coming to Kirkuk), whereas he was given no choice: his job was transferred from Baghdad to Kirkuk by ministry order. Crisis Group interview, Kirkuk, 20 March 2007.

⁹ Crisis Group interview, Kirkuk, 20 March 2007.

The constitution provides for the *Wafidin*'s departure on a voluntary basis, with full compensation and due process of law. The Kurds, while expressing anger over past sufferings at the hands of *Wafidin* who served in the security apparatus, have acted with restraint since returning in April 2003 to the city and other areas to which they lay claim. Expulsions occurred in some of these areas (for example, Khanaqin),¹⁰ but they have been the exception and may well be attributed, as Kurdish leaders maintain, to overzealous local commanders who were subsequently reined in (albeit not punished). Instead, the Kurdish approach has been to nudge out the *Wafidin* by making them feel unwelcome and depriving them of jobs,¹¹ while plying them with offers of money and gifts of land elsewhere in Iraq. (The money and land are supposed to be provided by the Iraqi government.) As one Kirkuki politician said: "Those who came here for money are likely to leave for money as well".¹²

By early 2007, this strategy had started to pay off. A segment of the *Wafidin* (reportedly some 8,000 families) agreed in principle to depart,¹³ bargaining only over the price.¹⁴ These *Wafidin* appear to be tribal Shiite Arabs who equally view themselves as Arabisation victims, having been uprooted from their homes by past regimes and transplanted to Kirkuk, in some cases against their will. For example, members of the National Solution and Understanding Committee in Kirkuk, an association of *Wafidin* willing to leave if compensated, claimed they had suffered greatly under Saddam Hussein's reign:

We come from the marshes, which the regime drained. This explains our poverty and unemployment. Some of us fled Iranian shelling

[during the 1980-1988 Iran-Iraq war]. Our sons couldn't find work in the south. The regime provided a haven for disadvantaged families. So we moved to Kirkuk, which had security and provided a livelihood. We have been living here for twenty years. We have contributed economically, especially in construction, but many other fields as well. We came because this is an Iraqi town. We were not aware of the former regime's intentions and have nothing to do with it.¹⁵

Indeed, they expressed sympathy for the Kurds as fellow victims.

They also disassociated themselves from *Wafidin* who refuse to leave. These, they said, are either former-regime loyalists or "linked to political factions that are not part of the political process and subscribe to dictatorial rule".¹⁶ Some politicians have suggested that the Shiite clerical leadership in Najaf has offered such *Wafidin* three times as much money as the Iraqi government has pledged to make available if they go and that this has persuaded many to remain in Kirkuk.¹⁷ But *Wafidin* interviewed by Crisis Group denied this and stated they had "civil rights as Iraqis" and now faced "constitutional aggression" – "Our demands are that anyone in Kirkuk should have the right to continue to reside here and to hold a job".¹⁸

Some have accused the Kurds of inducing *Wafidin* to leave through a campaign of intimidation and detention.¹⁹ The

¹⁰ See "Claims in Conflict: Reversing Ethnic Cleansing in Northern Iraq", Human Rights Watch New York, August 2004, www.hrw.org.

¹¹ "The *Wafidin* are not being expelled. It is not done that way. It is done indirectly, by preventing people from working". Crisis Group interview, a *Wafed*, Kirkuk, 20 March 2007.

¹² Crisis Group interview, Tahsin Kahyeh, Kirkuk provincial council member, Kirkuk, 20 March 2007.

¹³ These *Wafidin* reportedly not only have agreed to leave Kirkuk but – more important to the Kurds – to transfer their residency registration to the governorates to which they intend to move. In the Kurds' view, only those legally registered in Kirkuk should be permitted to vote in the referendum.

¹⁴ The *Wafidin*'s National Solution and Understanding Committee has called for an (unspecified) increase in compensation, government assistance in selling *Wafidin* properties (lands and homes) in Kirkuk and purchasing land in the south (they fear their move will drive down prices in Kirkuk and raise them where they settle), and two years' sustenance to tide over those who would need new jobs. "Our departure is not a political question", said a committee member. "Our fear is of not having a roof to place over our families". Crisis Group interview, Mohsen Sa'doun al-Zaydi, Kirkuk, 21 February 2007.

¹⁵ Ibid. His colleague declared that a number *Wafidin* belonged to Shiite Islamist parties and fled severe oppression in the south in the 1980s: "Kirkuk became a safe haven for those belonging to certain parties, like Da'wa. In Kirkuk they could be anonymous. I, for example, moved here for political reasons. I would have been arrested in my original home". Crisis Group interview, Sayed Mohsen al-Faham, Kirkuk, 21 February 2007.

¹⁶ The two members of the National Solution and Understanding Committee indicated that a number of *Wafidin* were beneficiaries of the previous regime, who left precipitously in April 2003 as Kurdish *pershmerga* fighters moved into Kirkuk and other areas where Arabs had been settled on Kurdish lands. These still have properties in Kirkuk and are registered as residents, so are eligible for compensation. Another group, they suggested, were stalwarts of the former regime from Ramadi, Falluja and Mosul rewarded by being allowed to register in Kirkuk with the attendant financial incentives but who, in many cases, never moved there. They suggested these were in a separate category undeserving of compensation. Crisis Group interview, Kirkuk, 21 February 2007.

¹⁷ Crisis Group interview, Salahuddin Bahauddin, leader of the Kurdistan Islamic Union, Erbil, 16 February 2007.

¹⁸ Crisis Group interview, Kirkuk, 20 March 2007.

¹⁹ "There are other ways of pushing Arabs out, not just by offering money. The Kurdish parties detain Arabs and then propose to release them only if they agree to leave Kirkuk". Crisis Group interview, Malek Ali Husein al-Asi, a native Kirkuki of the Obeid tribe, Amman, 1 March 2007.

reality seems closer to a Kurdish effort to create an environment in which the Wafidin no longer feel welcome in Kirkuk. Whatever their methods, Kurdish leaders have made clear that while they may not be able to push out all the *Wafidin*, they intend to deprive those who remain of the right to vote in Kirkuk.²⁰

On the other side of the ledger, displaced Kirkuki Kurds have streamed into the city. The main influx appears to have been in 2003, and again ahead of the January 2005 elections, and has for the most part been temporary. Amid growing violence affecting their community now almost as much as it does others, Kurds seem eager to evacuate and move in with relatives in Erbil and Suleimaniya. Kirkukis still living in these towns increasingly signal their reluctance to return to Kirkuk soon, if ever, because of poor security and lack of reconstruction and development.²¹

The Kurdish parties have sought to counter this trend by using various incentives, some bordering on blackmail, to encourage displaced Kirkukis to return home. This appears to be increasingly unsuccessful. One Kirkuk-born Kurd in Erbil said he had been told he could register his newborn son only in Kirkuk and that refusal to do so had left the child without a birth certificate, which may present difficulties once he is of school age: "This is how they are forcing people to go back. I am still getting my monthly food rations but I'm worried that one day they will tell me I can only collect them in Kirkuk. I don't want to go back; there have been many attacks in Kurdish neighbourhoods".²² Another Kirkuki in Erbil explained:

Kurdish party leaders talk a lot about Kirkuk but they are not living there. Let *them* move there. And let them provide land and services to us. What I'm looking for is security, business and good schools. But in Kirkuk there is nothing: no projects, no infrastructure, no jobs, no security. They cannot persuade me to go back. So they are forcing people to move back by administrative means. If your family is originally from Kirkuk and you want to register your child, obtain a permit or get a civil service job, they tell you to move to Kirkuk. My cousin was forced out of her job in Suleimaniya's

local administration because her father, who died many years ago, originally came from Kirkuk. But her mother is from Suleimaniya, and they have lived there all their lives. Now she is out of work.²³

B. THE ARTICLE 140 COMMITTEE

While professing allegiance to Art. 140 of the constitution, the Iraqi government has expended little energy on its implementation. In part this is because the federal government is weak – so weak that in effect it has not governed at all since its establishment in April 2006. But the other, equally significant reason is that the Shiite-dominated government does not unanimously support the Kurds' quest to annex Kirkuk; it is sufficiently divided that the overall effect has been that it has dragged its feet.²⁴ Dismayed, the Kurdish leadership pushed through a mechanism by which Art. 140 could be implemented. On 9 August 2006, Prime Minister Nouri al-Maliki set up the Committee to Implement Art. 140 of the Constitution (*Lujnat Tanfidh al-Maadet 140 min al-Dustour*).²⁵ Chaired by the minister of justice, it comprises two other ministers, a minister in the Kurdistan Regional Government (KRG), the head of the Iraq Property Claims Commission (IPCC) and four members of the Kirkuk provincial council, as well as a fifth Kirkuki. Its present composition is:

- **Hashem Abd-al-Rahman al-Shibli**, minister of justice, committee chairman,²⁶

²⁰ Crisis Group interviews, officials of Patriotic Union of Kurdistan (PUK) and Kurdistan Democratic Party (KDP), Erbil, Kirkuk and Suleimaniya, February 2007. The Kurds need not worry, however: *Wafidin* refusing to leave have already indicated they intend to boycott the referendum under current conditions, considering the outcome "predetermined". Crisis Group interviews, *Wafidin*, Kirkuk, 20 March 2007.

²¹ Crisis Group interviews, Erbil, February 2007.

²² Crisis Group interview, Erbil, 15 February 2007. One of this man's cousins was killed in a marketplace bombing in the Kurdish neighbourhood of Rahim Awa in Kirkuk two days after the interview.

²³ Crisis Group interview, Kirkukis, Erbil, 15 February 2007. Adnan Mufti, president of the Kurdistan National Assembly, noted that just as Kirkuki Turkomans living in Turkey are unlikely to return to Kirkuk, so Kirkuki Kurds living in the Kurdish region are proving reluctant to trade their stable lives (safety, jobs, schooling, social services) for the dangers and uncertainties of Kirkuk. Crisis Group interview, Erbil, 18 February 2007.

²⁴ Art. 140 was inserted into the constitution by the Kurds with the agreement of the Supreme Council for the Islamic Revolution in Iraq (SCIRI). Indeed it was the alliance between the Kurds and SCIRI that forged the most important constitutional deals: on federalism, oil revenue sharing, the role of religion and Kirkuk. SCIRI, however, is only one member of the Shiite list, the United Iraqi Alliance; none of the others has subscribed to the proposed mechanism for resolving the Kirkuk question, even if some, such as Prime Minister Nouri al-Maliki, pay lip service to the need to implement the constitution.

²⁵ Republic of Iraq, Prime Ministry, Order no. 46, 9 August 2006. Remarkably, the order lacks any reference to the committee's authorities.

