NIMEP INSIGHTS

NEW INITIATIVE FOR MIDDLE EAST PEACE

A PROJECT OF THE INSTITUTE FOR GLOBAL LEADERSHIP AT TUFTS UNIVERSITY

Cover Photograph: Ian MacLellan

A peshmerga soldier sits in front of the Erbil Citadel which may be the longest continually inhabited town in the world. Earliest records suggest that the site was first inhabited in the fourth millennium BCE. In 2007, all of the residents of the mound, except for a single family who remained to maintain the continuity, were evicted in order to facilitate restoration and archaeological research.

NIMEP INSIGHTS

Volume 6, Fall 2011

NIMEP INSIGHTS

New Initiative for Middle East Peace

A PROJECT OF THE INSTITUTE FOR GLOBAL LEADERSHIP, TUFTS UNIVERSITY

NIMEP is a non-polemical student think-tank and outreach initiative devoted to finding progressive solutions to historic conflicts in the Middle East. NIMEP provides a form for productive dialogue, scholarship and exploration of the region. The diverse individuals who spearheaded this initiative are committed to contributing to future leadership and to inspiring others to realize the powerful results such a model of thinking and action can produce.

The contents of this journal are the work of NIMEP members and academics. NIMEP *Insights* is the culmination of months of research and preparation, thousands of miles of travel and immense dedication on behalf of our members and supporters.

NIMEP C/O INSTITUTE FOR GLOBAL LEADERSHIP, TUFTS UNIVERSITY
96 PACKARD AVENUE, MEDFORD, MASSACHUSETTS 02155

HTTP://WWW.TUFTSGLOBALLEADERSHIP.ORG/PROGRAMS/NIMEP
TUFTSNIMEP@GMAIL.COM

NIMEP Insights was compiled and edited by:

Patricia Letayf '11

DEDICATED TO

Shahla Al-Kli

The cover of this edition of Insights depicts the Kurdistan flag waving high within the walls of one of the most ancient citadels in the world. The flag is emblazoned with a bright sun in the center, a symbol of eternal light and inspiration to the Kurdish people. For us, the members of this year's research trip to Iraqi Kurdistan, the sun might as well be replaced with a shining light personified by our group's guide and mentor, Shahla Al-Kli.

Without Shahla's steadfast dedication to her mission of breathing new life to Iraqi Kurdistan and its people, this trip would have never taken place. Without her tireless planning and meticulous organizational skills, we would have surely stumbled into Kurdistan deaf, blind and mute. And without her uncompromising instinct for hosting guests in a manner truly reflecting famed and fabled Kurdish generosity, we would have never had the chance to see, taste and revel in all that Kurdistan has to offer.

We are forever grateful to you, Shahla, our gateway to Kurdistan, and we dedicate this journal to you.

Acknowledgements

This historic trip to Iraqi Kurdistan would not have been possible without the support of a number of individuals. We are eternally grateful to the Kurdistan Regional Government, and particularly Speaker of the Kurdistan Parliament Dr. Kamal Kirkuki, for sponsoring our visit and facilitating our trip. And to Shahla Al-Kli and Dr. Kirkuki's hard-working staff of advisors—we thank you for working around the clock to arrange meetings and plan outings and trips for us. We would have been lost without you and your guidance. And we thank your families for being so patient while you worked so diligently during our two-week stay. Zor zor spas.

To the Bendetson family and to Sherman Teichman, Heather Barry and the Institute for Global Leadership staff—we are deeply indebted to you for providing us with this once-in-a-lifetime opportunity to travel to Iraq and for supporting us for the past year. Thank you for your passion, dedication and most of all—your friendship.

To all of the professors, academics, journalists and alumni who spoke with us prior to our departure to Kurdistan—Mohammed Ahmed, Michael Kelly, Joost Hiltermann, Sean Kane, Robert Olson, Ian Klaus, David Romano, Michael Kelly, Ethan Corbin and Matan Chorev—you piqued our interest and provided us with a springboard for our research. Thank you for taking the time out of your busy schedules to indulge our curiosity with your knowledge and insight.

To Rana Abdul-Aziz—you are the busiest person we know, and we thank you for taking two weeks of your winter break to accompany us to Kurdistan. Thank you for translating, for sharing your stories, for sitting with us in office hours and for spending all that time in the car with us. And to Zach Iscol, our favorite marine—we thank you for your advice, guidance and help with the editing process. Thank you for reading all of our papers and answering all of our e-mails. We hope we made this the best of your five trips to Iraq, and may you always be young at heart. To both of you—we really cannot thank you enough. This trip would not have been the same without you.

And lastly, to our parents. Thank you for trusting your children enough to let them travel on this intellectual journey to Iraq. For your support, encouragement and especially your patience—we are eternally grateful.

Table of Contents

Iraq, Kurdistan, and the Institute for Global Leadership: A Retrospective

Since the very inception of the Educational for Public Inquiry and International Citizenship (EPIIC) program – the foundation program of the Institute for Global Leadership at Tufts University – Iraq and in specific, Iraqi Kurdistan, have been areas of great concern.

In 1986, our students studied state-sponsored terrorism and the Iran-Iraq War and sought to understand the infamous 1983 handshake between Saddam Hussein and Donald Rumsfeld, then President Ronald Reagan's Special Envoy. In 1988, they probed the details of the notorious Iran-Contra imbroglio in our forum on covert action and democracy.

We continued our inquiry with forums on the Iran-Iraq War during EPIIC's 1990 forum on The Militarization of the Third World, and worked with Dr. Jonathan Fine, then founding director of Physicians for Human Rights, to examine the violence of the Iran-Iraq war and the proliferation of small arms and land mines in the region, helping to create thinking that led ultimately Human Right Watch's program, ArmsWatch.

Our concerns with Iraq deepened with Iraq's 1990 invasion of Kuwait. In 1991, we looked at the violence and its long-range implications with Sami al-Faraj of Kuwait, an intelligence and security expert who served Kuwait on the Gulf Coordinating Committee. Pursuing a Master's at Tufts' Fletcher School of Law and Diplomacy, he was an invaluable teaching assistant for EPIIC's 1987 "The West Bank and Gaza" year. We also looked at the societal dimensions and welcomed into our discussions Vera Saeedpour, the noted scholar and archivist of Kurdish culture, and gave special consideration to the environmental impact of the war.

Also in 1991, Laith Kubba, a former member of the Supreme Council of the Islamic Revolution in Iraq and Secretary-General of the then London-based Democratic Reform Movement of Iraq, participated in EPIIC's symposium on "Confronting Political and Social Evil." The students read The Republic of Fear and had the opportunity to interact with its author, Samir al-Khalil (the pseudonym chosen by the controversial scholar Kanan Makiya to avoid endangering his family), to better

understand the atrocities of the Saddam Hussein regime, its Al-Anfal campaign, and Hussein's poison gas attack on the Iraqi Kurdish town of Halabja on March 16, 1988.

The students subsequently worked with Makiya to try to bring his Iraqi Documentary Project to Tufts, discussed his later book, Cruelty and Silence: War, Tyranny, and Uprising in the Arab World and argued with him over the wisdom and efficacy of the deep "deBa'athtification" of Iraq's army and other Hussein era institutions.

Iraq continued to figure prominently in successive EPIIC years, where we looked at Sovereignty and Intervention (2003) and The US Role in the World (2004). In one unique instance, we were able to secure a then relatively restricted document, the U.S. Department of State's Bureau of Legislative Affairs report on "The Future of Iraq" project. It was an extensive pre-invasion study of potential U.S. and Iraqi joint administrative governance -- a hopeful blueprint to avoid the excesses of occupation. It was also a document that the Pentagon had willfully dismissed and ignored, which allowed us to understand how the debacle inside Iraq in the aftermath of the intervention occurred.

These issues deepened in intensity for us with the creation of our ALLIES (Alliance Linking Leaders in Education and the Services) civil-military program in 2006, especially when some of our students became close friends with the young officers of our U.S. military academies who were deployed to the front lines throughout the war in Iraq.

In 2007, the Institute supported former EPIIC student and current teaching assistant Matan Chorev to travel to Iraqi Kurdistan for his Fletcher thesis research on "The International Dynamics and State-Craft of a Semi-State." Matan was one of the founders of NIMEP as an undergraduate. That year, the IGL also awarded the Institute's Dr. Jean Mayer Global Citizenship Award to Dr. Mohammed Ihsan, Minister for Extra-Regional Affairs and later Minister of Human Rights in Iraqi Kurdistan, who was devoted to the reintegration of originally Kurdish areas confiscated and "Arabized" by the Saddam Hussein regime, including Kirkuk and Mosul.

Also that year, with the support, ingenuity, and creativity of the IGL's External Advisory Board Co-Chair Robert Bendetson, we created a specific public diplomacy initiative: Iraq: Moving Forward. It began with a conference the Institute sponsored at Tufts with senior Iraqi ministers, government officials, and generals who came together in public and private sessions with such people as Ambassador John

Shattuck, Ambassador Peter Galbraith (an adviser to the Kurdistan Regional Government), Col. Isaiah Williams, one of General David Petraeus' senior officers, and other leaders and negotiators from other bitter and protracted conflicts such as Bosnia and Israel and Palestine. We were aided in this by the participation of the Project on Justice In Times of Transition, a strategic ally of the Institute.

The conference led to a Track Two mediation initiative over the next several years. The senior Iraqi participants at the forum accepted the challenge for further discourse to consider a road map to peace, and together with the skill and negotiation experience of Padraig O'Malley, the Moakley Professor of Peace and Reconciliation at the McCormack Institute at the University of Massachusetts Boston, we convened over several years in Helsinki, under the aegis of the Conflict Management Initiative, the Finnish NGO founded by Finland's President Martti Ahtasaari.

Involved in this initiative were not only the leaders and representatives of the warring factions of Iraq, but also the former armed resistance and government leaders of apartheid-era South Africa and the Catholic and Protestant leaders of the of Northern Ireland. The leaders from South Africa and Northern Ireland shared how they had learned the value and imperative of peace and how they began the process of, if not reconciliation, then the transition from armed struggle to political struggle. They talked about how to consider when to give up their arms, amnesty, how to negotiate entering the political fray, and how, as they ruefully admitted, did this far too late, with far too many innocent people killed unnecessarily.

This effort ultimately produced The Helsinki Accords, signed in a conference we convened in Baghdad, which were principles for political participation and for laying the groundwork for an Iraqi electoral process. The details of this can be found at: http://www.tuftsgloballeadership.org/programs/bendetson/the-iraq-project.

The Institute for Global Leadership subsequently hosted President Ahtisaari at Tufts, where we acknowledged his many peacemaking efforts with our the Mayer Global Citizenship Award, this immediately prior to his being awarded the Nobel Peace Prize.

The Institute has also hosted Iraqi delegations of Kurdish, Shi'a, and Sunni students over the last three years at our EPIIC symposia. During their week at Tufts, they have had the opportunity to interact with other students delegations not only from such disparate countries as Israel and China but also with the cadets and midshipmen of the U.S. military academies, in both public and private meetings.

We recently had the honor of hosting Dr. Zuhair A.G. Humadi, the executive director of Iraq's Higher Committee for Education Development that prepares Iraqi students to travel to the United States. We look forward to the students he will be sending us for this year's EPIIC symposium on Conflict in the 21st Century.

We will persist in our efforts to understand Iraq. We will have the honor of presenting this Insights issue to the Speaker of the Kurdish Parliament, Dr. Kemal Kirkuki, when he comes to Tufts this year. He was one of NIMEP's formal hosts in Iraq. And we will be welcoming Dr. Mowaffak Al-Rubaie, the Iraqi National Security Advisor and former Member of Parliament in Iraq's Council of Representatives, to our campus as an Institute and Fletcher visiting lecturer. Among the Dr. Jean Mayer Global Citizenship Award recipients this year are also Zainab Salbi, the author of Between Two Worlds: Escape from Tyranny: Growing Up in the Shadow of Saddam and the founding director of Women for Women International, and Hania Mufti, the London director for the Middle East and North Africa Division of Human Rights Watch. We will also continue our efforts to think about the future of the divided city of Kirkuk, situated in a highly contested a oil-rich region of Iraq.

The essence of the Institute's programs is direct and respectful communication and the search for common ground. It is this ethos that led to the creation of NIMEP. In that spirit, it is typical that the group leaders of the Kurdistan trip documented in this issue, are of Lebanese, Kuwaiti and Israeli identities. To Patricia, Khaled, and Amit, accept our deepest appreciation for your diligent and sensitive efforts to understand the complexities of Iraq and the intricacies of Kurdish internal and external dynamics.