²⁶ Hashem al-Shibli is a member of Nasir Chadirchi's very small National Democratic Party, which ran on Iyad Allawi's (secular) Al-Iraqiya list in the December 2005 parliamentary elections. In an apparently pre-emptive move at the end of March 2007, Shibli resigned as justice minister ahead of an expected cabinet reshuffle; his relationship with Prime Minister al-Maliki was known to be

- **Jawad Kathem al-Bulani**, minister of interior;²⁷
- **Nermin Othman Mufti**, minister of environment (Patriotic Union of Kurdistan, PUK, one of two main parties in Iraqi Kurdistan);
- **Mohammed Ihsan Sleivani**, KRG minister of extra-regional affairs (Kurdistan Democratic Party, KDP, the other major Kurdish party), secretary;²⁸
- **Ahmad al-Baraq**, head of Iraq Property Claims Commission in Baghdad;
- **Babaker Sadiq Kakarash**, member of Kirkuk provincial council (PUK);²⁹
- **Tahsin Muhammad Ali Kahyeh**, member of Kirkuk provincial council (Shiite Turkoman with the Turkoman Islamic Union);
- **Anwar Beyreqdar**, member of Kirkuk provincial council (Sunni Turkoman with the Turkoman Justice Party and Iraqi Turkoman Front);³⁰
- **Muhammad Khalil al-Jubouri**, member of Kirkuk provincial council (Sunni Arab with the Iraqi Republican Party); and

troubled. Moreover, Al-Iraqiya members suggested they had called for Shibli's resignation because of his endorsement of a 29 March cabinet decision that *Wafidin* should leave Kirkuk (see below).

²⁷ Jawad Bulani is an independent Shiite who was appointed minister of interior in June 2006 as a compromise brokered by the U.S., which pressed for non-partisan leadership of the defence and interior ministries when the new government was formed in May 2006. He is not known to have attended any committee sessions, reportedly sending an aide to represent him.

²⁸ Mohammed Ihsan is a Kurd affiliated with the KDP. He was Kurdistan Regional Government (KRG) minister for human rights in 1999-2006 and subsequently was appointed minister for extra-regional affairs in the new Kurdish government established in May 2006. The term "extra-regional" is meant to denote territories claimed by the Kurds.

²⁹ The allocation of seats to Kurds is also interesting. The PUK has two members, the KDP one, with Muhammad Ihsan matching Nermin Mufti in stature (although Mufti is a minister in the Iraqi government, so theoretically more prominent than Ihsan, a minister in the KRG, the KDP considers the KRG at least as important as the Iraqi government) and Babaker Sadeq Kakarash, of the Kirkuk provincial council, the additional PUK member. This reflects the PUK's predominance in Kirkuk governorate.

³⁰ Anwar Beyreqdar is the head of the Turkoman Justice Party and a member of the executive committee of the Iraqi Turkoman Front (ITF), an umbrella organisation of Turkoman parties established and funded by Turkey. (Other Turkoman parties remain outside the ITF.) He was brought onto the committee to replace Jasem Muhammad Ja'far, the original appointee, following complaints from the ITF (and, presumably, Turkey) that the Turkomans in Kirkuk were not represented. The ITF does not consider Tahsin Kahyeh, a Shiite Turkoman, representative of Kirkuk's Turkoman community.

- **Ashur Yelda**, an unaffiliated Chaldo-Assyrian in Kirkuk.³¹

While carefully balanced to represent the main communities (rather than political parties) in Iraq and Kirkuk, the committee has no members from the large group of *Wafidin* in Kirkuk (mostly Shiite Arabs), who thus remain voiceless in the debate that will determine their fate.³²

Provided with \$200 million, the committee has deliberated at length on the normalisation process and issued four decisions, the first two on 16 January 2007, the next two on 4 February.³³ First, anyone unjustly dismissed from Kirkuk's civil administration as part of Arabisation has the right of reinstatement. Secondly, persons expelled or otherwise displaced from Kirkuk have the right to return and are entitled to ten million Iraqi dinars (about \$7,800) in compensation and a plot of land if they move into Kirkuk city, or half that if they return to other towns or villages in the governorate. Thirdly, *Wafidin* who are prepared to leave Kirkuk are entitled to ID20 million (\$15,600) in compensation and a plot of land in the south. Fourthly, all the former regime's laws allotting agricultural lands to the *Wafidin* are to be annulled.³⁴

At first, these decisions in and of themselves were not particularly controversial, as there has been broad consensus

³¹ Ashur Yelda, a lawyer, was chosen by the Iraqi government to represent Kirkuk's Chaldo-Assyrian community, whose principal political party, the Assyrian Democratic Movement (ADM), failed to obtain a seat in the January 2005 provincial council elections in Kirkuk. (He is incorrectly listed as a provincial council member in the August 2006 order establishing the committee.) Whereas Yelda was associated with the ADM in the past (he was a member of the unelected Kirkuk provincial council for the ADM in 2003-2005), the ADM leader in Kirkuk strenuously insisted that the ADM had not put him forward as a candidate for committee membership and considered he represented only himself. Crisis Group interview, Sargon Lazar Slewa, Kirkuk, 20 February 2007.

³² One *Wafed* declared: "The *Wafidin* are part of the case. So why are we not represented on the committee?" Crisis Group interview, 20 March 2007.

³³ The committee also created several subcommittees and established offices in Kirkuk, Khanaqin and Sinjar.

³⁴ Crisis Group interview, Qader Aziz, head of the Kurdistan Toilers Party and KRG President Masoud Barzani's envoy on Kirkuk, Suleimaniya, 23 February 2007. Another aspect of normalisation is the return of confiscated properties. A mechanism to resolve property disputes was established in early 2004, the Iraq Property Claims Commission (IPCC). Its work has been agonisingly slow. According to the leader of the Iraqi Turkoman Front, only 600 of 13,000 claims, the vast majority involving Turkoman properties, have been settled in the city of Kirkuk. Crisis Group interview, Saadaldeen Ergech, Kirkuk, 20 March 2007.

on the need to reverse past wrongs.³⁵ Plenty of controversy, however, has swirled around procedures. For example, the published version of the decision on the *Wafidin* met with street protests in Kirkuk and was promptly challenged by several committee members as deviating from the consensus agreement reached in camera.³⁶ This was because it suggested that the departures were compulsory, not voluntary, contrary to the constitution's language.³⁷ As a result, the prime minister reportedly instructed the committee to secure the signature of each member for each decision before referring it to the government and publishing it.³⁸

Another procedural issue arose when Prime Minister al-Maliki did not immediately sign the four decisions. Suspecting a delaying tactic, the Kurds promptly attributed this to the federal government's lack of interest in, or outright opposition to, their Kirkuk project. They further suggested

that his signature was not required, that the committee's decisions were binding law, and his signature should only help spur ministries to allocate funds for Art. 140 implementation.³⁹ Others claimed, however, that the four decisions had no legal weight and could not be implemented without that signature.⁴⁰

When the cabinet ratified the four decisions on 29 March 2007, controversy moved from procedure to substance. Members of the legislature (council of representatives) called the decision on the *Wafidin* unconstitutional and a violation of fundamental human rights insofar as it contained an element of compulsion. The cabinet's move exposed deep fissures on Kirkuk within the political class. The governing United Iraqi Alliance (UIA), which was instrumental in drafting the constitution, is totally divided on the issue.

In a backroom deal during constitutional negotiations in 2005, the Supreme Council for the Islamic Revolution in Iraq (SCIRI), arguably the UIA's most powerful component, agreed with the Kurds to insert Art. 140 in exchange for language on federalism that would allow emergence of a Shiite "super" region in the south. None of the other Shiite parties supported Art. 140 but they endorsed the constitution as it was broadly supportive of the Shiites' aim to cement their political predominance.⁴¹ Prime Minister Maliki has been known to oppose Kirkuk's annexation by the Kurds, but following a Kurdish threat to withdraw from the coalition government, he reportedly introduced the four decisions at the 29 March cabinet

³⁵ For example, Tahsin Kahya, a Kirkuki Turkoman, suggested that Art. 140 has a humanitarian as well as a political dimension. Redressing past injustices was uncontroversial, he said: "We all agree on the humanitarian dimension". Crisis Group interview, Kirkuk, 20 March 2007. Murad Abd-al-Wahed of the Turkoman Justice Party said: "We have no issue with normalisation, as long as it is carried out transparently". Crisis Group interview, Kirkuk, 21 February 2007.

³⁶ Committee members Ashur Yelda, Tahsin Kahyeh, Anwar Beyreqdar and Muhammad Khalil briefly suspended their participation in the committee to protest this alleged misinterpretation until they received what they considered satisfactory. Crisis Group interview, Ashur Yelda, Kirkuk, 19 March 2007. Some politicians even claimed that the four decisions were taken without the knowledge and approval of all members: "Muhammad Khalil is our representative on the committee. The decisions came as a surprise to him. They represent deals made under the table by the Iraqi government with the Kurds. The committee chairman published the decisions without first obtaining members' signatures. Maliki confirmed to us that these decisions were not valid and that he would investigate the matter". Crisis Group interview, Abdullah Sami al-Obeidi, a Kirkuk provincial council member with the Iraqi Republican Group, Kirkuk, 21 February 2007.

³⁷ The published version, signed by committee chairman Hashem al-Shibli but reportedly prepared by the committee's (Kurdish) secretary, Mohammed Ihsan Sleivani, "decided on the return of all the *Wafidin* families in disputed areas...to their erstwhile areas". The choice of language in Arabic suggests compulsion: "*qarrarat al-lujna...i'aadat jamii' al-awaael al-waafeda...*". Republic of Iraq, Prime Ministry, Committee to Implement Article 140 of the Constitution, Decision no. 4, 4 February 2007. Committee member Anwar Beyreqdar claims the committee had additionally decided that *Wafidin* who agreed to remove their residency registration from Kirkuk would be allowed to retain properties there but that this did not appear in the published version. He said he had written to Prime Minister Maliki to rectify this. Crisis Group interview, Kirkuk, 20 March 2007.

³⁸ Crisis Group interview, committee member Ashur Yelda, Kirkuk, 19 March 2007.

³⁹ For example, Mohammed Ihsan contended that the prime minister is supposed to sign the decisions not as a "ratification" that would turn them into law, but as a "certification" that would facilitate the government's active cooperation. Crisis Group interview, Erbil, 25 February 2007.

⁴⁰ According to committee member Yelda, "we only made recommendations to the prime minister. They should not be published until after he has approved them. Until now he has not approved the four decisions, regardless of what the Kirkuk provincial council says." Crisis Group interview, Kirkuk, 19 March 2007. On 11 March, the Kurd-dominated Kirkuk provincial council apparently jumped the gun by announcing on its website (www.kirkukpc.org) that Maliki had "approved the committee's decisions". On 30 March the council repeated its welcome of the government's embrace of the four decisions a day after the cabinet endorsed them.

⁴¹ Crisis Group interviews, Abd-al-Rahman Manshed al-Asi, leader of the Arab Consultative Council, and Tahsin Kahyeh, member of the Art. 140 Committee, Kirkuk, 20 March 2007. Al-Asi also said that Maliki was opposed to Art. 140 but was under severe Kurdish pressure to concede, lest he be dropped as prime minister. Maliki's predecessor, Ibrahim al-Ja'fari (also of the Islamic Da'wa party), failed in 2006 to remain prime minister owing to a veto by the Kurdish parties, who opposed his perceived foot-dragging on Kirkuk.

meeting (they had not been on the agenda) and pushed them through.

A fifth aspect of normalisation is proving highly controversial and is therefore unlikely to be implemented any time soon. It relates to returning districts to Kirkuk governorate that were severed as part of Arabisation. To the Kurds, this is an essential element, because some of these districts, such as Chamchamal, are almost purely Kurdish, and their integration would decisively tip the demographic scales. By embracing the constitutional process, however, the Kurds implicitly accepted that the matter be dealt with by a special mechanism mentioned in Article 58 of the Transitional Administrative Law (TAL), the interim constitution signed in March 2004.⁴² Art. 58 has been absorbed by Art. 140 of the constitution.⁴³ According to Art. 58(B), the presidency council is to make recommendations to the council of representatives; if it fails to achieve unanimity, it should appoint a neutral arbitrator; if it cannot agree on one, it should request the UN to make the appointment.⁴⁴

In the three years since March 2004, no progress has been made on this issue, which concerns not only areas claimed by the Kurds, but also inter-governorate territorial disputes in other parts of Iraq. Nor is progress expected.⁴⁵ This is not only because the issue is a hornet's nest,⁴⁶ but also because the presidency council would have difficulty in achieving unanimity,⁴⁷ and any recommendations it made

would face a hostile council of representatives, a majority of whose members oppose the Kurds' plans.

C. THE ILL-CONSIDERED PUSH FOR A REFERENDUM IN 2007

Needing a simple majority in Kirkuk and other areas they claim, the Kurds insist that normalisation must be completed ahead of a census⁴⁸ and referendum, so to be more certain to win the latter.⁴⁹ They also imposed a December 2007 deadline to take maximum advantage of their possibly temporary, post-Saddam relative political strength. In so doing, they have boxed themselves into a corner and given their opponents important leverage:⁵⁰ the Kurdish leaders' failure to "deliver" Kirkuk to their people by the end of 2007 would gravely undermine their credibility; any delay in normalisation makes such a scenario more likely.⁵¹

a Kurd, who could be expected to support redistricting; Adel Abd-al-Mahdi, a member of SCIRI, who, because of that party's constitutional collusion with the Kurds, would probably support the Kurds on redistricting; and Tareq al-Hashemi, a Sunni Arab with the Iraqi Islamic Party, who could go either way, given that his party is small and prone to ally with the Kurds against other Sunni Arab parties, even if its inclination is not to support the Kurds on Kirkuk.

⁴⁸ According to the constitution, a census is to be held before the referendum. It has never been clear – and it has never been explained by the Kurds – why this is imperative or what specific purpose it would serve. It would facilitate creation of voter rolls but is not the only available mechanism for this and certainly not the simplest. Fuad Hussein, KRG President Masoud Barzani's chief of staff, acknowledged that, apart from the requirement in the constitution, there is no practical need for a census in order to stage a referendum. Crisis Group interview, Erbil, 18 February 2007.

⁴⁹ The Kurds' position reflects the language of Art. 58 of the TAL (absorbed by Art. 140 of the constitution): "The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent constitution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories". Both Art. 140 of the constitution and Art. 58 of the TAL were written by the Kurds. They did not want a referendum in Kirkuk before ensuring a demographic majority.

⁵⁰ Non-Kurdish politicians echo the Kurds' insistence that normalisation be completed before a census and referendum. Tahsin Kahyeh, for example, said: "We cannot move to the second step before the first step has been completed. The Kurds cannot leapfrog to the referendum, at least not without the support of all the political forces. Sure, the Kurds don't care about normalisation if they can obtain Kirkuk by other means, but they cannot get it without consensus. If you don't want to share Kirkuk, you will find it difficult to swallow it whole". Crisis Group interview, Kirkuk, 20 March 2007.

⁵¹ The Kurdish leadership has come under domestic criticism for failing to press the advantage now that Kurds enjoy relative

⁴² Article 140 Committee member Yelda made clear this matter fell outside the committee's jurisdiction: "It's not our issue but the presidency council's. This is because the matter pertains to all of Iraq, not just Kirkuk. We as Kirkukis are not authorised to discuss this. Shibli stated this clearly". Crisis Group interview, Kirkuk, 19 March 2007.

⁴³ Art. 140(1) states: "The executive authority shall undertake the necessary steps to complete the implementation of the requirements of Article 58 of the Law of Administration of the State of Iraq for the Transitional Period in all its paragraphs".

⁴⁴ Article 58(B) states: "The previous regime also manipulated and changed administrative boundaries for political ends. The Presidency Council of the Iraqi Transitional Government shall make recommendations to the National Assembly on remedying these unjust changes in the permanent constitution. In the event the Presidency Council is unable to agree unanimously on a set of recommendations, it shall unanimously appoint a neutral arbitrator to examine the issue and make recommendations. In the event the Presidency Council is unable to agree on an arbitrator, it shall request the Secretary-General of the United Nations to appoint a distinguished international person to be the arbitrator".

⁴⁵ "What Saddam Hussein did will take 50 years to fix", exclaimed Qader Aziz, Masoud Barzani's envoy on Kirkuk, referring to the districting question. Crisis Group interview, Suleimaniya, 23 February 2007.

⁴⁶ For example, in an area far from Kurdistan, Karbala and Najaf governorates each have a claim on parts of Anbar.

⁴⁷ The presidency council consists of the president, Jalal Talabani,

Kurdish leaders, therefore, face the question whether to allow normalisation to take its course and the referendum deadline slip or, calculating they already have achieved the necessary demographic majority in Kirkuk, to press on with the referendum. They say they cannot afford to pass up this historic opportunity to gain (or regain) Kirkuk and that, because they need U.S. support, they have only one more year to succeed. "I trust Bush", said the president of the Kurdistan National Assembly. "But who will be there in two years? U.S. policy is going to change, and then the best friend we will have is ourselves".⁵² The Kurds were outraged by the report of the Iraq Study Group (Baker-Hamilton) in December 2006, which, inter alia, urged postponement of the Kirkuk referendum.

The referendum has proved highly divisive and inflammatory and leaves a lot of room for procedural wrangling that could delay or even scuttle it. Broadly speaking, the Arabs and Turkomans of Kirkuk oppose the referendum. Some have vowed to boycott it; others have threatened violence if it proceeds.⁵³ Where the Kurds see a free, democratic exercise of voter preference, their opponents see a manipulated mechanism created by the Kurds to ratify the will of one ethnic community, with the threat of ethnic oppression and little chance of redress.⁵⁴ Some critics have questioned the emphasis on Art. 140 when few of the constitution's other provisions have truly been implemented or enforced,⁵⁵ or have challenged the

wisdom of pressing ahead with implementing this part of the constitution at the very moment when the document is under review and subject to amendment.⁵⁶

It is on procedural issues that the Kurds are most vulnerable, given their insistence on adhering to the December deadline. The government appears to have taken no steps to sort out the complex questions involved in staging a referendum. These include: what is the vote supposed to determine, and what question or questions will be posed to voters? (The constitution does not specify.) Should it be held only in Kirkuk and other "disputed areas" or in all Iraq? Which are the "disputed territories" mentioned in Art. 140 in which a referendum is to be held? What are the boundaries of each of these territories? What constitutes a constituency or voting district? Who will be eligible to vote? What will be the threshold for success in the referendum?⁵⁷ And who will oversee creation of the voter roll and the referendum itself?

Each of these questions can, and most probably will, be raised to complicate the Kurds' quest. The Kurds' best ally, the constitution, does not help them, as it fails to define key terms, such as "disputed territories", let alone delineate these territories' borders. As they see it, and as expressed in the draft constitution for the Kurdish region, which is currently being debated before a vote in the Kurdistan National Assembly later this year, the territories, in addition to Kirkuk governorate, involve all relevant districts located in governorates adjacent to the Kurdish region.⁵⁸ These

strength in Iraq's political system. An example that critics offer is its decision to recognise Erbil as the region's capital in the new draft Kurdish constitution; this is a retreat from a draft dating from the early 1990s, when the Kurds were far weaker politically, in which Kirkuk was designated as the capital. See, for example, the debate in the Kurdish monthly: *Standard*, January 2007.

⁵² Crisis Group interview, Adnan Mufti, Erbil, 25 February 2007. "We have a historic bond with Kirkuk and now have a historical opportunity. What guarantee do we have that we will take Kirkuk if we agree to postpone the referendum?" Crisis Group interview, Fareed Asasard, director of the Kurdistan Centre for Strategic Studies, Suleimaniya, 24 February 2007.

⁵³ For example, Anwar Beyreqdar, a member of the Article 140 Committee, declared: "We the Turkomans, as well as the Arabs, will boycott the referendum if all this incorrect behaviour [of the Kurds] continues. If the Kurds decide to use force, we will not accept that. There would then be civil war". Crisis Group interview, 20 March 2007.

⁵⁴ Democratic elections in a society deeply riven by ethnic conflicts may "take on the character of a 'census' and constitute a zero-sum game". Larry Diamond and Marc F. Plattner (eds.), *Nationalism, Ethnic Conflict, and Democracy* (Baltimore, 1994), p. xviii. The same would hold true for a referendum determined by an ethnically based, simple-majority vote.

⁵⁵ "Why rush to implement Art. 140 when we haven't yet implemented Articles 1-139?" Crisis Group interview, Abdullah Sami al-Obeidi, a Kirkuk provincial council member for the Iraqi Republican Group, Kirkuk, 21 February 2007. That said,

Art. 140 is the only article in the constitution that contains a deadline.

⁵⁶ Crisis Group interviews, Kirkuk, 20-21 February 2007. While the constitutional review is indeed underway, the likelihood that it will produce changes on key questions such as Kirkuk is almost negligible, given the Kurds' opposition and their virtual veto. A constitutional amendments package rejected by a two-thirds majority in three governorates is automatically defeated, and the Kurds are certain to be able to reach this threshold if necessary. At least one Kurdish member of the review committee has stated outright that the constitution would not be changed on the key issues of federalism and Kirkuk. Crisis Group interview, Friyad Rawandusi of the PUK, Berlin, 23 March 2007.

⁵⁷ Article 131 of the Iraqi constitution states: "Every referendum mentioned in this constitution shall be deemed successful with the approval of the majority of the voters unless otherwise stipulated". The term "the majority of voters" can be interpreted either as the majority of registered voters in a given district or the majority of actual voters casting their votes. In an embarrassment during the lead-up to the October 2005 constitutional referendum, the Iraqi government initially adopted the first interpretation but subsequently was forced to embrace the second. With that precedent, the matter should be settled more easily this time but given the stakes, a difficult debate can be expected. See Crisis Group Middle East Report, N°52, *The Next Iraqi War? Sectarianism and Civil Conflict*, 27 February 2006, p. 13, fn. 80.

⁵⁸ Article 2(1) of the Kurdish draft constitution states: "Iraqi Kurdistan consists of the Governorate of Dohuk in its current administrative boundaries; and, in its administrative boundaries

areas are disputed because the Kurds have laid claim to them on the argument that they are historically part of Kurdistan, will have a Kurdish majority once normalisation has been completed and, in some cases, were subject to manipulation by the former regime, which was intent on limiting the Kurds' autonomy to areas where they enjoyed an undisputed demographic majority.

The Kurds' position is no guarantee that the Iraqi government will consider these territories disputed or agree to organise a referendum in them;⁵⁹ after all, the Iraqi constitution expressly permits governorates to join a region but makes no mention of districts or sub-districts doing so. Moreover, the government may insist on the boundary question being resolved by the mechanism in Art. 58 of the TAL, which, as explained above, has little prospect of being addressed any time soon.

Likewise, a major dispute is certain over who will have the right to vote. The Kurds will argue that only those registered in Kirkuk in the 1957 census or their descendants should be considered legitimate residents and eligible, since this was the last reliable census before the overthrow of the monarchy and the demographic, administrative and statistical manoeuvres of subsequent republican regimes. Some of their opponents may accept the 1957 census as a baseline but will question the legitimacy of identity papers held by Kurds claiming a Kirkuki ancestry.⁶⁰ Others will argue that in a free and democratic Iraq, citizens have the right of residence anywhere and cannot be lawfully deprived of the right to vote in their place of residence. The *Wafidin*, in other words, should be entitled to vote in Kirkuk if they choose to stay.