To Rana, an Iraqi-American who participated as an undergraduate in the Institute's TILIP program and who is now a Tufts faculty member and the coordinator of the university's Arabic Studies Program, our heartfelt thanks for escorting the NIMEP delegation to your native homeland and for translating and deciphering during the trip. We remember very well Rana's admonitions and forebodings about the likely devastating consequences of a U.S. invasion of Iraq, regardless of its human rights pretensions, and of her vivid anti-war poetry.

To Shahla, we owe an incalculable debt for her interventions and extraordinary preparations on the ground, but even more for her openness and tolerance. We were first introduced to her by one of her friends and fellow students at The Fletcher School, Dahlia Shaham, an Israeli lawyer and former EPIIC T.A. These two women, indispensable to our community, are now engaged in a project on Jewish-Muslim reconciliation.

To Zachary, our NIMEP INSPIRE Fellow, introduced to us by the PJTT, accept our sincere gratitude. As a U.S. marine, now also deeply committed to the search for alternatives to coercion, he exemplifies the transformative education that we try to inculcate in our students.

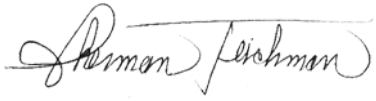
To Bobby Bendetson goes our great thanks and admiration for his bold vision and courage to help us enact the important and expect the unexpected. Most recently he traveled to Iraqi Kurdistan to present the President of Iraqi Kurdistan, Masoud Barzani, with the Robert and Joanne Bendetson Public Diplomacy Award.

To Howard Finkelstein, we owe a great acknowledgment of his extraordinary generosity in support of NIMEP all these year, and for nurturing a son who will pursue peace in the Middle East.

This publication is an enterprise of a number of different constituent Institute groups, including Exposure, our photographic documentary human rights program, represented by Ian's superb photography. To Patricia, also goes our debt of gratitude for being so decisive in the creation of this issue.

And to Heather Barry, our associate director, our deep gratitude who as always, was so wonderfully instrumental in the student's excellent mentoring and preparation prior to their trip and to this publication taking final form.

Our commitment is to continue to do our best to educate our students in the global vision of reconciliation and understanding.



Sherman Teichman
Director
Institute for Global Leadership
August 2011

FOREWORD

Each year, through the Institute for Global Leadership's New Initiative for Middle East Peace, a small group of students are selected to conduct research projects throughout the Middle East. Past NIMEP classes have forged paths into places few undergraduates have had the opportunity to tread.

In 2004, NIMEP sent the first American student delegation to Iran in over 25 years. Other classes have gone to Israel and the Palestinian Territories, Kuwait, Turkey and Syria. Always asking difficult questions backed by rigorous research, the trips are as much about finding answers as they are about self-reflection and the opportunity to challenge one's personal and deeply-held beliefs. This year's class, which ventured to Kurdistan, a semi-autonomous region in northern Iraq, is no different.

Over the last century, the Kurds have fought against neighbors, occupiers and themselves to carve a homeland from the mountainous borderlands between Iraq, Turkey, Iran and Syria. Today, having been granted autonomy nearing the capacity and power of a state, Iraqi Kurds fight very different battles for economic prosperity, democracy and security. Our hosts, the President of Kurdistan, Masoud Barzani, and the Speaker of Parliament, Dr. Kamal Kirkuki, are emblematic of their country's recent transformation. Once members of the storied peshmerga guerilla units, they now fight equally important pitched battles through governance and politics.

As the Kurds attempt to hold on to their past without losing their future, our students struggle with the complexities of Kurdistan's autonomy and explore its relations to the federal government, foreign governments and to its citizens:

Amit uses oil and the control of natural resources to examine the KRG's relationship to Baghdad; Jacqueline looks at the integration of Kurdish peshmerga military units, which fought a brutal civil war against each other in the 1990's; Patricia covers the struggle for Kirkuk; Patrick, Mark and Khaled all examine the KRG's relationship to foreign governments, usually the purview of the state; and Rajesh, Afsheen and Kathryn examine the development of Kurdish civil society through gender equality and healthcare.

After visiting Halabja, a small town on the Iranian border where Saddam gassed thousands of civilians, and Kirkuk, a violent, multi-ethnic, and disputed oil-rich territory, Speaker Kirkuki spoke to our small group. Illuminated by the giant gas flares of Kirkuk's oil fields, he rhetorically asked how such an impoverished, war torn city, where sewage runs through the streets, few residents have electricity, and car bombs are a regular occurrence, could be sitting atop some of the world's richest oil fields. At that moment, as their predecessors had been in Iran, Israel, the West Bank, Turkey and Kuwait, Speaker Kirkuki challenged this year's NIMEP class to take a giant leap beyond the confines of the classroom to face the challenges of the real world.

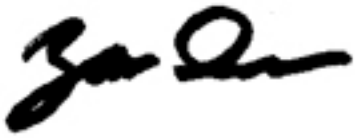
In 2004, the same year NIMEP's first students departed for Iran, I deployed as a U.S. Marine Officer to Iraq's restive Al Anbar Province, where I commanded a combined unit of 200 Iraqi soldiers and 30 US Marines. We lived, trained and fought alongside each other. Although it was my second Iraq deployment, it was my first real experience navigating the complexities of Iraqi politics, society and culture. Many, if not most of my pre-conceived notions and their accompanying moral judgments and relativism would be challenged. My liberal arts Ivy League education had done little to prepare me for this reality.

Some of my Iraqi soldiers had brothers fighting in the insurgency, others served in Saddam's Republican Guard and others bore physical scars or missing fingers from being tortured by the former regime. Few were willing to readily abandon the past for a young American lieutenant's bright-eyed vision of Iraq's future. Hence the handling of these relationships could easily turn adversaries to allies or friends into enemies. I often wonder if I might have avoided any number of misadventures and mistakes in Iraq if I had had the benefit of the education provided by a NIMEP experience.

I would like to thank Sherman Teichman and Heather Barry for their steadfast support and commitment to ensure our students depart from Tufts with the experiences necessary to become global citizens. I am also indebted to Tim Phillips, Wendy Luers and Ina Breuer for introducing me to my students and the staff at IGL.

This edition of *Insights* would not have been possible without the support of the Kurdish Regional Government. For their efforts, friendship and unmatched hospitality, we are forever grateful to President Masoud Barzani, Speaker Kamal Kirkuki and their energetic staffs, especially Shahla Al-Kli.

Finally, I would like to congratulate the contributors and editor, Patricia Letayf, whose hard work and diligence was critical to its completion, on this edition of *Insights*. They represented the best of their school and country and I feel privileged to have been able to join them on this journey.



Zachary Iscol
August 2011

Section I:

A State within a State: Baghdad-KRG Relations

Oil and Political Authority: An Analysis of Relations Between the Government of Iraq and the Kurdistan Regional Government

by Amit Paz'11

The transition to a federal, democratic Iraq has not been an easy one. Disempowered populations in Iraq have been positioning themselves politically ever since the American invasion in 2003. Iraqi Kurds are a symbol of this newfound political power in Iraq. The Iraqi Constitution, signed into law in 2005, recognizes the federal nature of the democratic Iraqi republic by legally authorizing the political autonomy of the Kurdistan Region and its government, the Kurdistan Regional Government (KRG). The Constitution represents the first legal arrangement between the Government of Iraq (GOI) and the KRG whereby political, financial and economic authority and most specifically for the purposes of this paper, authority over oil-related matters, is not under the total purview of the GOI. The Constitution is thus the source from which this paper draws its fundamental conclusions on the dispute between the GOI and the KRG over oil and political authority.

The root of this dispute, however, transcends the differing legal interpretations to the Constitution; the differences are deeper than institutional disputes. The quarrel over who controls what part of the oil industry in Iraq represents an echo of a much deeper rivalry between Kurds and Arabs which has revolved around the matter of political sovereignty. An historical analysis is therefore necessary on several accounts. First, a brief recounting of the circumstances under which Iraq came into being while an independent Kurdish entity did not should help outline important themes in the Kurdish narrative. Second, an in-depth account of Iraq's troubled history with international oil companies will frame the recent debates taking place in Iraq's Parliament regarding future oil laws under federal authority. Third, an understanding of the development of Kurdish political autonomy in Iraq especially following the American invasion and the subsequent signing of the Iraqi Constitution will chart the change in the structure of political authority over oil and will clarify how Kurdish regional aspirations cause tension in Iraq's federal structure. Following this historical analysis, which will reveal some of the fundamentally different aspirations of the GOI and the KRG, a detailed, legal analysis of the Constitution will uncover how political differences between the two entities manifest themselves through different legal interpretations.

Oil is by far the largest source of revenue for both the GOI and the KRG.

Understanding and solving the dispute between the two entities may turn out to be a crucial element in ensuring the stability of Iraqi democracy in the future while guaranteeing the economic vitality of the Kurdistan Region.

IRAQ'S MODERN PRE-HISTORY

The borders of the countries in the modern Middle East we know today can largely be attributed to the demarcations made by the British and the French. Once it was obvious that the Ottoman Empire would fall at the end of World War I, the British, the French and the Russians signed the Sykes-Picot Agreement, effectively carving up Ottoman lands and parceling them up as the victors' spoils of war. The Russians eventually withdrew from this agreement after the Bolshevik Revolution in 1917. The seemingly neat practice of map-making, however, ran counter to British promises to the Arab subjects of the Ottoman Empire. The British overture outlined that in exchange for Arab participation in revolting against the Ottomans, the British would grant the Arabs independence after the war. This promise, however, was compromised and transfigured into the Mandate. The Mandate essentially provided Britain and France with temporary legal supervisory roles in the Arab countries while they transitioned to independent governance.

The specific portioning of the former Ottoman lands between Britain and France was formalized in the Treaty of Sevres, signed in 1920. Iraq, which by contentious definition included the former Ottoman provinces of Basra, Baghdad and Mosul, was eventually entrusted to the British. The contention centered on the province of Mosul. At first, the province was supposed to be awarded to France, but Britain effectively muscled its way into the province at the end of the war and stayed there. France came to accept this. Another regional power, on the other hand, did not. Turkey became an independent country after successfully fighting its own formative war of independence following the collapse of the Ottoman Empire. As part of the negotiations at the Lausanne Conference over the final borders between Turkey and Iraq, the Mosul Question was brought up. The Turks claimed that Mosul belonged to them because the British invaded and took control of it after the singing of the Mudros Armistice which ended hostilities between the Ottoman Empire and the British in 1918. The British claimed that since the Ottoman entity had dissolved, it was no longer bound by this obligation. Both sides could not come to an agreement within the confines of the Lausanne Treaty, so they resolved to conclude the issue together in the following months. After the conference, a series of bilateral negotiations began between Turkey and Britain. A League of Nations Enquiry Commission on the issue drew up its conclusion in favor of Mosul's inclusion within the boundary of the British Mandate of Iraq. Thus, the final border was drawn.

The Kurds were directly affected by this final border decision. Most of the Kurdish population in the British Mandate of Iraq lived in the Mosul province. The Kurds did not want to be part of Turkey as it was too reminiscent of the Ottoman Empire to which they had remained partially subservient for the past few centuries. The Turks, moreover, explicitly denied the existence of Kurds as part of their nationalistic attempt to unite the country under a singular Turkish narrative. The Kurds hoped they would enjoy the same fate as the Arabs had—namely, provisional political autonomy and eventually, political independence. They had different reasons to think they would be successful. President Woodrow Wilson's Fourteen Points inspired the notion that national self-determination would constitute a new aspect of international relations. In addition, the Kurds were explicitly recognized during the peace negotiations in Paris and in the Treaty of Sevres, which called for a referendum by Kurds to determine their fate.

At first, British authorities in Mosul imposed no direct control and allowed the Kurds a measure of political autonomy. But geostrategic realities soon intervened and British policy was fundamentally reversed. Despite the Wilsonian ideal of self-determination and the recognition of Kurdish autonomy under the Treaty of Sevres, the Kurds would have to take a backseat to British plans which envisioned a strong Iraqi central state capable of countering any possible thrusts made by Turkey or Russia. Gradually, Kurdish aspirations for an independent Kurdish state were deflected, while the British imposed direct political control and began the process of deconstructing Kurdish authority where it existed. As part of this process, the city of Kirkuk, which belonged to the Kurdish autonomous district of Sulaimaniyah, was taken from Kurdish control and put under the direct supervision of British authorities.[i]

Kurdish ambitions were officially shelved during the Lausanne Conference even though part of the Commission's report recommended that "[regard] must be paid to the desires expressed by the Kurds that officers of Kurdish race should be appointed for the administration of their country, the dispensation of justice and teaching in the school, and that Kurdish should be the official language of all these services." [ii] Taking into consideration the success of Turkey's war of independence, the British reformulated their attitude toward Kurdish independence as previously stipulated under the Treaty of Sevres and decided on the dispersion of Kurdish lands. This move was a concession to Turkey as it rejected the idea of an independent Kurdish state. An independent Kurdish state would threaten Turkey's territorial integrity as many Kurds lived and still live within Turkey's newly defined borders. "The appeasement of Turkey therefore was essential for the preservation of British imperial interests in the Middle East, and the Kurdistan question, which was of great concern for Mustafa Kemal, provided a means to do so." [iii] With the establishment of an independent Iraqi state which included large amounts of Kurd-

ish land, Kurdish political autonomy was put on hold. The Kurds, however, rejected the notion of Arab rule. [iv] They revolted against the British but to no avail. The Kurds had been used by a stronger imperial power on the grand chessboard that is the geopolitical map of the Middle East. The Kurds' fate is neatly summarized:

"After the First World War, the Kurds, like other nationalities within the Ottoman Empire, were presented with an opportunity to form their own nation-state. The dismemberment of the Ottoman Empire had left chaos and a political vacuum in the Kurdish-inhabited regions of south-eastern Anatolia and northern Iraq. The Kurdish nationalists, like other nationalists within the Empire, tried to take advantage of this situation and establish a Kurdish state. However, British strategy following the First World War was primarily oriented towards containing the Bolshevik threat, and in the Middle East this necessitated enhancing the territorial unity of Iraq, Iran and Turkey. For this reason, the United Kingdom, which had initially encouraged nationalism as a counter to Turkey's pan-Islamism, opposed the establishment of a Kurdish state in an attempt to appease Kemalist Turkey during the Lausanne peace negotiations. The Lausanne Treaty, which was signed on 24 July 1923, formalized the de facto division of Kurdish-inhabited lands among Turkey, Iraq and Syria."[v]

The concept of betrayal, exploitation and victimization, from the beginning of modern Kurdish history, is deeply engrained into the Kurdish narrative. It is against this original, imperial betrayal and the consequences that followed that the Kurds fought for the remainder of the 20th century. It is also because of this original abandonment that the Kurds never enjoyed the bounty of Iraq's rich oil resources, or of Kurdistan's own oil reserves, until a sufficient degree of Kurdish political autonomy was instated in the 21st century.

IRAQ'S TROUBLED HISTORY WITH OIL

As was the case with Iraq's geographic determination, Iraq's history with regards to oil is dominated by stronger powers with broader objectives. The reasons for foreign interest in the Middle East are inextricably linked to the discovery of oil in the region, in addition to the Middle East's value as a vital trade route. As such, this section will explore the history of Iraq's engagement with the international oil industry in order to understand how this still influences some political standpoints in Iraq today.

Iraq's oil history can be divided into different eras: concessions (1925-1972), nationalization (1972-1991), sanctions regime (1991-2003) and the transition period that Iraq has endured since the war in 2003 (2003-present). The last era will not be discussed in this section.

The International Oil System and Iraq: First Generation Concessions

It is hard to imagine, but the combustive energy in oil that has conquered the world has only existed as a commercial product for approximately 150 years. The early years of the oil industry's booming activities were controlled by the notorious Rockefeller oil trust: Standard Oil Company. Both the American and European markets were almost completely supplied by Standard Oil. Europeans loathed remaining dependent on one source of supply at an easily manipulated price. Soon separate, private oil ventures sprung up and eventually challenged Standard's supremacy. Leading the field were Dutch and British interests in the form of the Royal Dutch Company and the Anglo-Persian Oil Company (APOC) respectively. Other independent interests formed Shell. As will be shown, these companies would play a formative role in Iraq's early history and in the history of the wider Middle East as well.

The dominance of these interests in the European market prevented other would-be great powers from securing enough resources at affordable prices to build a strong military force. Germany was such an example. It had been dependent on oil from the Russian market, but this proved unsustainable, and Germany, whose great ambitions started to startle other European powers, attempted to place its foothold in the Middle East. Germany managed to secure a contract with the Ottoman Empire for the construction of a railway from Berlin to Baghdad. As part of the contract, the construction company was allowed to explore for minerals within 20 km of either side of the railway. Construction began but was never finished due to the Young Turk revolution in 1908 which deposed the Ottoman sultan and changed the fortunes of Germany's plans.[vi] Meanwhile, in the same year, the forerunner of APOC struck oil in what is today Iran. This was the first discovery of oil in the Middle East.

Before World War I, the German contract was renewed through the formation of the Turkish Petroleum Company (TPC) but under terms which allowed for British and Dutch participation as well. The resultant contract represented a 25 percent share for German banks, a 25 percent for Royal Dutch and a 50 percent share for APOC, half of whose shares had been bought by the British government. By agreement amongst the shareholders, a five percent share was given to an Armenian businessman named Calouste Gulbenkian who helped form the TPC. The British were careful not to allow further European penetration to the Middle East without their supervision.

The outbreak of World War I prevented any action relating to the contract from taking place. More importantly, however, the war made it very clear that oil was a vital resource for war-making. The British Navy had already made claims regarding oil as the backbone of its continued supremacy of the seas. After the dis-

covery of very productive oil fields in Iran, the Middle East teemed with potential as the new zone of prospective supply to the European victors of WWI. American companies had monopolized the oil trade and Britain needed to secure its own source since it controlled only about 4.5 percent of the trade. Sir Harry Brittain outlined the British strategy in regard to oil quite frankly:

"Whether you like it or not we have arrived at the age of oil. We live in a country in which there is plenty of coal and no oil. We have to get oil with which to run our ships where ship-owners insist on burning oil…if oil can be obtained from Iraq, then Iraq will gain just as much as any commercial company will gain." [vii]

At the time the British Mandate of Iraq had been established, oil had yet to be discovered in commercial quantities in Iraq. But it was not hard to know that the bowels of the Iraqi desert were full of oil. In some places, such as Kirkuk, the oil was visible as it seeped through the sands and bubbled to the surface. In fact, it was reported by *Time Magazine* that "[i]t was 1900 when a Briton discovered oil in Mosul, not far from the legendary site of the Garden of Eden, in the shadow of Mesopotamia's Kurdish Hills." [viii] These observations, combined with the relative ease of discovering and extracting oil in Iran, bolstered Iraq's importance to British objectives. Before Iraq's final border was agreed upon, the British managed to secure an oil concession from the Iraqi government: "Despite the constant denial of British concern for Mosul oil, the Turkish Petroleum Company signed a concession agreement with the Iraqi government on 14 March 1925 giving the company a 75-year concession on oil, before the fate of the Mosul Vilayet was determined." [ix] Turkey had recently won its war of independence, and it was the first such country to negotiate with the British on an equal level. But Turkey did not belong to the League of Nations, and it was not surprising that the League decided in Britain's favor. "Turkey reluctantly had to accept the League of Nations' resolution and give up its territorial claims on the Vilayet of Mosul, but insisted that it should have a share in the Turkish Petroleum Company. This was rejected by London on the grounds that Turkey would receive a ten percent share from the royalties of the Iraqi government."[x]

The resultant concession agreement between the Iraqi government and the TPC changed the shareholders involved. The new company was now called the Iraq Petroleum Company (IPC).

"France had taken Germany's place. The U. S. had cut itself in on the pure-hearted principle of the "open door." Perhaps the Turkish concession was good but the companies wanted a new one from Irak's King Feisal. At last Irak Petroleum Co. was formed and the shares were equally divided, 23 percent each, among the winners: The Netherlands' Royal Dutch-Shell; Anglo-Persian, in which the British Government has a 50 percent interest; France's Compagnie Française des Pétroles,

in which the French Government has big holdings; and the U.S.'s Near East Development Corp., owned by New York's and New Jersey's Standard Companies and Gulf Refining Co. A final non-voting 5 percent went to a mysterious Armenian named C. S. Gulbenkian who was active in securing the Irak concession."[xi]

The major provisions of the agreement were as follows:

1. Exclusive oil rights to what amounted to the Baghdad Province (excluding Basra and "transferred territories").
2. The allocation of 24 rectangular plots the size of eight square miles each, by the government to the Company for the purpose of exploration and drilling.
3. The annual allocation, after four years, of an equal amount of land mentioned in the previous provision for public auction relating to oil exploration and production, open to all.
4. Royalty payments to the Iraqi government based on four shillings in gold per metric ton of net oil production for the duration of 20 years after the completion of an oil pipeline after which the payments will be deduced according to the market value of oil.
5. The Company must remain British and its chairman a British subject at all time.[xii]

The American entry into the Consortium was resisted by the British, but the Americans were not going to let the British monopolize the spoils of war; they were especially careful not to let their grip on the oil trade slip away, realizing how powerful a resource it was in the new oil age. The principle wielded by the Americans was the concept of the "open door," a free market principle conducive to economic competition and penetration. But the concept of free-market competitiveness soon gave way to monopoly control. The members of the IPC decided that the exploration and production of oil in the entirety of the former Ottoman Empire should remain in their exclusive domain. Furthermore, these companies did not have to compete with each other in the Middle Eastern market which belonged to the former Ottoman Empire. They pledged that any activity in the area would be done through the IPC as a whole or not at all. Known as the Red Line Agreement, this arrangement called for the companies to act in concert in a confined space.

But as for Iraq, the original 1925 concession was still limited to the Baghdad Province in the form of parcel plots to be jointly explored by the IPC. The new concession, renegotiated in 1931, extended the IPC's exclusive right to all lands east of the Tigris River.[xiii] Basra was still open to exploration, and the lands west of the Tigris which belonged to the Mosul Province were also free. But these conditions also changed quickly. In April 1932, the British Oil Development Company negotiated a 75-year concession for the free lands in the Mosul Province, but the company failed to find oil, and "ten years later this concession was transferred to the Mosul

Petroleum Company, a subsidiary of the Iraq Petroleum Company."[xiv] Similarly, in Basra, the Basra Petroleum Company, also a subsidiary of the IPC, signed a 75-year concession with the Iraqi government.

The 1931 concession essentially eliminated both the competitive bidders from the Iraqi oil space and the parcel system which mandated the annual exploration of a certain amount of lands per year. Now the companies were free to retain exclusive rights to all of Iraq without exploration and production expectations. A State Department oil expert, speaking in the 1950s, said the following about the 1931 revision:

"Nuri-es Said…was the Prime Minister then, and he put his initials on what I certainly consider one of the worst oil deals that has ever been signed, and one that in my opinion has damaged the interests not only of Iraq but of the whole world…he needed cash and in exchange he gave up the parcel system and he gave up a refinery which had to be built in Iraq before any oil could be exported. He also gave up the drilling obligation which would have forced the company to really operate in Iraq, not drill one or two wells and forget the rest of the area. He gave up a pipeline convention which stated that pipelines had to be built within a certain time limit. He gave up a provision which indicated Iraq would get oil at the lowest cost sold to others. All these provisions he gave up or modified in the 1931 agreement."[xv]

The Red Line Agreement, along with the eventual total control by the IPC companies, left Iraq at the mercy of these companies' terms. In fact, the companies involved agreed to make the IPC a non-profit organization. Whereas the earliest arrangements between the TPC and Iraq included a ten percent equity share for the Iraqi government in any oil consortium, the IPC's non-profit nature excluded this possibility.

"Why would the members want to be associated with a company that was nonprofit? The answer is that, although IPC was nominally nonprofit, this did not mean that there were not profits to be made, albeit in a roundabout manner. All of the major participants in the IPC were integrated companies, which meant that they did not sell crude oil on the open market. They used it themselves, passing it through their own refineries and selling it through their marketing setups in Europe, the Far East, or wherever. By taking profits downstream, on product (not crude), the companies could enhance their tax picture…"[xvi]

Iraq officially joined the host of independent countries in 1932, though this arrangement held firm through the 1950s. But before continuing, it is necessary to elaborate on the nature of concessions in order to understand why they have been, and remain, so controversial.