Nor is it clear if voters will be asked simply whether they wish for Kirkuk to join the Kurdistan region, or will be presented with a menu of options from which to choose. Such a menu could, for example, include Kirkuk remaining a governorate directly under the Iraqi government, its

annexation by the Kurdish region or its elevation to the status of a stand-alone federal region in Iraq.⁶¹ It could even include the option (discussed below) of a special status within the Kurdistan region.

Resolving these procedural issues will require time, a precious commodity of which the Kurdish leaders have given themselves very little.⁶² If the referendum proceeds with these issues settled by imposition (a government decree) rather than by consensus (involving all Kirkuk communities), not only are the Kurds' opponents likely to reject it out of hand, but the international community may withhold support, thereby further undermining its legitimacy.⁶³ This, in turn, would perpetuate and even intensify instability in Kirkuk.

D. FALL-OUT FROM FAILURE

Many observers have questioned the practicality of the timetable for resolving the Kirkuk question, with one Western observer calling it "hopelessly unrealistic within the existing timeframe".⁶⁴ If so, the critical question is whether the Kurds have a Plan B. It does not appear that they do. Various scenarios are possible.

If no referendum is held by the end of 2007, the Kurdish leadership could publicly hold the Iraqi federal government responsible for failure to implement Art. 140 and withdraw its politicians and civil servants from Baghdad.⁶⁵ Qader Aziz, special representative of KRG President Masoud Barzani on the Kirkuk question, warned that if the Iraqi government fails to implement Art. 140, "we will change our position. The Kurdish politicians in Baghdad could end their participation in the political process. If they are not helping us, we won't help them. We are part of a coalition.

prior to 1968, the Governorates of Kirkuk, Suleimaniya, and Erbil; the districts of Aqra, Sheikhan, Sinjar, Tel Afar and Qarqoush, and the sub-districts of Zammar, Ba'shiqa and Aski Kalak in the Governorate of Ninewa; the sub-districts of Khanaqin and Mandali in the Governorate of Diyala; and the district of Badra and sub-district of Jassan in the Governorate of Wasit". Art. 2(2) then clarifies with respect to the legal status of these territories that: "Article 140 of the federal constitution shall be adopted for demarcating the administrative boundaries of the Kurdistan region".

⁵⁹ "Who decides which areas are under dispute? The constitution does not specify this". Crisis Group interview, Hunein Qaddo, a council of representatives member from the United Iraqi Alliance, Amman, 14 April 2007. The argument that these territories historically belong to Kurdistan is based on a mythical Kurdistan; no such entity, with defined borders, ever existed.

⁶⁰ Crisis Group interviews, Arab and Turkoman politicians, Kirkuk, 2006 and 2007.

⁶¹ It should probably also include the "no preference" option.

⁶² Additionally, there is no line item in the Iraqi 2007 budget for electoral exercises. The council of representatives, completely divided on Kirkuk, would have to pass a supplementary budget to enable a Kirkuk referendum and do the same to enable provincial council elections, one of President Bush's benchmarks for the Iraqi government as it pursues national reconciliation.

⁶³ The UN Assistance Mission in Iraq (UNAMI) has provided technical support to the Iraqi government, inter alia on elections and referendums. UN officials have indicated it would not provide technical assistance for referendums on the status of territories claimed by the Kurds unless procedural issues were resolved, all primary stakeholders agreed on a UN role and the international community offered the UN its full support. Crisis Group email communication, March 2007.

⁶⁴ Crisis Group interview, Erbil, 17 February 2007.

⁶⁵ For example, a Kirkuk council member said: "If the referendum is not held, there could be real trouble between the government and Kurdish leaders in Baghdad. The government could fall, and a new government could be more pro-Kurdish". Crisis Group interview, Ahmad al-Askari, Kirkuk, 20 February 2007.

If we withdraw, the whole process will fall apart. We would then have to renegotiate the government with the leader of the other list".⁶⁶ He added that the constitution's preamble supported his view.⁶⁷

Suspension of Kurdish participation in the federal government would precipitate a major political crisis. The national unity government that emerged from an accord between the Shi'ite and Kurdish electoral lists in April 2006 would collapse. As the Kurdish parties have been kingmakers since the first elections in January 2005, it is extremely unlikely that an alternative government could be formed without them. The only viable alternative would be renegotiation of the governing accord in which the Kurds, predictably, would link their re-engagement with Iraq to concrete and immediate steps to implement Art. 140. Said Tahsin Kahyeh of the Kirkuk provincial council: "The Kurdish view is now if you, Shi'ites, want to rule Iraq, you will have to give up Kirkuk. [Former Prime Minister] Ibrahim al-Ja'fari fell because of Kirkuk, and it will be the same for anyone after who fails to comply with the Kurds' ambition. The Kurds' influence in Baghdad is decisive, and it is driven by the Kirkuk issue".⁶⁸

Rather than resolving Kirkuk's status, however, negotiations in Baghdad would defer it. No Iraqi government could "give" Kirkuk to the Kurds and hope to survive, in view of broad popular opposition in "Arab" Iraq. The Kirkuk question could, therefore, trigger total deadlock, breakdown and violent conflict, just when the Bush administration

hopes its security plan for Baghdad will yield political dividends.⁶⁹

In a second scenario, the Kurds could unilaterally stage their own referendum in Kirkuk. They could decide to exclude areas with a majority Arab population, such as Hawija, drawing the governorate's boundaries instead on the city's western outskirts, thereby reducing the number of active opponents to Kirkuk's annexation. They could, moreover, decide to deal with any vocal opponents among Kirkuk's Turkoman population or remaining *Wafidin* by expelling them. As a Kurdish leader put it, "the problem is the Arabs. All of them were in military positions in the former regime. They are responsible for the deportation of the Kurds. Transferring them out of Kirkuk would be a good solution. Similar population transfers also happened after World War I and World War II to stabilise Europe".⁷⁰ However, such a scenario would fail to deliver stability and instead draw the Kurdish region into a prolonged conflict with the rest of Iraq. Indeed, the forced removal of non-Kurds could trigger tit-for-tat killings and removals of Kurds from cities such as Baghdad, a horrifying prospect.⁷¹

In a third scenario, the Kurds might permit a slight delay in the referendum. Although no Kurdish leaders have mentioned this publicly, some Western observers in the Kurdish region have suggested both that the thought must exist – since a delay is almost inevitable for practical

⁶⁶ Crisis Group interview, Suleimaniya, 23 February 2007. The "leader of the other list" is Abd-al-Aziz al-Hakim, the head of SCIRI, who also leads the United Iraqi Alliance. As noted, SCIRI is sympathetic to the Kurds' annexation of Kirkuk but most other members of the UIA are adamantly opposed.

⁶⁷ The preamble to the Iraqi constitution states: "Adherence to this constitution preserves for Iraq its free union of people, of land and of sovereignty." In other words, non-adherence would threaten that "free union". The draft Kurdish constitution goes even further, suggesting non-implementation of Art. 140 in particular could spur the Kurds to reconsider their relationship with Iraq. Article 8 states [unofficial translation]: "The people of Iraqi Kurdistan have the right to self-determination.... They have chosen free federation with Iraq... as long as the federal constitution is honoured and the federal, parliamentary, democratic and pluralistic system is observed and individual and collective human rights are respected. They may reconsider their choice to determine their future and their political position in the following cases:... Second: Pursuing the policy of ethnic discrimination and changing the demographic reality in Kurdistan or working to keep its previous effects and results [which would amount to] abandoning the constitutional commitments stipulated in Art. 140 of the federal constitution".

⁶⁸ Crisis Group interview, Kirkuk, 20 March 2007.

⁶⁹ Moreover, the referendum's postponement, by decision or default, would highlight the Kurdish leadership's failure to live up to its promise to annex Kirkuk before the end of 2007. This could trigger serious unrest in the Kurdish region. Amin Shwan, a Kurdish writer who supports Kirkuk's annexation, warned that "if our leaders fail to come up with an honourable solution to the Kirkuk question, there will be dire consequences". Crisis Group interview, Kirkuk, 21 February 2007. One has to wonder, therefore, when Kurdish officials warn of growing violence in the event the referendum does not take place, whether they are referring to intercommunal tensions in Kirkuk or unrest at home. See, for example, an editorial by Qubad Talabani, KRG representative in the U.S., who warned that "to delay the proposed referendum that resolves the status of Kirkuk, as some have suggested, will only lead to an escalation of already high tensions and will raise the risk of the situation erupting out of control". *The Tennessean*, 11 March 2007.

⁷⁰ Crisis Group interview, Neywshirwan Mustafa Amin, Jalal Talabani's deputy in the PUK until late 2006 and politically unaffiliated since then, Suleimaniya, 23 February 2007.

⁷¹ Baghdad has a huge Kurdish population (some say one million). These are primarily (Shi'ite) Fayli Kurds, who have no strong connection with the Kurdistan region or its political leaders and tend to support the (Shi'ite) United Iraqi Alliance, as well as assimilated (Sunni) Kurds, members of Baghdad's professional and merchant classes whose Arabic, in many cases, is far better than their Kurdish, even if they still have family links to Iraqi Kurdistan. Many of these latter (Sunni) Kurds already appear to have fled the chaos of Baghdad for the shelter of the Kurdish region.

reasons – and that it could be sold to the public by showing tangible progress in normalisation.⁷² They also suggest that first resolving the status of areas in which the vast majority is Kurdish, such as Khanaqin and Aqri, might give Kurds the reassurance they need to extend the process of annexing Kirkuk beyond 2007. Indeed, a PUK official indicated that a mechanism to postpone the referendum already exists: according to the constitution, the presidency council can ask the UN secretary-general to appoint an international arbiter to mediate the Kirkuk question.⁷³

This option is complicated by the fact that Turkey has openly called for the referendum's postponement. Kurdish leaders cannot seem to be bowing to Ankara's pressure, lest they lose all credibility in the Kurdish street.⁷⁴ Furthermore, at the end of the day, a delay would not overcome resistance to a referendum; it merely would postpone the conflict.

Ultimately, none of the three scenarios addresses the core of the problem, namely that only the Kurds wish to resolve Kirkuk's status through Art. 140, and all entail the prospect of violence. An alternative approach is needed.

⁷² Crisis Group interviews, Erbil, February 2007. Moreover, Kurdish writer Amin Shwan said: "The Kurdish leaders may accept modification of the timetable. But President Barzani has made clear that this would have to be by the Kurdish National Assembly's decision, not his. Kurdish leaders cannot afford to lose face, because they would then lose power". Crisis Group interview, Kirkuk, 21 February 2007. A Kurdish research institute has suggested that the eighteen-month delay in implementing the federalism law passed in September 2006 could serve as a precedent for postponing implementation of Art. 140. "The Situation in Iraq", Kurdistan Centre for Strategic Studies, Suleimaniya, 12 December 2006.

⁷³ Crisis Group interview, 23 March 2007. This appears to be based on a rather loose reading of Art. 58(B) of the TAL (absorbed by Art. 140 of the constitution), which speaks of international arbitration in case the presidency council is unable to solve the problem of redistricting (see above).