In the Middle East, oil belongs to the state, as opposed to its being the property of the landowner, like it is in the United States. A concession, therefore, describes the terms under which any actor makes a deal with the sovereign government of the country where the oil is found. The companies involved were all

foreign companies. These concessions were henceforth looked down upon because the "concession often creates a monopoly in favor of the foreign enterprise; it may raise questions as to the extent to which the government is thereby discriminating against its own nationals; it tends to put a part of the economy of the country under the influence of economic elements outside the government's control."[xvii]

The question that remains is whether or not the conditions by which foreign companies operated their concessions inherently exploitative. A concession with a foreign company does not have to be inherently incompatible with a national government. It must also be noted that

> "the concession system can be defended as a reasonable basis for the development of petroleum in a backward area. The countries, for technical and commercial reasons, would have difficulty exploiting their own oil and marketing it for their own account. Often, before a concession is granted, they do not even know whether oil exists…Furthermore, business necessity dictates that the companies must be allowed to operate with a reasonably free hand." [xviii]

Hence, it is easy to see how business practices clash with nationalistic passions. All concessions shared some basic elements: a provision for the nature of the work involved, the area of operation, the royalty or other form of payment to be made to the government, a reference as to the duration of the concession and an arbitration clause outlining the procedure for addressing disputes between the two actors.[xix] Furthermore, the company acquired the title to the petroleum and was usually allowed to use the extracted resource as it saw fit without any restrictions, and finally, the company bore the commercial and financial risks associated with exploration and production operations.[xx]

The most important part of the concession, however, was the payment clause, whether it was in the form of royalties, taxes or signature bonuses. The relative proportion of company profit and government revenue could determine whether or not the relationship was deemed exploitative. This relationship, of course, had to take into consideration both the business concerns of the operating companies and the legitimate rights of the government to earn a substantial amount of money from its country's natural resources. But no Iraqi representatives were allowed to review the internal operations of the companies to ensure that honest numbers were reported and that taxation and government revenue were indeed representative numbers of the companies' actual production and sale value. The concession terms allotted for a "dead rent" royalty fee to be paid before the companies began production and for a production tax to be levied based on metric tonnage produced according to prices set by the oil companies.

The exploitative element seems to center around the decision-making process which was not transparent and not necessarily legal. "The companies oper-

ated as a cartel. Cartels were illegal organizations. Perhaps not in Britain or France, but this certainly was the case in the United States."[xxi] In this sense, the companies asymmetrically controlled the most obviously mutually-beneficial part of the contract, and they manipulated those terms to their benefit, to the detriment of the producing countries. The oil trade was an oligopolistic market because there were few producers and even fewer sellers. The biggest companies, which were integrated companies in control of both upstream and downstream operations, coordinated on price setting and production rates. When there are few sellers and demand is high, that power can go on uncontested.

Second Generation Concessions

The second generation of oil concessions in the Middle East followed the wave of nationalizations in the region during the 1950s and 1960s. These concessions represented a "reasonable compromise between the emphasis on national sovereignty and the efficiency of the oil operations [which revised] existing concession agreements in favor of the producing country."[xxii] The new provisions modified those already enumerated above to include a well-defined, limited area of operation for a shorter amount of time, rules regarding the amount of time allowed for extracted oil supply to remain idle, a 50 percent income tax, higher, explicitly agreed upon royalties, other defined fees, rules for additional investments and detailed rules for solving disputes.[xxiii] This second generation of concessions, which began with a substantial increase in the national countries' "participation," slowly gave way to outright nationalization and the emergence of national oil companies.

It is in the context of increasing Iraqi oil production and rising Arab nationalism that the asymmetrical relationship between the international oil companies and the Iraqi government began to change. Following in the footsteps of Venezuela and Saudi Arabia, which signed 50-50 profit sharing agreements with the oil companies, the government of Iraq managed to negotiate a 50-50 profit sharing deal in 1952. Also included in the new contract were modified standards for royalty payments and new requirements for Iraqi executive participation in the IPC subsidiary companies and the training of Iraqi nationals in petroleum related fields. This new contract, combined with the fact that Iran nationalized its oil industry in 1953, a fact which significantly decreased Iranian oil production, led to a boom in Iraqi oil production and government revenue. Oil production jumped to 29,550,000 metric tons by 1954 and correspondingly, whereas profits in 1951 stood at 13,700,000 Shillings, by 1954 the figure was 68,390,000 Shillings.[xxiv] The increased production was fairly well distributed across Iraq's three largest operational fields: Kirkuk, Zubair and Rumaila. In the meantime, the government of Iraq managed to purchase the few refineries in Iraq while commissioning an

American company to build a larger capacity refinery near Baghdad in order to satisfy Iraq's domestic consumption of refined oil.

A discernable amount of progress could be pointed to by the mid-1950s, but given the vast amount of revenue allotted to the government of Iraq, it is safe to conclude that the Iraqi leadership's execution of policies did not live up to its rhetoric of modernizing the country due to high oil revenues. It would seem then that the "basic obstacles to the rapid social and economic development of the country could apparently not be overcome by the mere availability of oil, some technical knowledge and royalties from the oil industry."[xxv] The potential for sweeping transformation, however, was implanted in the general consciousness of the Iraqi nation. This sense of potential actualization was one of the factors which led to the 1958 Revolution that ushered in both a radical change in Iraqi politics and in the Iraqi governments' relationship with the international oil companies.

Brigadier General Abdul Karim Qasim led a revolution in 1958 in which the Iraqi monarchy was overthrown. Qasim's hungry appetite for reform obliged him to confront the oil companies within a year of his taking power. Among Qasim's initial demands were an increase in Iraqi production, which had stalled in comparison with figures from Saudi Arabia and Kuwait, and a 20 percent Iraqi share in IPC holdings. These demands were rebuffed and by 1961, Qasim resorted to passing Public Law 80, a move which brought the Iraqis to the verge of nationalizing the oil industry. Public Law 80 reinstated the 1925 limit for IPC operations in terms of the area allotted to their exclusive control. This meant that Iraq was taking back 99.5 percent of the land to which the IPC was granted exclusive exploration rights under the revised 1931 concession. [xxvi] "The principal provision of Law 80… was that the government should be able to reassert its rights to the unexploited concession area, thus, at first in theory but eventually in practice, enabling it to carry out its own development and exploration."[xxvii] Furthermore, "Law No. 80, of 1961, constituted the first step towards the strategic objective of the oil policy, namely, freeing oil from foreign domination and exploitation, bringing it back under national control and placing it in the service of the people's welfare."[xxviii]

Qasim was overthrown in 1963, and even though his Ba'athist successors sought better relations with the oil companies, popular pressure prevented the relationship from backtracking to the previous terms already superseded by Qasim's policies. Furthermore, in 1964, Iraqi legislation officially created the Iraq National Oil Company (INOC). It would take another eight years until INOC was fully operational, but Iraq's road to nationalization was set in motion. Iraq slowly began to loosen the IPC stranglehold on Iraqi oil. Another blow to the relationship between the government of Iraq and the international oil companies came in the form of Western support for Israel during the 1967 Arab-Israeli war. Iraq severed diplomatic relations with America and Britain, who held most of the shares in the IPC,

and proceeded to court other independent foreign oil companies, including Soviet ones, for the first time. "In 1969, a number of agreements with the Soviet Union, East Germany and Hungary were concluded that provided for loans, technical assistance, training, and equipment to help INOC build a national oil industry."[xxix] The IPC responded by halving production. The Iraqi government, having gone through the second Ba'athist coup that brought Saddam Hussein the vice-presidency, finally nationalized the oil industry in 1972. In tandem, the government also signed an agreement with the Soviet Union by which the Soviets agreed to buy all Iraqi oil, guaranteeing an outlet for Iraqi production but also placing Iraq in the middle of the Cold War.

Nationalization

> "In 1972, INOC was successful in producing and marketing oil from fields covered by Law No. 80. In addition to producing oil, Iraq succeeded also in developing other facets of a well-developed oil industry, including the training of specialized labor force; building of pipelines, refineries, export facilities, and loading terminals; acquisition of oil tankers; and creation of marketing networks at home and abroad. The decision to develop a national oil sector was intended to use the country's oil wealth as the mainstay of the economy: Iraq National Oil Company became responsible for the execution of that part of the national oil policy that aimed at creating and developing a large, solid and integrated oil industry that would become the mainstay of accelerated economic development."

For obvious technological reasons, the INOC was not as productive as the IPC members were. But fortunately for Iraq, the nationalization of oil came one year before the OPEC revolution. The Organization of Petroleum Exporting Countries (OPEC) was created in 1960 but it did not flex its muscles until the 1970s. The creation of OPEC fundamentally changed the international oil industry. The major international oil companies, most of which had a share in IPC, controlled the vast amount of both upstream and downstream operations, which allowed them to control the price. The nationalization of the producing countries' oil industries took control away from the major international oil companies. Prices rose sharply, especially during the 1973 Arab-Israeli war. This crisis, described as the first "oil shock" in the West, tested OPEC's resolve and immense power to cripple Western economies by cutting the flow of oil. The majors surely did not protest the income which higher prices provided, but they had lost their control over the industry and were now more vulnerable than before to competition from independent and national oil companies who could thrive in an environment of high profits and increasing market destinations. The effectiveness of OPEC, it should be noted, has been exaggerated. Its coordinated effort has only produced significant results on very few occasions. Most of the time member countries cheated on their quotas, leaving the production and price of oil to a variety of fluctuating factors whereas

in the past, production and price were more tightly controlled by the major oil companies that worked together as a cartel. Aside from undisciplined behavior on the part of OPEC members, however, it is also important to note that many new sources of oil gained access to the international market, making control of the trade a logistical impossibility.

Nationalization was a politically popular move, but Iraqi control over its own oil industry did not give the government free reign in either production or pricing.

> "It is true that by taking power over the operations of the oil sector Iraq was able to free itself from the uncertainty associated with decisions made by multinational firms over which it had no control. Yet the mere transfer of ownership to a national authority did not by itself free Iraq from the uncertainty of the constantly changing forces of supply and demand of the wider world economy. To put it differently, while Iraq succeeded in increasing its oil income per unit of output and in mapping the size and direction of its oil sector, its dependency on the world economy remained nevertheless unchanged." [xxx]

Nevertheless, as mentioned above, Iraqi nationalization did coincide with a spike in oil prices and hence a tremendous increase in revenue. The 1970s were the most prosperous in Iraq's history considering the massive influx of oil revenue. Saddam Hussein officially assumed power in 1979, and he oversaw Iraq's most profitable year. "This huge increase in income brought considerable prosperity to Iraq, and there were major expansions in education, health, housing and infrastructure. Per capita income increased more than sevenfold in the decade 1972-82, and GDP increased more than fourfold over the same period." [xxxi]

The 1980s saw this surplus squandered on the Iran-Iraq War. Not only was the surplus not spent on the Iraqi people, but the ability to produce and export large quantities of oil was hampered by Iran's military offensives. One of Iran's first actions against Iraq was the bombing of oil exporting facilities in southern Iraq along with some production sites. These factors, along with decreasing oil prices, led to a drop in Iraqi oil production and government revenue.