⁷⁴ KIU leader Salahuddin Bahauddin contends that the Kurds' insistence on implementing Art. 140 stems from an unhealthy rhetorical battle with Turkey: "Turkey has no need to press for the referendum's postponement, because the situation is going in that direction anyway, but it wants to be able to declare victory. The Kurds are reacting to this. If Turkey were to keep silent, the Kurdish parties could easily postpone the referendum.... The reality is that the deadline will slip by default". Crisis Group interview, Erbil, 16 February 2007.

III. THE NEED FOR A PROCESS

Sometime in the second half of 2006, as Turkish pressure on the Kurds to postpone the referendum grew, and normalisation showed no progress, the Kurdish parties reportedly came to the realisation that their strategy was failing.⁷⁵ Rather than convincing Arabs and Turkomans in Kirkuk that they would be better served by being inside the Kurdish region because of its stability, effective government and protection of human rights – compared with the chaos, violence and mismanagement in the rest of Iraq – the Kurds had achieved the opposite effect. The two communities were reinforced in their belief that the only thing that mattered to the Kurds was Kirkuk's annexation and that any other issue, such as dialogue or minority rights within the Kurdish region,⁷⁶ was secondary at best. The charm offensive that Kurdish leaders routinely spoke of involved only the few Arabs and Turkomans who had already accepted Kurdish dominance⁷⁷ and failed to resonate with the vast majority.

Bypassing those who could bring along their communities has led to a hardening of positions and made chances of a peaceful settlement more remote.⁷⁸ "Our interaction with the population has not been fully operational", said a KDP official. "We could have taken Kirkuk in 2003 but we decided to rely on a legal framework. But we need to be active with the people of Kirkuk to convince them that this is beneficial to them".⁷⁹ "We are now the majority in Kirkuk", declared Adnan Mufti, the president of the Kurdistan National Assembly. "But what about the other 40 per cent? We must make them happy. The problem is

⁷⁵ Crisis Group interviews, a range of Kurdish officials, Erbil and Suleimaniya, 16-25 February 2007. The December 2007 Iraq Study Group (Baker-Hamilton) report in the U.S., which called for a postponement of the Kirkuk referendum, arguably was the nail in the coffin of the Kurds' approach.

⁷⁶ The Kurds have singularly failed to convince non-Kurds in Kirkuk that they regard the region not as a "Kurdish region", i.e., a region composed of Kurds and some small minorities, but a "Kurdistan region" – one for all its people, regardless of ethnicity or religion.

⁷⁷ Apart from some individuals in the Turkoman and Chaldo-Assyrian community, they include members of the Arab Hadidi tribe who have long lived within Kirkuk city limits.

⁷⁸ "The Kurdish parties have been able to extract concessions only from individuals and small groups who do not have the power to decide [*sahib qarrar*] and therefore cannot deliver. This is why there has been no progress. The objective should be to have a comprehensive negotiation involving all the communities, lest one reject a deal reached by the Kurds with another". Crisis Group interview, Isma'il al-Hadidi, an ally of the Kurds in Kirkuk, Amman, 27 February 2007.

⁷⁹ Crisis Group interview, Safeen Dizayee, director of the KDP's international relations bureau, Salah al-Din, 19 February 2007.

the extremists: they are feeding on the discontent of the 40 per cent”.⁸⁰

Both the PUK and KDP now appear to recognise the need to start talking comprehensively with Arab and Turkoman community leaders who have adamantly opposed the Kurds’ plans in Kirkuk. Referring to his own party, a senior PUK official in Kirkuk commented that “we took the decision to change our approach. We are now opening a dialogue with the Iraqi Turkoman Front [linked to Ankara] and nationalist Arabs. In time they will come along. But the only way is through dialogue”.⁸¹ He acknowledged an inherent contradiction in the Kurds’ approach: the constitution stipulates that a referendum can only take place once normalisation has been completed and a census held. By the terms of the Kurdish-Shiite governing accord, normalisation was to have been completed by 31 March 2007. This official indicated, therefore, that the Kurds’ timeline was unrealistic and, though he did not advocate this, might have to be abandoned.

Kurdish recognition of the need for dialogue is a significant step forward, as it places process over outcome (on which, however, views remain immutable for now). Kurdish leaders also realise that in order to make the dialogue productive, they will need to offer Kirkuk’s other communities far more than what has been on the table. The PUK official, for example, stated:

The Turkomans and Arab nationalists are afraid to join the Kurdistan region. They fear they will be enslaved. This is the main problem. It is, therefore, our duty to draft a good constitution for our region and to give them senior positions in the KRG. These two points are critical. Because when I meet with them, the first question they ask is: what will you do for us? Moreover, we should focus on what benefits Kirkuk, because this is what we have in common with them.⁸²

He and other KRG officials have listed incentives they believe will be necessary to convince Kirkuk’s Arabs and Turkomans to join the Kurdish region. These include:

Improving minority rights in the draft Kurdish constitution. Several Kurdish officials have expressed

unease over the lack of minority rights and protections in the draft, which has been circulating for several months. Minorities are referred to in only two articles, the first recognising them as citizens of the Kurdish region,⁸³ the other according them certain language rights.⁸⁴ This could be vastly improved. For one, there could be more explicit rights and protections for minority groups, including the right to education and media outlets in their own language, as well as to cultural institutions and political parties. Turkoman and Syriac could be made official languages, not only in areas in which Turkomans and Chaldo-Assyrians enjoy demographic predominance but also in the Kurdish region as a whole, at least in government institutions, especially the judiciary. Use on road signs could also be encouraged.

Offering senior KRG positions to minority leaders. Several Kurdish officials mentioned the need to grant minority leaders senior positions in the KRG, such as deputy prime minister,⁸⁵ other cabinet jobs, deputy minister and director-general; a quota of seats in the Kurdistan National Assembly; and senior positions in Kirkuk’s government, civil administration and security services.⁸⁶ The Kurds would have to overcome a legacy of appointing only their own leaders and a handful of token minority “representatives” who lack their communities’ support. The positions should be ones of real authority, including the minister for minority affairs portfolio.

⁸³ Article 6(1): “The people of Iraqi Kurdistan are composed of Kurds and other nationalities (Turkomans, Chaldeans, Assyrians, Armenians, and Arabs), who are citizens of the region according to the law”. Tellingly, the draft constitution’s preamble presents a lengthy and strictly Kurdish reading of the region’s history, with only passing reference to other communities living there.

⁸⁴ Article 14: “First: Kurdish and Arabic are two official languages in the region. This constitution guarantees the right of the citizens of the region to teach their children in their mother tongue, like Turkoman, Assyrian and Armenian, at government educational institutions according to educational guidelines. Two: Turkoman and Syriac are official languages in the administrative units in which the speakers constitute density of population, alongside Kurdish and Arabic. This shall be regulated by law”.

⁸⁵ Giving a deputy prime minister position to a minority representative could create problems for the delicate political balance between the KDP and PUK, which have taken posts according to a complex formula they designed to maintain equality between themselves. According to this arrangement, the KDP appoints the prime minister for two years, the PUK the deputy. In the middle of the four-year term (i.e., at the end of 2007), this is reversed.

⁸⁶ Crisis Group interviews, Adnan Mufti, Erbil, 25 February 2007; and Muhammad Ihsan, the KRG minister for extra-regional affairs and a member of the Art. 140 Committee, Erbil, 25 February 2007. Mufti also mentioned allocating a special reconstruction budget for these groups.

⁸⁰ Crisis Group interview, Erbil, 25 February 2007.

⁸¹ The official said he had the impression Turkey had given the green light to the Iraqi Turkoman Front (ITF) to engage in discussions with the Kurds, and that while the ITF is a Turkish proxy, the Turkomans of Kirkuk appear to be unanimous in their opposition to Kirkuk’s annexation by the Kurdish region. Crisis Group interview, Suleimaniya, 23 February 2007. The ITF was established and has been funded by Turkish security forces. See Crisis Group Middle East Report N°35, *Iraq: Allaying Turkey’s Fears Over Kurdish Ambitions*, 26 January 2005, pp. 10-11.

⁸² Crisis Group interview, Suleimaniya, 23 February 2007.

According Kirkuk special status within the Kurdish region. More controversially, some Kurdish officials have mentioned the possibility of granting Kirkuk special status as a region within Kurdistan, with a power-sharing arrangement involving its diverse communities.⁸⁷ The draft Kurdish constitution, which prohibits the creation of regions within Iraqi Kurdistan,⁸⁸ would have to be modified accordingly. An alternative might be to grant minority groups the right to govern those districts in which they are the majority.⁸⁹ This option meshes with demands voiced by leaders of the Chaldo-Assyrian community⁹⁰ and could possibly be extended to the Arabs and Turkomans.

As a confidence-building measure in the early stages of the newly announced dialogue, the PUK has stated that it intends to replace political appointees in Kirkuk's civil administration with capable technocrats regardless of political orientation.⁹¹ Doing so would provide a useful measure of its good faith in calling for genuine dialogue.

A number of obstacles immediately present themselves. One is that Kurdish leaders, while recognising the need for dialogue, are resistant to giving up the Art. 140 process and timetable or the outcome that these would almost certainly deliver. They will have to display far greater flexibility and significantly lower their rhetoric.

Secondly, PUK-KDP rivalry, while considerably subdued compared with earlier periods, could undermine the move toward dialogue. Neither party can afford to take the lead in sounding moderate on Kirkuk, as the other would promptly exploit such "weakness" for rhetorical and political (especially recruitment) gain. A Turkoman leader said:

The PUK has to act like the KDP if it doesn't want to suffer politically. So when Barzani calls Kirkuk "the heart of Kurdistan", Talabani immediately has to say Kirkuk is "the Jerusalem of Kurdistan". It's like a bidding war.... Each time we meet Jalal Talabani, he tells us that in his view Kirkuk's administration should be shared. We want each community, Arabs, Turkomans and Kurds, to have 32 per cent, and the Christians 4 per cent. He agrees.

⁸⁷ Crisis Group interview, PUK official, Suleimaniya, 23 February 2007.

⁸⁸ Article 3: "No new region may be created within the boundaries of the Iraqi Kurdistan Region".

⁸⁹ Crisis Group interview, Adnan Mufti, president of the Kurdistan National Assembly, Erbil, 18 February 2007.

⁹⁰ Crisis Group interview, Younan Hozaya, deputy secretary general, Assyrian Democratic Movement, and former minister of industry and energy in the Kurdistan Regional Government, Erbil, 19 February 2007. He said the Chaldo-Assyrian community is demanding self-administration in the districts of Qarakosh and Telkayf in Ninewa governorate, where it predominates.

⁹¹ Crisis Group interview, PUK official, Suleimaniya, 23 February 2007.

But then the KDP rejects this. It does so in order to embarrass the PUK in front of the Arabs, Turkomans and Kurds in Kirkuk. Most Kurds here follow the PUK. The KDP has very little support, and so they want to ruin the PUK's popularity here.⁹²

There is no unified KRG position on engaging Kirkuk's other communities in serious dialogue. The parties should make this their top priority if they wish to succeed in incorporating Kirkuk into the Kurdish region by peaceful means.⁹³

Thirdly, both the Arab and Turkoman communities in Kirkuk are highly fragmented and lack identifiable leaders able to rise above narrow partisan interests and speak for their communities. Although there are some fresh signs of convergence among Arabs in the form of the Arab Consultative Council (*Majlis al-Arabi al-Istishari*), which incorporates a gamut of indigenous Kirkuki Arabs as well as *Wafidin*,⁹⁴ its relationship with the Turkomans remains ad hoc and limited to the Iraqi Turkoman Front (ITF), leaving to the side the (Shiite) Turkoman Islamic Union (which is close to the Iraqi government). As a Western observer noted, it is unclear to the Kurds whom they should negotiate with, as no local leader speaks with the true authority of the Turkoman community.⁹⁵ These

⁹² Crisis Group interview, Anwar Beyreqdar, Kirkuk, 20 March 2007. The 32-32-32-4 formula was reportedly first suggested in the run-up to the January 2005 provincial council elections, as a power-sharing arrangement among all Kirkuk's communities. Beyreqdar claims the PUK accepted it, while the KDP rejected it.