> "When Iraq nationalized IPC in 1972, its oil output was 1.5 million barrels per day (MBD). By 1976, it rose to 2.4 MBD, and by 1979 it was 3.5 MBD…the outbreak of the Iran-Iraq war, which resulted in the destruction of Iraq's exporting facilities in the southern part of the country and the closure of its pipelines across Syria, reduced Iraq's oil output to 1 MBD in 1982, a level of output that had been reached in 1960. As a result of this decline in output and exports and the decline of in oil prices after 1981, Iraq's oil revenue plummeted from ID 8.9 billion in 1980 to ID 2.2 billion in 1986." [xxxii]

The war with Iran also pointed out some obvious flaws in Iraq's ability to export oil. Its only access to the sea was through the Shatt al-Arab which then opened up to the Indian Ocean. Iraq's main pipeline through Syria ceased opera-

tions due to a political dispute with Syria. Hence, Iraq commissioned the construction of a pipeline from Kirkuk to the Turkish port of Ceyhan, making the export of Iraqi oil to Europe a much cheaper and easier endeavor. This export pipeline proved to be Iraq's lifeline as Iran destroyed Iraq's oil-exporting facilities in the south. Oil export dropped by 72 percent, from "3.281 MBD on the eve of the war to a mere .926 MBD." xxxiii This precipitous drop in oil export and prices, combined with the gross expenditures of the war finally materialized in the form of astounding mountains of debt. Estimates suggest that "the Iran-Iraq War cost Iraq $452.6 billion…To give some idea of the magnitude of these losses, the total value of Iraq's petroleum exports between 1981 and 1990 amounted to $102 billion." xxxiv

Iraq's crippling debt obligations were part of Saddam Hussein's strategic rationale for going to war with Kuwait in 1990. In effect, Hussein charged Kuwait with waging an economic war on Iraq. Kuwait refused Hussein's plea to forgive its war loans. When Iraq was in dire need of more oil revenue, Kuwait also refused to comply with its OPEC quota which would have limited production and presumably raised the price of oil. Lastly, Hussein accused Kuwait of siphoning off oil from the Rumaila field which crossed the border between Iraq and Kuwait. A week before the invasion, however, at an OPEC meeting in Geneva, the member countries agreed to stringent production quotas and a tentative agreement on a price hike to $21 per barrel from the $15 per barrel figure for May.[xxxv] The agreement, however, did not change Hussein's determination to attack Kuwait and take control of its oil resources. He was encouraged by his perception that the United States would not go to war in order to protect this small, oil-rich country. And so, on 2 August, 1990, Hussein launched his invasion and in "a lighting strike, Iraq had seized control of over 94 billion barrels of proved oil reserves—about ten percent of the world's total—and was within a stone's throw of the major Saudi oilfields with over one-quarter of the world's reserves."[xxxvi]

Hussein grossly miscalculated. Just as the British government had fought to maintain its oil supplies from the Middle East, the United States government mounted a coalition in order to prevent such a significant share of the world's oil supplies from falling into Saddam Hussein's hands. It did not take long for the American-led coalition to defeat Iraq's forces. A decision, however, was made to leave Saddam Hussein in power in order to maintain a politically unified Iraq as a counterweight to a menacing Iran.

The Sanctions Regime

"In 1960, Iraq's real GDP measured in 1980 prices was $8.7 billion. In 1979 GDP peaked at $54 billion. And by 1993 Iraq's GDP [had] declined to $10 billion."[xxxvii] Iraq's oil industry was a hairbreadth away from collapse as many of

its facilities were damaged during the war. But even exporting the oil they could produce was restricted by the implementation of the sanctions regime. The sanctions regime was meant to ensure the weakness of the Iraqi regime by restricting oil production and ensuring the incremental repayment of Iraqi debt obligations. This strategy was made official in 1995 with the passing of UN Security Council Resolution 986, also known as the Oil-for-Food Program whereby Iraq was allowed to exchange a limited amount of oil for food and medical supplies. The strategic purpose of limiting Iraq's economic growth potential was to put an end to Hussein's militaristic aggression. Perhaps, it was argued, the people might be able to rebel against a weaker regime. But the regime was not harmed; government revenue still took care of the Ba'ath Party and its members. By the end of the 1990s, however, the proclaimed reasons for the program no longer seemed to make sense as Iraq rejoined the oil exporting community.

> "Under the gradually expanded terms of the 'oil for food' resolutions Iraq had once again become a major oil exporter. By 2001-2 it was producing an estimated 2.8 million barrels of oil per day, exporting 1.7 million barrels of oil per day under the UN's 'oil for food' arrangement. This earned Iraq roughly $12 billion in 2001-2. After the removal of a fixed percentage to pay for compensation claims, meet UN expenses and provide the Kurdish Regional Government with 13 percent of the proceeds, the Iraqi government retained some 50 per cent to spend on imports."[xxxviii]

As Iraqi oil production approached pre-war levels, it was obvious that the sanctions regime would not bring down Saddam Hussein. It is at this point in time that a group of neo-conservative American politicians and policy-makers began arguing for a new policy towards Iraq. They wanted Hussein out. The oil companies wanted back in. Their vision brought them closer to Iraq's main opposition groups, including the Kurds in the north.

THE EVOLUTION OF KURDISH POLITICAL AUTONOMY

Considering that this essay is concerned with the development of a bilateral policy regarding oil operations within Iraq, one belonging to the KRG the other to the GOI, it is important to recognize the historical weight of the Kurdish struggle for political sovereignty. Nevertheless, this particular issue will not be explored in as much detail as Iraq's history pertaining to oil has been so far. The particulars of the Kurdish struggle are interesting, but for the purposes of this discussion, it is satisfying to begin the historical recount at the end of Iraq's war with Kuwait.

As mentioned above, the UN passed a resolution condemning Saddam for his repression of the Shi'a and Kurdish uprisings. The British and Americans,

both for strategic and humanitarian reasons, decided to strengthen their commitment to the safety of Iraq's unprotected populations by declaring a no-fly zone in both the south and north of the country. Routine aerial patrols deterred Saddam from pursuing any further military action against either the Kurds or the Shiites in the south. The northern no-fly zone was delineated at the 36th parallel—assuring the Kurds a safe haven in the territory roughly aligned with the last autonomy agreement signed between the Kurds and the Iraqi government in 1970. The Kurds had never enjoyed such unprecedented protection. In fact, the favorable conditions they enjoyed in light of Saddam's weakened position allowed them to declare de facto political autonomy, an opportunity they bolstered by holding elections and forming the first Kurdish government in northern Iraq in 1992.

The government consisted of the Kurds' two main political parties, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), both of which had been instrumental in the Kurdish struggle for self-determination. This political unification came on the heels of decades of squabbles between the two parties and shifting alliances with whoever seemed to offer a helping hand. Inevitably, however, tensions erupted between the two sides, and a civil war ensued over several issues. "These issues revolved around questions of territory; but also around questions of the distribution of international economic aid and the revenues derived from lucrative oil and commodity smuggling across the Iranian and particularly the Turkish borders."[xxxix]

The revenue from smuggled oil and from international economic aid was a consequence of the sanctions regime imposed on Iraq in the wake of the Gulf War in 1991. The "Oil-for-Food" Program assured Iraq a minimal revenue stream from its oil export. Thirteen percent of the revenue that was transferred to the Iraqi government from a controlled UN account was guaranteed for the Kurdistan Regional Government (KRG). In addition, in order to augment government revenue, Iraqi oil was smuggled through the Turkish and Iranian borders where the Kurds were able to collect handsome border fees. Control over these resources, as mentioned above, was part of the reason for the breakdown between the PUK and KDP.

The civil war was interrupted be a series of unfulfilled ceasefires but hostilities finally came to an official end with the signing of the Washington Agreement in 1998 between the leaders of the two parties, Masoud Barzani of the KDP and Jalal Talabani of the PUK. The Agreement did not necessarily resolve any particular points of conflict as these were deeply ingrained, but it did provide for the reunification of the Kurdish region, a much sought-after strategic benefit from the American perspective. A divided Iraqi Kurdistan could potentially open up another opportunity for Saddam Hussein to intrude upon the Kurds' hard-fought autonomy. Moreover, the Agreement spelled out what would become of the Kurdistan Region after the 2003 invasion as "it pledges the commitment of all parties to the

territorial integrity and unity of Iraq but on the basis of pluralistic, democratic and federal political structure."[xl]

Post-War Restructuring

The Kurds were intimately involved with the American decision to invade Iraq in March 2003. Providing a base of support for American operations, including allowing Iraq's political opposition to gather in anticipation of Saddam Hussein's ouster, the Kurds established a working relationship the American administration. This relationship would prove to be a very fruitful one when the time came to restructure Iraq's political system.

The dynamics of Iraqi political authority over oil began to change with the ratification of the Iraqi Constitution in 2005. While the sovereign decision-making process in Baghdad was still compromised by the sway of American influence, the Constitution solidified Iraq's federal nature and gave sweeping powers to Iraq's regions and governorates. As the Kurds were one of the more, if not the most, organized and cohesive political unit in post-war Iraq, they were able to help craft the Constitution well enough to guarantee sweeping assurances for the political autonomy of the Kurdistan Region.

The dispute between the KRG and Baghdad which has existed since the passing of the Constitution in 2005 contains several different elements. Legally speaking, the GOI in Baghdad claims that the KRG has overreached in its interpretation of regional rights over oil-related matters. The KRG strictly maintains that its actions have been in complete accordance with the Constitution. The inability to solve the dispute has been overtly political, and this has been the case for both pronounced and disavowed reasons. The GOI has accused the KRG of breaching its sovereignty and advancing on the path of complete separation from the Iraqi state. The Kurds, weary of many years' worth of brutal Iraqi central government control and suppression, are suspicious of any kind of initiative to restrict Kurdish political autonomy. The balance has been hard to strike.

The Constitution

The Kurds use the Iraqi Constitution as the platform upon which they have built their rationale for an independent Kurdish oil industry. There is an imbalance, however, when it comes to the legal argument between the KRG and the GOI. The KRG is prepared to discuss the legal details until the differences are settled and they have the legal rationale to back their argument. The GOI believes that it benefits from delaying because it knows that it would most likely lose in a sober analysis of the legal rights legislated to the Kurdistan Region by the Constitution.

But Baghdad's interpretation should be considered nonetheless. The foundation for Baghdad's interpretation of the Constitution has been keenly analyzed by University of Tulsa Law Professor Rex J. Zedalis and they are briefly introduced below.

Article 110 of the Iraqi Constitution delegates exclusive powers to the federal government, powers which cannot be exercised by the federally recognized regions or governorates. The powers most pertinent to the discussion on oil are "economic and trade policy" and "regulating commercial policy." Oil policies or general strategy is not mentioned, but seeing as oil production and export are the most vital commercial practices in Iraq, it is reasonable to assume that authority over oil is expected to fall under the general yet vague category of "economic and trade policy" or "regulating commercial policy." Article 114 describes the powers that the federal government must share with the regions. As for language which can relate to oil matters, the shared power to formulate "development and general planning policies" might play a role. Article 115 effectively assigns all residual powers not mentioned in Articles 110 or 114 to the regions and governorates. "In light of the fact neither Article 110 nor 114 explicitly speaks to power over matters involving oil and gas, it would make sense to think of Article 115's reservation as doing so indirectly. However, account must still be taken of Article 112."[xli] Article 112, First, explicitly provides for the federal government's cooperation with the regions and governorates over the "management of oil and gas extracted from present fields."[xlii] Article 112, confers upon the federal government the shared responsibility and authority to formulate "strategic policies" for developing oil and gas resources generally. The KRG has taken the stance that any federal involvement is restricted to oil fields which were already producing or in the process of developing the capacity to produce oil at the time the Constitution was signed. All subsequent fields, not considered "present fields," are therefore to be left under the purview of the regions. Finally, Article 111 states that Iraq's oil and gas resources are owned by all the people of Iraq.[xliii] This article has created a conflict related to revenue sharing. The KRG, using Article 115, claims that it has the right to directly profit from its oil production and export while the GOI claims that all profits must be centrally controlled and appropriately distributed according to a national budget.

It should be noted that from a strict legal interpretation of the Constitution as it stands today, the Kurds have buttressed their legal argument with validations from numerous outside sources that support the Kurdish legal rationale for their share of political authority over the oil in the Kurdish regions. The political levers of power have been slow to adjust to the validity of the law.

POLITICAL AUTHORITY OVER IRAQI OIL

In a report to Congress in 2007, the Iraq Study Group Report stated:

"The politics of oil has the potential to further damage the country's already fragile efforts to create a unified central government. The Iraqi Constitution leaves the door open for regions to take the lead in developing new oil resources. Article 108 (changed to 111) states that 'oil and gas are the ownership of all the peoples of Iraq in all the regions and governorates', while Article 109 (changed to 112) tasks the federal government with 'the management of oil and gas extracted from current fields.' This language has led to contention over what constitutes a 'new' or an 'existing' resource, a question that has profound ramifications for the ultimate control of future oil revenue."[xliv]

The lack of a clear policy on oil was to be resolved by a federal hydrocarbons law negotiated in the Iraqi Parliament. The parliamentary committee in charge of formulating the law released two drafts in 2007, one in January and the other in March. The federal government claimed that despite making concessions in favor of wider regional authority over oil, the Kurds still refused to support the final draft. The Kurds, who were in favor of the second draft of the bill, withdrew their support after realizing Baghdad had added four attachments that were not reviewed by the Kurdish delegation. The heart of the dispute is lodged in the different interpretation of the Constitution and the amount of political authority over oil that each government is allotted.