⁹³ An additional problem is that in internal PUK elections in 2006, a bloc pushing for internal reform (greater accountability and an end to nepotism and other forms of corruption) lost, and its leaders left the party. One supporter said: "This was the end of the reform effort. Neywshirwan Amin left the party, and he was the conscience of the PUK. Now he is gone, along with others. And this meant a complete change in Kirkuk: most of the good ones are gone, especially at the lower level where most intercommunal interaction takes place". Crisis Group interview, Kirkuk, 20 March 2007.

⁹⁴ The Arab Consultative Council is headed by Abd-al-Rahman Manshed al-Asi and includes the Iraqi Republican Party (national leader: Sa'ad Asem al-Janabi; Kirkuk representative: Ahmad Hamid Obeidi); the party has six seats on the Kirkuk provincial council); the National Dialogue Front (national leader: Saleh Mutlaq; Kirkuk representative: Sa'ad al-Hamdani); the Reconciliation and Liberation Front (national leader: Mish'an al-Jbouri); the Arab Assembly and Tribal Council (leader: Abd-al-Rahman Manshed al-Asi); the Sadrist Trend (national leader: Muqtada al-Sadr; Kirkuk representative: Farhan Abdullah Ghanem); and representatives of other groups, including Shiite tribes from the south, ex-army officers (Rawabet Bint al-Iraq and Rawabet Dhulfiqar) and the Assembly of Kirkuk Tribes (representing the Obeid, Jbour, Albu Hamdan, Albu Muhammad, Bani 'Iz and Hadid).

⁹⁵ Crisis Group interview, Erbil, 17 February 2007.

communities would have to make an extra effort to forge a common position and strategy vis-à-vis the Kurds before serious negotiations could commence.⁹⁶

Fourthly, if a consensus agreement can be reached through direct negotiation between the principal stakeholders, this would pre-empt the need for a referendum to decide Kirkuk's status.⁹⁷ This, of course, is not a disadvantage. Leaders could argue that the common good, thus accomplished, should supersede this constitutional mechanism and deadline. Alternatively, depending on timing, the constitutional review currently underway in Baghdad could be used to amend Art. 140 according to the terms of the consensus agreement.

Finally, the Kurds' partial and tentative change of heart reflects a belated recognition that their strategy has not furthered their objectives. However, they now must not only make up for lost time but also face an opposition that has been galvanised in its distrust of their intentions by four years of hardline pronouncements and discriminatory/exclusionary actions in Kirkuk.⁹⁸ Community leaders say they have listed specific confidence-building steps to Kurdish leaders as essential before trust can be established. These include:⁹⁹ bringing Arabs and Turkomans into

Kirkuk's provincial council in a power-sharing arrangement based on the 32-32-32-4 formula;¹⁰⁰ bringing Arabs and Turkomans into executive and administrative positions in Kirkuk;¹⁰¹ removing Kurds who came to Kirkuk without documents proving prior residence there or carrying false papers; releasing Arabs held without charge in prisons in Erbil and Suleimaniya; and relinquishing private properties confiscated by the Kurdish parties.¹⁰²

It is unclear whether Kirkuk's Arabs and Turkomans will be mollified by the Kurds' overtures. Their steadfast position has been to reject annexation to the Kurdish region, or even to discuss it as an option, as they see this as the prelude to Kurdish secession.¹⁰³ But they have never been seriously engaged or offered concrete advantages for voluntary incorporation. They acknowledged that the Kurdish parties have made new overtures but expect little tangible change.

The leader of the Arab Consultative Council, Abd-al-Rahman Manshed al-Asi, wondered how "after they raised the issue so high with all their slogans – Kirkuk as 'the heart of Kurdistan' and 'its Jerusalem' – they could come down again. We have seen no change in the Kurdish position, but they did start listening to us. We just hope they will communicate our position to their leaders". He added that he had rejected a dialogue at the level of senior

⁹⁶ On 17 March 2007, these parties held the first Arab-Turkoman conference in Kirkuk under the slogan: "Iraq's unity passes through the gate of Kirkuk's Iraqiness". Although all parties reaffirmed Iraq's unity and rejected federalism and Article 140, one difference was papered over: whereas the Arabs want Kirkuk to stay under the central Iraqi government, the Turkomans prefer Kirkuk to obtain the status of a stand-alone region, like Baghdad.

⁹⁷ So far, Kurdish leaders have given no indication a consensus agreement on Kirkuk would pre-empt the need for a referendum. For example, Masoud Barzani's chief of staff, Fuad Hussein, said: "Even if we all agree on Kirkuk, we should still have the referendum. The [Iraqi] constitution is our main achievement; we will not deviate from it. We should give the Turkomans and Arabs the chance to vote – and to vote 'no'. We cannot take away that right". Crisis Group interview, Erbil, 26 February 2007.

⁹⁸ Tahsin Kahyeh: "We Turkomans fear that the Kurds will not live up to their promises. For the past four years, the Kurds have dominated Kirkuk, taking all the executive positions except one, that of deputy governor". Crisis Group interview, Kirkuk, 20 March 2007. The Kurds gave the deputy governor position to the Arabs and Turkomans but leaders of the two communities have been unable to agree whom to appoint, each preferring a representative of their own community.

⁹⁹ Crisis Group interview, Arab and Turkoman politicians, Kirkuk, 20-21 February, 20 March 2007. An Arab provincial council member said these demands had been agreed by Kirkuk's leaders, including the heads of the local PUK and KDP, in the presence of the U.S. consul and a U.S. military officer in August 2006. When no change was forthcoming, he and his Arab and Turkoman colleagues suspended participation in the council. Crisis Group interview, Sami Abdullah al-Obeidi, Kirkuk, 21 February 2007.

¹⁰⁰ A Turkoman leader said: "We have been boycotting the provincial council for several months, and this is the third time. Each time it was because the Kurds dominate all of Kirkuk's institutions. We meet with Kurdish leaders, such as Jalal Talabani; they promise to rectify the situation, and then nothing happens". Crisis Group interview, Anwar Beyreqdar, leader of the Turkoman Justice Party, Kirkuk, 20 March 2007.

¹⁰¹ In talks with Kurdish leaders, Arab and Turkoman leaders asked for five executive positions (deputy governor, chairman of the appointments committee of the provincial council, deputy chairman of its reconstruction committee, director and deputy director of the Kirkuk district centre – *qadha*), and requested that directors general in Kirkuk's administration be appointed by the (newly formed) provincial council, not political parties.

¹⁰² The leader of the Iraqi Turkoman Front, Saadeldeen Ergech, added the demand that the Kurdish government return properties confiscated from Turkomans in Erbil. Crisis Group interview, Kirkuk, 20 March 2007.

¹⁰³ Crisis Group interviews, Arab and Turkoman community leaders, Kirkuk, 20-22 February, 19-20 March 2007. The head of the Arab Consultative Council in Kirkuk, Abd-al-Rahman Manshed al-Asi, said Kirkuk's annexation to the Kurdistan region was "not subject to discussion. If the Kurds take Kirkuk, they will secede". Crisis Group interview, Kirkuk, 20 March 2007. Anwar Beyreqdar said: "We will not accept to be part of Kurdistan under any condition, because we have had a very bad experience here in Kirkuk. Moreover, the Kurds have tried to erase the Turkoman reality in Erbil". Crisis Group interview, Kirkuk, 20 March 2007. Kurdish leaders hotly dispute the latter charge, claiming they have extended full rights to the Turkomans in Erbil.

leadership because “the timing is bad: they never took this step since April 2003, and now they do. Why? Because at first they thought the U.S. would give them Kirkuk as a reward for their cooperation in Iraq. But now, to their shock, they have discovered they face many obstacles. And so now they want to talk”.¹⁰⁴

Moreover, it is doubtful that even if Kirkuki Arabs were persuaded they would be better off inside the Kurdish region, non-Kirkuki Arabs would go along. The opposite is probably the case and holds true for Turkomans in Kirkuk and those elsewhere, as well as the government of Turkey (see below).

It is imperative that all sides seek to overcome the obstacles to progress. Judging from the polarised climate, there can be no doubt that a peaceful solution to the Kirkuk question can only be achieved through direct negotiations between the primary stakeholders and consensus building at the local level, as well as negotiations between key players at the national and international levels (see below). Whatever the outcome of such a process, it would be far more durable than annexation of Kirkuk by an ethnic vote in which one community imposed its will on the others.

IV. THE PATH TO A SETTLEMENT

A. THE UNITED STATES AND TURKEY

In these worrying circumstances, U.S. policy has been conspicuous in its silence. The Bush administration has nurtured a studied bystander mode on Kirkuk that is puzzling given growing tensions and the grave threat that civil war there would pose to U.S. interests in stabilising Iraq. Officials in Washington explained this by the administration’s preoccupation with the security plan in Baghdad (the “surge”), which supposedly militates against a proactive strategy in Kirkuk.¹⁰⁵

However, irrespective of any professions of even-handedness, the predominant, shared perception in Iraq is that the U.S. stands solidly behind the Kurds. Its proclaimed support for a constitution-based process as the answer to the Kirkuk question is seen as a dodge at best but more generally as tacit support of Kurdish annexation, that process’ only logical outcome under current conditions. Moreover, the day-to-day proximity of U.S. military units in Kirkuk to Kurdish commanders in the Iraqi army (whose primary loyalty is to the Kurdish parties, not the federal government) and the fact that U.S. officers rely almost exclusively on Kurdish interpreters with whom they share round-the-clock food and shelter suggests *de facto* partisanship; it is certainly seen that way by the communities left out.

Moreover, the Kurdish-dominated provincial council¹⁰⁶ channels U.S. reconstruction money mainly to Kurdish projects, including the building of middle-class Kurdish neighbourhoods (an effort that ignores the plight of homeless Kurds camping out at the football stadium and elsewhere), and not to disadvantaged areas inhabited by others, for example impoverished Arabs in Riyadh or Hawija. Kurdish leaders blame the U.S. for both not sending sufficient reconstruction funds to Kirkuk and restraining the Kurd-dominated Iraqi army and police units there as they face their enemies’ growing lethality.¹⁰⁷ On balance,

¹⁰⁴ Crisis Group interview, Kirkuk, 20 March 2007. He also said: “The Kurds first tried to gain Kirkuk via Art. 58 of the interim constitution. When that failed, they tried it via Art. 140 of the permanent constitution. Now this is not working either, and so now they realise they have to talk”.

¹⁰⁵ Crisis Group interviews, Washington, 28 March 2007. Rather than formulating a policy on Kirkuk, the Bush administration has supported projects that are non-controversial, such as the construction of an international airport.

¹⁰⁶ The Kurds hold 26 of the 41 council seats. The Turkomans have nine, the Arabs six. This allocation is based on the provincial council elections of 30 January 2005.

¹⁰⁷ For example, Neywshirwan Mustafa Amin, a former senior PUK leader, said security in Kirkuk was deteriorating “because the U.S. is in charge” and that it may well be true that the KRG has done nothing for Kirkuk but this is because both the federal government and the U.S. have prevented it. If and when Kirkuk comes under the KRG’s authority, he predicted, “we will be able

however, Washington's silence encourages Kurds to press on, heighten their rhetoric and tighten control over local security and administration. Predictably, this has provoked a vociferous reaction from those who stand to lose and thus has contributed to escalating violence.

In the absence of a clear policy, one approach appears to have gained preference for lack of an alternative: to de-link Kirkuk's status from the question of its oil fields in a deal that could be called "oil-for-soil". In this thinking, if the Kurds agreed to forfeit an exclusive claim to Kirkuk's oil fields and oil income,¹⁰⁸ the Arab, Turkoman and Chaldo-Assyrian opponents of annexation to the Kurdish region could be brought to accept the results of the referendum on the governorate's future.¹⁰⁹ The logic is that without the oil revenues and the resulting relative economic independence, the Kurds would be less inclined to pursue political independence. This in turn would appease both the Iraqi government and the majority of its population, as well as Turkey, Syria and Iran – all states with significant Kurdish populations harbouring aspirations (however currently unrealistic) of statehood.

While there is some validity to this scenario, it ignores the fact that to Kirkuk's non-Kurdish inhabitants, and indeed to most Iraqis, the Kurds' claim to Kirkuk is based on fiction. They reject outright the notion that there was once an historical Kurdistan whose borders extended to the first chain of low hills north of Baghdad (the Hamrin mountain range) and that had Kirkuk as its centre. They actually agree with the Kurds (even as they state the opposite) that the core issue in Kirkuk is not oil but competing nationalisms.¹¹⁰ The fact remains, however, that the

to guarantee its security. Our security apparatus is very efficient". Crisis Group interview, Suleimaniya, 23 February 2007.

¹⁰⁸ The Kurds deny they lay exclusive claim to Kirkuk's oil, citing Article 112 of the Iraqi constitution, which they approved (indeed wrote). Art. 112(1) stipulates in part: "The federal government and the governments of the producing regions and governorates shall undertake the management of oil and gas extracted from current fields, provided that the distribution of its revenues occurs fairly, commensurate with the population distribution in all parts of the country...." (Emphasis added.) Since the Kirkuk fields have been in production for decades, the Kurds argue, their management and revenues would automatically be shared. On paper this sounds right, but during internal talks on the draft Kurdish constitution in mid-2006, it was suggested that the term "current fields" should be interpreted extremely narrowly, relating to major production capacity. This would have turned the Kirkuk fields into prospects, thereby assigning them to the regional government, which the KRG aspires to become in Kirkuk. Crisis Group interview, an oil specialist, Washington, August 2006.

¹⁰⁹ Crisis Group interviews, U.S. policy-makers, Washington, 2005, 2006.

¹¹⁰ The communities typically accuse each other of being motivated primarily by Kirkuk's oil wealth while denying

discovery of oil in 1927 aggravated this rivalry and has become an inescapable part of the equation. De-linking it could, therefore, contribute to a solution but would not be sufficient.¹¹¹

The other key international actor on Kirkuk is Turkey. Embroiled in election-year politicking,¹¹² its politicians have ratcheted up their rhetoric on the two main issues of concern in northern Iraq: Kirkuk (with its Turkoman heritage and potential of serving as a ticket to Kurdish independence)¹¹³ and the Kurdistan Workers Party (Partiya Karkerên Kurdistan, PKK), a rebel group that has carried out armed attacks in Turkey for many years and the bulk of whose fighters are holed up in the mountains north of Suleimaniya.¹¹⁴ While encouraging Turkish business in Iraqi Kurdistan,¹¹⁵ the Ankara government has sternly warned the Iraqi government not to proceed with the Kirkuk referendum¹¹⁶ and has threatened military intervention if it fails to deal with the PKK.¹¹⁷

this strenuously for themselves.

¹¹¹ Even if the new oil law ties the Kurds more closely to Iraq, their political dominance in Kirkuk would give them control over investments in the local oil industry and allow them to enjoy the benefits. This remains a sore point for the Turkomans. Crisis Group interview, Anwar Beyreqdar, Kirkuk, 20 March 2007.

¹¹² Presidential elections are scheduled to end around 10 May 2007 and parliamentary elections to be held by November.

¹¹³ Kurdish leaders reject any Turkish interference in the Kirkuk question. When Turkey raises it, they angrily reply that they will raise the issue of the Kurds in Turkey. KRG President Masoud Barzani did so in April 2007 when, in an interview on al-Arabiya TV, he said: "There are 30 million Kurds in Turkey, and we don't interfere there. If they [Turkey] interfere in Kirkuk over just thousands of Turkmenians, then we will take action for the 30 million Kurds in Turkey". Associated Press, 7 April 2007. Barzani misstates Turkey's motive in Kirkuk, however: it is related primarily to its potential for Kurdish independence, and only secondarily to concerns over its Turkoman population.

¹¹⁴ The PKK is said to have just under 4,000 fighters in the Qandil range.

¹¹⁵ In 2006, some 300 Turkish companies were doing \$2 billion of business in the Kurdish region. Most of this money was in construction, with some investments in the oil and gas sector. The KRG's investment law allows foreign companies to take out all profits. Crisis Group interview, Safeen Dizayee of the KDP, Salah al-Din, 19 February 2007.

¹¹⁶ For example, Prime Minister Recep Tayyip Erdoğan told visiting Iraqi Vice President Adel Abd-al-Mahdi in February 2007 that the referendum should be postponed. Associated Press, 20 February 2007.

¹¹⁷ Turkey's armed forces commander, İlter Başbuğ, formally warned in March 2007 that "whenever it feels the military necessity, Turkey will take measures as it sees fit against the separatist terrorist organisation in northern Iraq within the framework of international law". Quoted in *Radikal*, 11 March 2007. Turkish forces have entered northern Iraq "in hot

To Turkey the two issues are linked. The Kurds' annexation of Kirkuk would be a step toward independence; this in turn would encourage the PKK to press for greater autonomy in Turkey, or even secession. (It could also precipitate the break-up of Iraq more broadly, which is an existential question for Turkey).¹¹⁸

The PKK has the proven ability to galvanise Turks in manifestations of ultra-nationalism.¹¹⁹ Moreover, it has become a political football in the struggle between Turkey's civilian government led by the Islamist AK Party and the military, which sees itself as the guardian of the secular Kemalist legacy. It provides the military with both an identifiable patriotic cause and a basis for its claim that the government is weak, soft on the Kurds (in both Turkey and Iraq), and incapable of defending the homeland.¹²⁰ Should the Kurds press on with a Kirkuk referendum and thus, in Turkey's eyes, solidify their march toward independence, Turkey could use the PKK's presence on Qandil Mountain to exert pressure on the KRG.

The Kirkuk question is an internal Iraqi matter but the PKK is a Turkey-born group using a neighbouring state's territory for shelter and training. The Turkish military might even intervene militarily, trying to kill two birds with the same stone – defeating the PKK and complicating the KRG's ambitions in Kirkuk – without facing undue criticism from the U.S. and European Union, both of which consider the PKK a terrorist organisation. Moreover, in doing so, the military would score points against its own government, which it distrusts.

pursuit' of PKK fighters. Turkey also maintains some 1,200 troops at the Bamarni airstrip in Iraqi Kurdistan.

¹¹⁸ As Crisis Group has argued previously, Turkey's primary strategic interest in Iraq is that the country not fall apart. As the likelihood of this occurring has increased, however, Turkey has somewhat paradoxically developed a greater interest in having on its south eastern border a Kurdish entity that is stable and relatively well-managed. This is one reason why it has encouraged Turkish business in Iraqi Kurdistan. Yet, the Kurds' acquisition of Kirkuk, with its potential of putting Kurdistan on the path to independence, continues to be a red line because it may embolden Kurds in Turkey and because of its potential of precipitating Iraq's break-up more broadly. The subsequent threat of conflagration and regional meddling in Iraqi affairs could inflict far more comprehensive damage on Turkey's interests than a domestic flare-up of the Kurdish rebellion. See Crisis Group Report, *Iraq and the Kurds*, op. cit., pp. 24-26.

¹¹⁹ Turkish politicians intent on bolstering their popular support unflinchingly encourage such sentiments.

¹²⁰ Following a meeting of the Turkish National Security Council on 24 February 2007, Prime Minister Erdoğan indicated willingness to engage in dialogue with the KRG on Kirkuk and the PKK. However, Chief of Staff General Büyükanıt then declared he opposed talks with the KRG because it supported the PKK. Crisis Group interview, Turkish scholar, 23 March 2007.

B. OUTLINES OF A GLOBAL SOLUTION

To address the Kirkuk quandary as it relates to Kurdish independence effectively requires engagement of the four principal actors – the KRG, the Iraqi government, the U.S. and Turkey – on the three principal issues that concern them in this regard: Kirkuk, the PKK and oil. While a single, all-encompassing deal is unrealistic at this stage, these three components need to be addressed simultaneously and show progress for tensions to be defused.

First, the new hydrocarbons law, its annexes and corollary revenue-sharing law, once completed and passed by the council of representatives, would cement the Kurdish region in Iraq and thereby reduce Kirkuk's value to the Kurds as a stepping stone toward an independence they would have less reason to pursue.¹²¹ The U.S. has made passage top priority in its stabilisation efforts, recognising its unifying potential, but much work remains to be done. While the Iraqi government and KRG announced agreement on the law in February 2007, three crucial annexes have yet to be drafted and negotiated. The same holds for the critically important law on how royalties from oil sales are to be aggregated, kept and distributed equitably among the Iraqi people.

These are issues of serious dispute between the parties; the tension visible in all aspects of the difficult negotiations between a federal government seeking to reassert central power and a KRG bent on maximising its autonomy remains undiminished. The future of Iraq may stand or fall on successful completion and parliamentary acceptance of this legislative package, including a workable mechanism for fair oil-revenue sharing.¹²² It would also reassure Turkey (and other neighbouring states) that the post-Ottoman, Iraqi state system, for all its problems, injustices and the unhappiness it has caused, will remain intact for now.

The second component, successful resolution of the Kirkuk question more narrowly defined, most likely should entail one of the following, depending on how the process outlined above unfolds. First, as Crisis Group proposed in July 2006, the governorate of Kirkuk could be assigned a special status as a stand-alone federal region in Iraq, with a power-

¹²¹ Adnan Mufti stated: "We are not calling for independence. It won't be easy. In fact, it would be a huge headache. Everybody will be against us. We are landlocked. And we don't want to be a warrior country like Israel. We realise we must have good relations with our neighbours". Crisis Group interview, Erbil, 25 February 2007.

¹²² Passage of the hydrocarbons law and associated legislation would not be sufficient to rein in the centrifugal forces tearing the country apart. But these forces most certainly can not be subdued without such legislation.

sharing arrangement for an interim period supervised by the UN. This is a solution that Kirkuk's Arabs, Turkomans and Chaldo-Assyrians could live with but it would require a significant compromise by the KRG, which would need international guarantees that the Kurds' future would be secure in a federal Iraq.¹²³

Alternatively, the KRG might persuade Kirkuk's other communities that their future would be more secure in the Kurdish region, with a special status and power-sharing arrangement, along with other constitutional rights, guarantees and protections. At the moment, this scenario looks extremely unlikely, given the Kurds' legacy in Kirkuk of the past four years.