Tariq Shafiq, a petroleum engineer who was Vice President and Executive Director of the INOC, provided an analysis of the draft hydrocarbon law in which he sided against what he perceived as an overreaching regional power over oil, saying that an "amendment of the constitution is, therefore, needed in such a way as to modify article 112 to include the management of the exploration and development of new reserves, in the same way, under the umbrella of the Federal Government."[xlv]

Shafiq's criticism reflects what many veteran Iraqi oil experts have said regarding the priorities evident under the structural authority proposed under the draft hydrocarbon laws. The first draft, according to Shafiq, "prioritized the rehabilitation of the infrastructure and building production capacity to monetize the reserves and make the most of the country's bulk of idle proven reserves of 115 B[illion] bbls (barrels)."[xlvi] The second draft, reflecting the leverage the Kurdish delegation imposed on the parliamentary committee, was further criticized by Shafiq:

"The latest draft calls for the immediate grant of rights to IOCs (international oil companies) for exploration and development of 65 blocks with billions of potential oil reserves. The discovered reserves shall be developed and produced to unrestricted capacity without delay or a cap to earn investment capital and provide a healthy return. They will, therefore compete with the INOC's large oil production capacity over a limited share of markets open to Iraq, cause oversupply, destabilize the crude oil price structure and contravene Iraq's obligation towards OPEC, among other undesirable consequences." [xlvii]

Citing Baghdad's failure to approve the hydrocarbons law, the Kurds decided to move ahead with their own regional oil and gas law under the KRG Con-

stitution in August 2007. Though the Kurds had signed their first oil contract with a foreign company in 2004, the new regional oil law provided for unlimited foreign access to Kurdistan's unexplored reserves. Despite the misgivings of many foreign oil companies to invest in a politically unstable and geographically untested Kurdistan, the KRG was able to build a foundation for its oil sector at a pace which outdid any progress that Baghdad could claim for itself given the horrendous security conditions at the time.

Besides the legal dispute over the specifics of political authority, the management of oil resources was also a matter of dispute between the KRG and Baghdad. The transition government in Iraq, under the guidance of U.S. officials, had begun to adopt many of the recommendations made by pre- and post-war planners. For example, one of the areas of interest under the Future of Iraq Project, the official pre-war planning project, was oil. This was left up to the Oil and Energy Working Group. A brief recount of Iraq's potential oil supplies provides the background for later recommendations:

> "For historical and political reasons, exploration in Iraq is immature with less than 200 exploration wells drilled to date. This compares with one million wells in Texas. Yet-to-find reserves have been estimated to range from around 50 billion barrels to as much as 200 billion barrels. This magnitude of yet-to-find is unmatched anywhere in the world. Gas reserves, mainly associated with the oil reserves, total some 100 trillion cubic feet (TCF), comparable in size to those of the entire European Union. Seventy-three fields have been discovered in Iraq, but only about 15 have been put into production. Ninety percent of Iraq's historical production has come from just two super-giant fields (>10 billion bbls): Kirkuk in the North and Rumaila in the South. These fields still dominate today, making up over 80 percent of the production capacity. According to Iraqi Ministry of Oil officials quoted during the March 1995 Oil and Gas Markets Seminar in Baghdad, 33 fields have a potential of more than 4.5 mbd, giving ample new production capability."[xlviii]

Among the recommendations made in the report was advice concerning the restructuring of the INOC and its eventual de-monopolization and privatization. Recommendations were also made concerning the re-introduction of private oil companies, (more specifically, British and American companies which had been blacklisted by Saddam Hussein) along with private equity in any state-owned oil companies.

Privatization was a top priority for the Bush administration. It was decided that the most enticing contracts should be offered in order to lure international oil companies back to Iraq. Production sharing agreements (PSAs) were broadly recognized by oil industry operatives and advisors as the best kind of contract for new exploration and production projects. PSAs are used in about 12 percent of all oil contracts worldwide and they are generally used in places where oil extraction is especially risky. This is not the case in Iraq. Iraqi oil is the cheapest to produce in

the world. But considering the vast unexplored area in Iraq, it is not unreasonable to assume that many exploration attempts will not yield results. And yet, PSA's have been compared to politically-correct versions of the old concessionary systems.

> "As industry consultant Daniel Johnston writes in a standard textbook on petroleum fiscal systems: 'At first [PSAs] and concessionary systems appear to be quite different. They have major symbolic and philosophical differences, but these serve more of a political function than anything else. The terminology is certainly distinct, but these systems are really not that different from a financial point of view.' Similarly, Professor Thomas Wälde, an expert in oil law and policy at the University of Dundee, describes 'a convenient marriage between the politically useful symbolism' of the PSA and 'the material equivalence' of this contract model with concession regimes. 'The government can be seen to be running the show and the company can run it behind the camouflage of legal title symbolizing the assertion of national sovereignty.'"[xlix]

Therefore, any large-scale privatization of Iraqi oil has yet to be approved by the Iraqi Parliament. So far, Baghdad has only signed contracts with foreign oil companies under strictly technical service contracts which exact a fee for services rendered from the oil companies. Such contracts do not extend to developmental and exploration operations. The KRG, on the other hand, built its oil sector on attractive investment conditions and the PSA model contract. Shafiq, once again assuming the comprehensive voice of the Iraqi mainstream oil consensus, said that privatization of the oil industry "runs against the grain of the great majority of the oil technocrats and the Iraqi nation. A strong state-owned national oil industry and unified central plan, policy and resource management, with a liberal attitude towards cooperation with the regions and governorates, have become the unchallenged principles of the overwhelming majority of Iraqi oil technocrats."[l]

The rationale behind the KRG's oil sector was concocted by Kurdistan's Minister of Natural Resources, Ashti Hawrami. As a veteran in the oil business, Hawrami is acutely aware of the details involved and Baghdad's objections to the KRG's policies. He recognized that that the percentage of post-"cost recovery" profits allocated to contractors is at the heart of the debate between the contractual model offered by the KRG as opposed to the one currently favored by Baghdad. The proposed KRG contracts offer profits covering exploration and production costs plus a 12 percent interest on profits henceforth. The technical service contracts offered by Baghdad only provide fees for services rendered. In addition, service contracts do not give out new exploration rights to contracted companies. PSA's do not grant the INOC the right to explore for new oil reserves, essentially renting out all future reserves to foreign oil companies. This was a conscious decision. By looking at the carved up map of Kurdistan's oil exploration future, comprised of over 40 separate blocks, one might notice the kind of foreign investor the Kurds are trying to invite. The major oil companies are drawn to very large fields where they can ex-

tract large quantities of oil. They are not as likely to take the risk of exploring small plots with no recognized value. This risk is taken by smaller oil companies, which are precisely the ones who will take the terms of the PSA's and the risk involved in order to reap the reward of discovery and initial production under the terms of the contract. The KRG wants to move quickly and get the oil pumping. Inviting major oil companies means moving slowly in terms of exploration and rates of production. The faster and more productively the KRG operates, the greater leverage it has to compare its successful results to Baghdad's lethargic recovery of its oil industry.

Baghdad has not only argued that the KRG's contract models are financially inferior to the terms offered by Baghdad, but also that they are illegal according to the Iraqi Constitution.

> "By arguing that the KRG's oil contracts are illegal, Iraq's central government is asserting that only it has the authority to sign and validate contracts with foreign oil companies. Ultimately, this issue comes down to control. Iraq's central government believes that Kurdish oil policies should come under the authority of the federal government. This view appears to be prevalent in Baghdad and it is not unique to the current Iraqi government. There are deep suspicions of foreign oil companies and their motives throughout Iraq, which is likely a legacy of the colonial period."[li]

Revenue-Sharing

> "The central role of the oil sector in Iraq's economy, the uneven geographic distribution of Iraq's oil resources and the legacy of communal favoritism practiced under Saddam Hussein have created lasting concerns among Iraqis about the future equitable distribution of oil revenues." [lii]

Under the negotiated revenue-sharing agreement between Baghdad and the KRG, the KRG deserves to receive 17 percent of the national budget after sovereign expenses are paid. Following this consideration, the KRG is allowed 17 percent of the total profits made off the oil produced and sold from the Kurdistan Region. If political authority over oil is the first step to gain control of the resources themselves, then financial control is where the real power to ensure Kurdistan's autonomy resides. Currently, Baghdad is responsible for wiring the KRG its annual budget, though it has consistently failed to provide the entire sum, has not made the transfers in a timely fashion and has attached conditions for receiving the funds. The KRG argues that it should be able to control the revenue from its oil directly, meaning it should not be transfered to the central government and then dispersed but rather should go to a KRG account and then be split, with 83 percent sent to Baghdad. "It is a question of control. Baghdad wants to control all revenue from oil sales. These are new oil fields. We keep 17 percent and give you 83 percent

instead of vice versa. The money used from oil was used against Kurds in the past. Independent control of oil can help prevent atrocities."[liii]

After oil companies operating in Kurdistan had already started producing and exporting oil via the Baghdad-controlled Kirkuk-Ceyhan pipeline in 2009, the Iraqi government refused to allow further exports due to Kurdish demands that the Iraqi government pay the oil companies for their services. Baghdad insisted the Kurds pay the companies using the revenue they received from the federal government. The matter had no agreed upon method of being resolved. The drafted hydrocarbons laws proposed the creation of the Federal Oil and Gas Commission in order to review contracts and decisions made regarding the oil and gas industries, but since the law was not approved, the matter was sidelined to political discourse. The KRG accused Baghdad of stalling Kurdish progress in lieu of Baghdad's reverse course in oil production. Even though the KRG was adding to Baghdad's total production and even helping it meet OPEC's quota, Baghdad could not tolerate the KRG's advances. The matter was finally resolved in February 2011, when Baghdad agreed to pay the companies involved as long as the Kurdistan Region supplied a set amount of oil. Attached to the resolution of this matter was also an agreement regarding revenue sharing. According to Qubad Talabani, the KRG Representative to the United States, in lieu of a national hydrocarbons and revenue-sharing law, the two governments have resolved to direct the revenue to a shared account at the Central Bank of Iraq where sovereign expenses are paid from a joint account and then split according to the 17 percent-83 percent agreement.

PROSPECTS FOR FUTURE RELATIONS

"The stable security situation and positive economic outlook in the Kurdish region has enabled the Kurds to strengthen their clout as a regional force within the Iraqi state, despite also remaining dependent on the central government. By developing its oil and gas sector, the Kurdistan Region hopes to increase its political and economic leverage vis-à-vis the central government."liv Baghdad, however, is no longer so far behind. After signing 11 contracts with foreign oil companies in 2009, the GOI is projecting that it will be producing millions of barrels of oil annually in the next decade, a projection that will increasingly make Kurdistan's contribution a smaller one. If that is the case, the Kurds are even more justified in their current action to outpace Iraqi advances.

"If the Kurds hope to further develop their oil sector, they have few options for getting the oil that they produce to world markets. At the moment, a 600-mile pipeline transports Iraqi crude oil, including any Kurdish exports, from Kirkuk to the Turkish port of Yumurtalik, near Ceyhan on the Mediterranean, where it is then exported to world markets. The KRG is unable to use the northern pipeline for

exports without permission from Baghdad. Additionally, a new pipeline through Turkey is unlikely in the near-term, despite Kurdish desires to build one. While relations have improved considerably between Turkey and the KRG over the past few years, Ankara does not want to anger Iraq's central government, nor does it want to provide Iraqi Kurds with a self-sufficient economic base with which the KRG can effectively use to move toward establishing an independent state." [lv]

Indeed, as the Kurds venture out beyond their borders, they leave the realm of domestic politics and enter the more dangerous arena of international relations. Other actors will not have the same political hurdles that Baghdad faces, and if need be, they will not have as hard a time to bypass the Kurds' demands. The Kurdistan Region will have to be careful not to upset both the internal balance of power with Baghdad and external relations with neighboring countries, especially with Turkey. To do so, the KRG must cooperate with Baghdad to the extent that they preserve several Kurdish goals, which are to "(1) strengthen and enhance Kurdish regional autonomy; (2) extend the separation between the Kurds and the rest of Iraq; (3) prevent a strong Iraqi central government from using its military against the Kurdish population; and (4) maximize the chances for an independent Kurdistan in the future."[lvi]

Undoubtedly, the GOI is interested in keeping Kurdistan within its official sphere. But seeing as there does not seem to be a clear-cut solution looming in the distance, the course must be a pragmatic one, for each side is dependent on the other for stability and prosperity. For the Kurds, the economic and political rationale for their separate existence from Baghdad still exists, but the reality behind the federal structure they have willingly adopted prevents total independence. Within this scope of political authority, and taking into consideration the struggle over oil, the Kurds will next be tested as to their commitment to a stable Iraq when they enter negotiations to build a pipeline for oil and gas exports. If the KRG attempts to do so without Baghdad's approval, a constitutional crisis might very well develop. Likewise, if Baghdad begins to feel more confident as to its relative political and economic position vis-à-vis the Kurds, the central government might begin to restrict Kurdish autonomy once again, inviting a conflagration in the Kurdish Region. Undoubtedly, a cooperative, respectful relationship on the matter of political authority over oil will play a crucial role in preserving Iraqi stability and Kurdish autonomy.