In any of these scenarios, the KRG, as the dynamic actor in Kirkuk, would have to abandon its bankrupt four-year strategy and welcome a major diplomatic effort spearheaded by the international community. The U.S., currently the Kurds only benefactor and supporter, would have to play a major role, along with the UN, which could bring its impartiality and technical expertise to bear.

This leaves the thorny issue of the PKK, which has the capacity to spoil any emerging arrangement on Kirkuk. For Turkey, the PKK manifests itself in Iraqi Kurdistan not only by its armed presence on Qandil Mountain, but also by the presence of a small refugee population harbouring pro-PKK sympathies in a camp near Makhmour (in Ninewa governorate) under KRG control; the movement's ability to operate television broadcasts; and the existence of an Iraqi Kurdish party, the Kurdistan Democratic Solution Party, that has staged pro-PKK rallies and otherwise serves as its mouthpiece in the area.

In response to Turkish pressure on it to eliminate the PKK in Iraq, the Bush administration appointed a retired U.S. Air Force general, Joseph Ralston, in August 2006. In turn, U.S. pressure on the KRG and resulting KRG pressure on the PKK induced the movement to declare a ceasefire one month later.¹²⁴ In January 2007, the Iraqi government

banned the PKK and ordered its offices closed. Moreover, the government, with the help of the KRG, carried out a comprehensive arms search in Makhmour camp in February (no useable arms were found), following which it declared the camp free of weapons and imposed a new security system. Shortly afterwards, the UN High Commissioner for Refugees conducted a census and registered all camp residents (over 9,000). Turkey hardly appeared mollified, despite a U.S. declaration that it considered the camp to have regained civilian status. Ankara claimed that the KRG had tipped off PKK fighters there and that the camp, while perhaps weapons-free, remained a haven for their rest and relaxation.¹²⁵

Still, the measures were symbolically important, as signalling KRG willingness to limit the PKK's room for manoeuvre. Likewise, the Kurdistan Democratic Solution Party has been restricted.¹²⁶ Although banners bearing imprisoned PKK leader Abdullah Öcalan's visage were on display in Erbil on the February 2007 commemoration of his capture, the party's planned march was banned. Its leader has been able to publish views but was detained on three occasions in 2006 for alleged offences.¹²⁷ U.S. officials have suggested the KRG could do more to clip the PKK's wings, for example by shutting down its media activities and preventing resupply of fighters.¹²⁸ It could also prevent PKK fighters from entering KRG-controlled areas, including the Makhmour camp, and further isolate the movement by preventing journalists from visiting it on Qandil Mountain. The KRG should at least state publicly that it will not tolerate the PKK in the Kurdish region unless it agrees to abandon its armed struggle and disarms.

An eventual, durable settlement of the PKK question would probably have to involve not the rebels' military defeat, which the KRG deems impossible,¹²⁹ but an amnesty for

¹²³ Jalal Talabani has reportedly offered this option informally on more than one occasion. A PUK official also mentioned it to Crisis Group but insisted it would have to be the outcome of the referendum rather than a consensus option precluding the need for a referendum. Crisis Group interview, 23 March 2007.

¹²⁴ KRG officials claim that the U.S. has had direct talks with the PKK in Qandil. Crisis Group interview, Erbil, February 2007. Following PKK leader Abdullah Öcalan's capture in 1999, the movement declared a unilateral ceasefire. It resumed fighting in 2004 but returned to a ceasefire on 28 September 2006. Its ceasefires did not seem to affect another group, Kurdistan Freedom Falcons (Teyrêbazên Azadiya Kurdistan, TAK), which has claimed responsibility for a number of attacks in towns frequented by tourists in the past few years and which many in Turkey assume to be either an offshoot of or a cover for the PKK.

¹²⁵ Crisis Group telephone interview, Western official, 12 March 2007. Negotiations are continuing over the terms of the camp's closure and the fate of its residents.

¹²⁶ The KRG has had to walk a fine line between its professed support of an open society in Iraqi Kurdistan in which freedoms flourish and the requirement not to provoke its powerful neighbour.

¹²⁷ Crisis Group telephone interview, Faiq Golpy, leader of the Kurdistan Democratic Solution Party, Suleimaniya, 24 February 2007.

¹²⁸ Crisis Group interview, 26 February 2007.

¹²⁹ The KRG insists that trying to defeat the PKK on Qandil Mountain would be futile, given the terrain. PUK and KDP fighters retreated there and survived following their defeat in the 1988 Anfal counterinsurgency campaign. The mountain range historically has been an impregnable refuge for Kurdish rebels from Iraq, Iran and Turkey. "The United States does not want another Tora Bora", said the KDP's Safeen Dizayee, Salah al-Din, 19 February 2007.

its fighters and mid-level cadres in Turkey,¹³⁰ its voluntary disarmament, the integration of its senior cadres and leadership in Iraqi Kurdistan and either the voluntary repatriation of civilian refugees from Makhmour to Turkey or their absorption in Iraqi Kurdistan or a combination of the two.¹³¹

V. CONCLUSION

The Kirkuk issue is rapidly approaching a denouement which promises to be violent and followed by enduring instability.¹³² For it to be otherwise requires a different approach by the Kurds. The main stumbling block is that, psychologically, they see themselves as the victims, not, as the other communities see them, the bully. They are neither. They were Arabisation's primary victims but today run Kirkuk; yet despite their dominance, they have chosen a constitutional over a military path to press their claim.¹³³ But what Kurdish leaders do not seem to recognise is that they make this claim from relative strength and are decisively shaping the agenda and dictating terms. Nor do they acknowledge that many of their opponents reject not simply the outcome Kurds desire but also the process they have imposed, which is certain to yield that outcome. By making only vague promises about concrete benefits, the Kurds are in effect telling the other communities to check their sound judgment at the door and make a leap of faith into an uncertain future in an Iraqi Kurdistan that may or may not become independent.

For a peaceful and lasting settlement of Kirkuk's status, the process the Kurds favour – implementation of Art. 140 of the constitution – should be replaced by one to which all Kirkuk's communities can subscribe. It should be preceded by confidence-building measures, such as release of prisoners held without charge and more equitable reallocation of administrative positions, and be spearheaded not as it has been by lower-level officials but by senior KRG leaders. Most importantly, this alternative process should leave open the outcome (not excluding Kirkuk's incorporation into Kurdistan) and focus on dialogue and consensus building to reach a result all can live with.

To its credit, the Kurdish leadership seems aware that its strategy has not worked and should be changed. What is lacking is consensus on a new approach and commitment to push it forward. Rather than using Kirkuk to score points against each other, the KDP and PUK should unite on an agenda with greater promise of acquiring Kirkuk by peaceful means and holding on to it. To sell this to their supporters, they would have to show that the alternative process will bring real benefits to all Kirkukis: a reduction

¹³⁰ The possibility of a Turkish amnesty for PKK fighters seems remote in an election year. Once the elections have passed, and depending on their outcome, it would not be inconceivable.

¹³¹ Adnan Mufti, the president of the Kurdistan National Assembly, declared that the PKK is ready to disarm but cannot without an amnesty: "They would like to become a political party in Turkey". Crisis Group interview, Erbil, 25 February 2007. Likewise, Masoud Barzani's chief of staff, Fuad Hussein, said there is no solution to the PKK problem without an amnesty declared by Turkey. Crisis Group interview, Erbil, 26 February 2007.

¹³² A Kirkuki resident stated: "Jalal Talabani once said that Kirkuk needs brain surgery, carried out by a skilled and brave surgeon. But before that an anaesthesiologist should administer a sedative. The patient should be calmed, not agitated". Crisis Group interview, Kirkuk, 20 March 2007.

¹³³ This led one Arab in Kirkuk to openly acknowledge that the situation in Kirkuk was relatively better than in Baghdad, because, he said, unlike the Sadrists, "the Kurds don't shoot at us". Crisis Group interview, Kirkuk, 20 March 2007.

of violence in the city as tensions ease and all can unite against the jihadi spoilers; fairly distributed reconstruction funds; and, as the situation improves, the voluntary return of displaced Kirkukis (along with implementation of other aspects of normalisation).

It is clear, however, that the Kurds can only move in that direction with full support of – and pressure from – the U.S., which has failed to formulate a proactive policy; with the active cooperation of the Iraqi government, which has been the most reluctant of partners in this enterprise; and with the tolerance of Turkey, which has been most alarmed by the Kurdish drive on Kirkuk and has both the interest and ability to thwart it.

Preoccupied with stabilising Iraq at the centre, the Bush administration has neglected the Kirkuk crisis and thereby allowed it to escalate. If its calculation is that it cannot afford to fray relations with its Kurdish allies, it should consider that civil war in Kirkuk would have far greater costs and could undo whatever progress U.S. forces may make in Baghdad.

The U.S., therefore, should start investing immediately in a peaceful resolution of the Kirkuk question, broadly viewed. This means working simultaneously on at least three fronts:

- ❑ extending its pressure for passage of the hydrocarbons legislative package as a way of applying a cohesive glue to a disintegrating Iraq;
- ❑ continuing to pursue a non-military settlement of the PKK question that satisfies Turkey's core interest that the organisation lose its capability to carry out attacks; and
- ❑ persuading the KRG, through behind-the-scenes diplomacy, to move away from the referendum deadline and embrace a more inclusive process of negotiating Kirkuk's future, in exchange for a pledge of protection.¹³⁴

Reassured of U.S. support, the Kurdish leadership should lower its rhetoric on Kirkuk, close ranks behind a strategy based on dialogue, reach out to the leaders of Kirkuk's other communities in a genuine effort to forge a durable peace and develop an information strategy aimed at convincing Kurds and non-Kurds alike of the superior benefits of a consensual approach. It should also express readiness to

provide those *Wafidin* who are prepared to leave Kirkuk a better deal than is currently on offer.

The peaceful resolution of the Kirkuk question would then point the way to a similar process for addressing the status of the other territories claimed by the Kurds.

Kirkuk/Amman/Brussels, 19 April 2007

¹³⁴ A U.S. official suggested that in exchange for a Kurdish compromise on Kirkuk, the Kurds could be offered the prospect of a major U.S. military base in the Kurdish region. Crisis Group interview, Washington DC, 28 March 2007. While the U.S. maintains several large bases in Iraq, none is in the Kurdish region.

APPENDIX A MAP OF IRAQ



APPENDIX B

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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 printed copy to officials in foreign ministries and international organisations and made available simultaneously on the website, 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 January 2000 has been former Australian Foreign Minister Gareth Evans.

Crisis Group's international headquarters are in Brussels, with advocacy offices in Washington DC (where it is based as a legal entity), New York, London and Moscow. The organisation currently operates twelve regional offices (in Amman, Bishkek, Bogotá, Cairo, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina, Seoul and Tbilisi) and has local field representation in sixteen additional locations (Abuja, Baku, Beirut, Belgrade, Colombo, Damascus, Dili, Dushanbe, Jerusalem, Kabul, Kampala, Kathmandu, Kinshasa, Port-au-Prince, Pretoria and Yerevan). Crisis Group currently covers nearly 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia,

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