---

[i] Saad Eskander. "Britain's Policy in Southern Kurdistan: The Formation and the Termination of the First Kurdish Government, 1918-1919." *British Journal of Middle Eastern Studies*, Vol. 27, No. 2 (Nov., 2000), pp. 139-163. Found online through JSTOR at http://www.jstor.org/stable/826089

[ii] League of Nations, Question of the Frontier between Turkey and Iraq. Report to the Council by the Commission Instituted by the Council Resolution of September 30th, 1924 (Geneva, 1925), C. 400. M. 147. 1925. VII, 88-89.

[iii] Othman Ali. "The Kurds and the Lausanne Peace negotiations, 1922-23." *Middle Eastern Studies* 33.3 (1997): 521+. Academic OneFile. Web. 14 Dec. 2010.
[iv] Eskander, Saad. "Southern Kurdistan under Britain's Mesopotamian Mandate: From Separation to Incorporation, 1920-23." *Middle Eastern Studies*, Vol. 37, No. 2 (Apr., 2001), p. 160. Found online through JSTOR at http://www.jstor.org/stable/4284159
[v] Ali.
[vi] Stephen Pelletiere. *Iraq and the International Oil System: Why America Went to War in the Gulf.* (Westport, CT: Praeger Publishers, 2001), pp. 25, 26.
[vii] Benjamin Shwadran. *The Middle East, Oil, and the Great Powers*. Frederick A. Praeger, (New York), 1955. p. 241.
[viii] "IRAK: Oil from Mosul." *Time Magazine*. Monday, Jan. 28, 1935.
[ix] Nevin Çosar and Sevtap Demirci. "The Mosul Question and the Turkish Republic: Before and After the Frontier Treaty, 1926." *The Turkish Yearbook of International Relations*. Vol. XXXV, (2004), pp. 49, 50.
[x] Çosar and Demirci, p. 51.
[xi] "IRAK: Oil from Mosul." Time Magazine. Monday, Jan. 28, 1935.
[xii] Shwadran, p. 237.
[xiii] *Ibid*, pp. 247, 248.
[xiv] *Ibid*, p. 249.
[xv] Francisco Parra. *Oil Politics: A Modern History of Petroleum*. I.B. Tauris, (New York), 2010, p. 13.
[xvi] Pelletiere, p. 66.
[xvii] David Finnie. *Desert Enterprise: The Middle East Oil Industry in its Local Environment*. Harvard University Press, (Cambridge), 1958, p. 21.
[xviii] *Ibid*, pp. 21-22.
[xix] *Ibid*, pp. 22-23.
[xx] Parra, p. 9.
[xxi] Pelletiere, p. 68.
[xxii] P.L. Eckbo. *The Future of World Oil*. Ballinger Publishing Company (Cambridge, MA), 1977. pp. 11-12.
[xxiii] P.L. Eckbo. p. 12.
[xxiv] Shwadran, p. 262.
[xxv] *Ibid*, p. 265.
[xxvi] Pelletiere, p. 127.
[xxvii] Kate Gillespie and Clement Henry. *Oil in the New World Order*. Florida University Press (Gainesville, Florida), 1995, p. 233.
[xxviii] Iraq National Oil Company, Iraq National Oil Company and Direct Exploitation of Oil in Iraq (Baghdad, 1973), p. 5.
[xxix] Abbas Alnasrawi. The Economy of Iraq: Oil, Wars, Destruction of Development and Prospects, 1950-2010. Greenwood Press (Westport, CT), 1994, p. 68.
[xxx] Alnasrawi, pp. 12-13.
[xxxi] *Ibid*, p. 236
[xxxii] *Ibid*, p. 13.
[xxxiii] *Ibid*, p. 11.
[xxxiv] Gillespie, p. 229.
[xxxv] *Ibid*, p. 243.
[xxxvi] Parra, p. 298.
[xxxvii] Alnasrawi, p. xv.
[xxxviii] Charles Tripp. *A History of Iraq*. Cambridge University Press (New York, New York), 2002, p. 278.
[xxxix] *Ibid*, p. 272.
[xl] *Ibid*, p. 274.
[xli] Rex Zedalis. "Foundations of Baghdad's Argument that Regions Lack Constitutional Authority Over Oil and Gas Development Agreements." *Journal of Energy & Natural Resource Law*, Vol. 26, No. 2. May 2008, p. 307.
[xlii] Iraqi Constitution, Article 112.
[xliii] Iraqi Constitution, Article 111.
[xliv] Iraq Study Group Report. Found online at <http://bakerinstitute.org/publications/iraqstudygroup_findings.pdf.>, p. 22

[xlv] Tariq Shafiq. "Iraq Petroleum Law Re-Visited." A Paper Presented at the Centre for Strategic & International Studies. June 12, 2007, p. 7.
[xlvi] Shafiq, p. 1.
[xlvii] *Ibid*, p.1.
[xlviii] Future of Iraq Project: Oil and Energy Working Group. Commissioned State Department Consultation Report. Washington D.C., (October, 2001), p. 3
[xlix] Antonia Juhasz. *The Tyranny of Oil. The World's Most Powerful Industry and What We Must Do to Stop It*. Harper Collins (New York, New York), 2008, p. 348.
[l] Shafiq, p. 4.
[li] Strouse, Thomas. "Dependent Aspirations: The Oil Policies of the Kurdistan Regional Government." The Institute for Middle East Studies at the Elliott School of International Relations, George Washington University. May 2010. Found online at http://www.gwu.edu/~imes/research/Strouse.pdf. p. 14
[lii] Blanchard, Christopher. CRS Report for Congress "Iraq: Oil and Gas Legislation, Revenue Sharing and US Policy." June 26, 2007. Found online at <http://fpc.state.gov/documents/organization/88057.pdf>, p 12.
[liii] Masroor Barzani. In discussion with the author. 10 January 2011.
[liv] Strouse, p. 10.
[lv] *Ibid*, p. 10.
[lvi] *Ibid*, p. 17.

"Iraqoncilable" Differences? The Political Nature of the Peshmerga

by Jacqueline Devigne '11

INTRODUCTION

Since Iraq's current borders were drawn in the aftermath of World War I, the Kurdish population of this predominately Arab country has consistently endured violent conflict. The Kurdish armed forces, known as the *peshmerga* (literally: "those who face death"), are engrained in Iraqi Kurdistan's past and will likely be an integral part of its future as well. This paper seeks to document how the *peshmerga* have evolved and what this indicates about the prospects for a long-lasting peace in northern Iraq. The *peshmerga* have been involved primarily in two conflicts: Kurds fighting for their independence against Baghdad and Kurdish political parties fighting against one another. The current *peshmerga* find themselves in a polar opposite position, unified amongst both Kurdish parties and participating in a federal Iraqi defense system. Studying the history of the *peshmerga* provides insight into the interaction of Kurdish political parties as well as Kurdistan's tepid relationship with Baghdad. How does the *peshmerga*'s unification demonstrate the reconciliation or the continued lack of trust between Kurdish political parties and the federal government in Baghdad? What does the *peshmerga*'s structure reveal about Kurdistan's political system? The *peshmerga*'s patrimonial history and organization indicates that northern Iraq's current stability is not sustainable.

REBELLION AND THE ROOTS OF DIVISION

"There is not one rock in these mountains that is not stained with our blood." – Former *peshmerga* fighter

Historically, the *peshmerga* in Iraqi Kurdistan has operated as a guerilla force that opposed Arab dictatorship in Baghdad. Particularly vocal in the struggle for Kurdish rights has been the Barzani clan, led by the revered Mullah Mustafa Barzani (1903-1974), or "Barzani the Immortal." Barzani led the Kurdish independence movement throughout the 1960s and 1970s and crafted the first true *peshmerga* in Iraq.[i] Guerilla clashes in the cragged mountains of northern Iraq became items of Kurdish folklore.

Barzani established the Kurdistan Democratic Party (KDP) in 1946.[ii] As a political party, the KDP, which fought for Kurdish autonomy, has tribal roots

that center around the leadership of Mustafa Barzani. Initially, Iraqi Kurds nearly unanimously supported his leadership, but political fissures began to emerge in 1975 as a result of the Algiers Agreement, which temporarily resolved a border dispute between Iran and Iraq. As part of the agreement, Iran halted its arming of Iraqi Kurds in their struggle against Baghdad while Iraq agreed to stop supporting the Kurdish separatist movement in Iran.[iii] Without foreign aid, the guerilla movement floundered, leaving Barzani with a stark choice: be slaughtered by the Iraqi army or flee.[iv] While Barzani fled to Iran, *peshmerga* soldiers who remained in Iraq were massacred, and the Iraqi government was able to extend its control deeper into northern Iraq.[v] The Algiers Agreement was a heavy setback to the Kurdish liberation movement.

Jalal Talabani, a high-ranking member of the KDP, believed that the Barzani clan had failed the Kurdish independence movement, so he formed a rival political party known as the Patriotic Union of Kurdistan (PUK) in 1975. Like the KDP, the PUK fought for autonomy from Baghdad. Most of their political positions were indistinguishable; even to this day, Kurds cannot explain the central difference between the two parties.[vi] The tension between these two parties persisted for decades to come. For the first time, the Kurdish independence movement was divided. This difference could be seen militarily: the KDP and the PUK raised their separate *peshmerga* forces.

AUTONOMY AND THE KURDISH CIVIL WAR

"The Kurd has no friend but the mountains." – Kurdish proverb

In time, Iraqi Kurds received some luck. Following the 1991 invasion of Kuwait, the Iraqi government was forced to withdraw its forces from Kurdish regions in April 1991 due to pressure from the international community. The United States, Great Britain and France established a no-fly zone over the Kurdish Autonomous Region from the 36th parallel northwards.[vii] The Kurdistan Region became autonomous from Baghdad.

Iraqi Kurds were finally able to build their own government in 1992 when the first democratic elections were held. The *peshmerga* became the official defense forces for the region. The *peshmerga* leadership developed a chain of command and standardized protocol; soldiers became salaried employees and wore official uniforms. Once the region became autonomous, state-building became necessary. However, the relationship between the two main political parties became extremely hostile. Saddam Hussein imposed an economic blockade over the region, severely reducing Kurdistan's oil and food supplies. In addition, the United Nations embargo on Iraq proved detrimental to the livelihood of its Kurdish population;

though Kurds were not the intended targets, the region was not permitted to trade with its neighbors. The KDP and the PUK competed over control for black market and smuggling routes, which were Iraqi Kurdistan's only contact with the outside world. Violence broke out between the KDP *peshmerga*, led by Mustafa Barzani's son Masoud Barzani, and the PUK *peshmerga*, led by its founder Jalal Talabani, in May 1994.[viii] The Kurdish Civil War was a particularly violent conflict that threatened the autonomy that the Kurds had achieved.

The civil war was characterized by outside intervention. Talabani reached out to the Iranian government in 1996 for tactical support against the KDP.[ix] The PUK's alliance with Iran was threatening to Barzani. In one of the most shocking military moves in Iraq's history, Barzani retaliated by reaching out to Saddam Hussein to recapture the PUK-controlled city of Erbil. This cold-blooded decision was particularly surprising given Saddam's brutal Anfal campaign, when 182,000 Kurds were slaughtered by the Iraqi army in 1988. Saddam had repressed Iraqi Kurds brutally. Only a few years earlier, Barzani fought Saddam's forces for Kurdish independence. Since the establishment of the no-fly zone, Saddam was eager to retake northern Iraq. Following Barzani's request, forty thousand Iraqi troops swept through the region.[x] Barzani was intent on defeating the PUK to the extent that he placed Kurdish autonomy in jeopardy.

The two Kurdish sides eventually became battle-weary. The US-mediated Washington Agreement, signed on September 1998, formally ended the Kurdish Civil War and stipulated that the parties would share oil revenues and power. Kurdistan enjoyed its first period of peace that would last until the invasion of Iraq in 2003.

However, peace is not synonymous with cooperation. After the conclusion of the civil war, two separate administrations were established in Erbil and Sulaimaniyah, with a separate *peshmerga* army for each. Iraqi Kurdistan remained divided and the two parties were still mutually distrusting. *Peshmerga* soldiers manned numerous checkpoints throughout the region. The KDP and PUK trained their own soldiers and intelligence agents. There were two defense ministers and two interior ministers within the Kurdistan Regional Government, each representing his respective party.[xi] Governmental services were locally and politically controlled. Though the war had ended, distrust continued.

Today, Iraqi Kurds are hesitant to discuss their participation in this civil war, a conflict often referred to as the Kurdish "brother killing." Rather than being proud, as all are about their revolts against Baghdad, most former *peshmerga* soldiers are embarrassed about their participation in this conflict. Both parties essentially strive for the same goal: autonomy from Baghdad. Instead, this war threatened to destroy the autonomy that the region had obtained.

THE NEW IRAQ: THE BEGINNING OF THE *PESHMERGA*'S TRANSFORMATION

"Quite simply, the presence of militias does not fit into the campaign of building an independent Iraq." – L. Paul Bremer

The United States and its allies began the invasion of Iraq on 20 March 2003. L. Paul Bremer quickly announced that the Iraqi army was disbanded on 23 May 2003 after he was appointed Administrator of the Coalition Provisional Authority (CPA). For the rest of Iraq, the elimination of the army resulted in four hundred thousand angry and unemployed former soldiers in the streets as well as the beginning of the insurgency. However, the *peshmerga* did not undergo the same treatment as their Baghdadi counterpart did. For Iraqi Kurdistan, disbanding the Iraqi National Guard (ING) yielded a different result: the *peshmerga*, numbering around 60,000 soldiers in 2003, were effectively promoted and became a more influential entity in the new Iraq. The *peshmerga* became the second largest military force in the country; it was larger than the 46,000 troops in the British army contingent, but smaller than the American military presence of 150,000 troops.[xii] Though Bremer wanted to abolish all militia groups—those developed on an ethnic or sectarian basis—the American military still coordinated with the *peshmerga*.xiii Because of its pro-American stance, the *peshmerga* were also the only militia legally allowed to operate by the transitional government. This transformation indicated that the Kurdish population would become more influential in shaping the country than they ever had been able to be previously. Abolishing the Iraqi National Guard was also symbolically important to the Kurdish population: the forces that Saddam had used to slaughter them were eliminated. This is the type of Iraq in which Kurds would be willing to participate.

The KDP- and PUK-controlled territories were still splintered in the aftermath of the Kurdish Civil War. These two parties both had a disdain for the Ba'athist party but cooperated separately with American forces during the invasion of Iraq in 2003. The *peshmerga* provided tactical support for missions in Diana, Kirkuk, Mosul and Tikrit, all of which host Kurdish populations. The *peshmerga* also disrupted Ansar al-Islam, a Kurdish Sunni terrorist group that the Bush administration falsely claimed was backed by Saddam Hussein.[xiv] The *peshmerga* also operated checkpoints in Baghdad after the ING was disbanded. *Peshmerga* groups were especially helpful to the multinational forces during the early stages of the war and also proved their value as an ally in 2007 when they provided additional troops in Baghdad when the United States employed its "surge" strategy.[xv] Jafar Mustafa Ali, the current Minister of Peshmerga Affairs in the Kurdistan Regional Govern-

ment, proudly proclaims that the *peshmerga* are the most reliable ally of the United States.[xvi]

The Kurdish parties made a show of unity, but their war effort was not coordinated. The KDP and PUK *peshmergas* continued to operate separately from one another. For example, the KDP *peshmerga* provided support in the Ninewa governorate when multi-national forces were trying to capture Mosul; the PUK *peshmerga* participated in the same respect but in the Kirkuk province. In neither case did American forces permit the *peshmerga* to enter the cities of Mosul or Kirkuk, out of fear that Kurdish soldiers would inflame ethnic tensions between Iraqi Kurds and Arabs.[xvii] This pattern continues to this day; whenever Kurdish forces assemble close to the city borders of Kirkuk, the city's Arab population tends to revolt. Iraq has never enjoyed a strong national identity, and as a result, ethnic conflict remains a constant possibility. Arab Iraqis still view the *peshmerga* as an entity that serves Kurdish interests; therefore, their presence in Iraq's disputed territories is inflammatory.

Overall, the Iraqi Kurds were tremendously grateful to the United States for removing Saddam Hussein from power. Though Kurdistan had been autonomous since the establishment of the no-fly zone in 1991, the fear that Saddam would re-invade remained alive until his death. Coalition forces found strong pro-American sentiment in northern Iraq. Since the invasion, not a single American soldier was killed in any of Kurdistan's three provinces. Because of the region's relative safety and stability, particularly compared to central Iraq, the United States never established a military base in Kurdistan and expended the least resources in these northern provinces.

The Kurdistan Region is everything that the United States had promised would arise in Iraq: an overwhelmingly pro-American region with a relatively stable democratic system.[xvii] However, the United States is not willing to support the Kurdistan Region unconditionally. President Bush's policy in Iraq was to promote a unified federal government. In reference to an independent Kurdistan, Secretary of State Colin Powell stated, "Clearly the Kurds wish, in some way, to preserve their historic identity and to link it in some way to geography. But I think it's absolutely clear that part of Iraq must remain part of Iraq."[xix] The federal government must be strong and stable; therefore, an independent Kurdistan would weaken Baghdad politically. Independence would also lead to more instability internationally. Iraq's neighbors—Turkey, Iran, and Syria—also have Kurdish populations vying for their own self-rule. Thus, Bush objected to Kurdish independence, a goal that was historically the *peshmerga*'s principal objective. Kurdistan would have to participate in a federal Iraq, though the Kurdish voice suddenly became much more pronounced. With this transformation, new questions arise: what type of institution would the *peshmerga* develop into? Could they willingly cooperate with Baghdad?

The current policymakers in the Kurdistan Regional Government proclaim that they do not want to declare independence. Kurdistan will remain a portion of Iraq if Iraq retains a democratic, representative government and allows Kurdistan to guard its autonomy.[xx] One measure of this autonomy is the region's constitutionally protected right to maintain the *peshmerga*. Remaining a part of Iraq is not a popular idea amongst the majority of its Kurdish population. One former fighter reiterated that the goal of the *peshmerga* was to be liberated from Baghdad's rule; this goal, he argues, will not be met until Kurdistan is completely independent from the rest of Iraq.[xxi]

UNIFICATION OF THE TWO ADMINISTRATIONS: 2006 – PRESENT

"I destroy my enemies when I make them my friends." – Abraham Lincoln

Unification and Domestic Kurdish Politics

The two main political parties in Iraqi Kurdistan remained the same as the region entered into the twenty-first century, and the leadership of each group was unchanged. The KDP is currently led by Masoud Barzani, Mustafa Barzani's son and current president of the Kurdish Regional Government. The capital of Iraqi Kurdistan and stronghold of the KDP is Erbil. Meanwhile, Jalal Talabani, the current president of Iraq, is still at the head of the PUK, whose leadership resides in Sulaimaniyah, the second largest city in the Kurdistan region. The two most important Kurds in contemporary Iraqi politics have a strong history of animosity during the Kurdish Civil War.

After the end of that war, the two political parties established two separate and non-interacting governments; this divide was in place for eight years. The KDP and PUK officially unified their governments in 2006 with the goal of combining the two administrations under one Kurdistan Regional Government (KRG) which would govern the three Kurdish provinces of Iraq. The merger was a gradual process, as some ministries required additional time to coalesce.

True to Kurdish tribal history, *peshmerga* groups have traditionally been organized locally and inspired by charismatic personalities. Unification would require a shift in this mentality. With the formation of the unified Kurdish Regional Government, theoretically all soldiers would serve their one president, regardless of political orientation, and the *peshmerga* would move from local to central control. The unification process, however, is not complete as far as the Ministry of Peshmerga Affairs is concerned because a unified command structure has yet to be introduced. This raises concerns over the viability of harmony in northern Iraq; the unification of the *peshmerga* could test the longevity of the Kurdish peace agree-

ment. If the *peshmerga* could transform from a patrimonial group to an institutional organization with a greater mission than serving an individual leader, then peace in northern Iraq would be sustainable.

The *peshmerga* have been one of the last governmental agencies to complete the unification process. Appointed in May 2006, Jafar Mustafa Ali was officially sworn in as the KRG Minister of Peshmerga Affairs on 6 April 2009. To this day, the two *peshmerga* groups, comprised of a combined 80,000 soldiers, have not yet fully integrated their forces. At the end of the unification process, there should be eight brigades in total but as of January 2011, only four brigades were fully unified.[xxii] The unification of the *peshmerga* requires standardizing procedures, such as training, combining their budgets and altering their chain of command. While the *peshmerga*'s personnel will remain the same, the command structure will necessarily have to change.[xxiii] As of early 2011, there is not yet a unified chain of command for the *peshmerga*. Considering that the *peshmerga* includes the same individuals that fought against one another a mere ten years ago, does the fact that the *peshmerga* have not fully unified indicate that tensions between the two Kurdish parties still remain?

From the Kurdish perspective, unifying the *peshmerga* would naturally require a fair amount of time. Despite the slow unification, Kurdish politicians emphatically point out that *peshmerga* still succeed in defending the Kurdistan region. Moreover, the leadership of both *peshmerga* groups ultimately report to only one person: their elected leader, the president of the KRG.[xxiv] Article 60, Item 1 of the Kurdistan Constitution states that "the President of the Kurdistan Region holds the highest office of executive authority. He is the Commander-in-Chief of the Regional Guard, the *peshmerga*."[xxv] While the goal of complete unification has not yet been reached, individual *peshmerga* brigades are still operational and they perform their basic responsibilities. There is only one Minister of Peshmerga Affairs for the Kurdistan Region—Jafar Mustafa Ali. Though the Minister is a former PUK *peshmerga* fighter, he serves a KRG president of the opposite party. Despite political differences and setbacks in unification, he maintains that the *peshmerga* is loyal to the President of the Kurdistan Region.

Functionality, however, is not necessarily an indicator of cohesion. Political divisions are still apparent throughout the Kurdistan region. For example, the *peshmerga* continue to operate checkpoints throughout the Kurdistan region, much like it did when there were two separate and non-interacting administrations. One of the largest checkpoints is that which divides the Erbil governorate, the KDP stronghold, from the PUK stronghold in the Sulaimaniyah governorate. When entering Sulaimaniyah, one can see large, framed portraits of party leader Jalal Talabani and flags emblazed with the PUK logo. Likewise, portraits of Masoud Barzani and emblems of the KDP welcome visitors entering the Erbil governorate.

(Checkpoints also display flags of the Kurdistan region, though the Iraqi national flag is noticeably absent.)

It is easy to understand how lingering hostilities could prevent total unification. The participants in the civil war are the same individuals who must repair the damage and come together. However, it is not sufficient to summarize the *peshmerga*'s inabilities simply and solely as relics of past conflicts. The fact that most non-defense ministries have unified could indicate that there are other notable factors to consider.

Unification and Federal Politics

It is important to understand that Kurdistan's domestic politics do not occur in a vacuum. The federal government in Baghdad has been hugely influential in how the Kurdish administrations have unified, mostly because Baghdad has been unresponsive to the needs of the Kurdistan region. Kurdistan is essentially a state within a state; it is self-governing yet still connected to Baghdad's bureaucracies. While Kurdistan retains the autonomy that the region gained in 1991, the Kurdistan Regional Government cannot pass any laws that contradict the Iraqi federal constitution. Similarly, the Kurdistan Regional Government is dependent on Baghdad for its annual budget. Each year the Kurdistan Region receives 17 percent of Iraq's total revenue; this figure is determined by the most recent census results, as revenue must be distributed to the regions based on their population size.[xxvi] However, the *peshmerga* and other security and law enforcement agencies in the Kurdistan Region have argued that they should be incorporated into the federal budget rather than the Kurdistan region's budget. Since 2008, the federal government has stalled in integrating the *peshmerga* into the 15th and 16th Divisions of the Iraqi army. This integration, Ali believes, would facilitate unification as well as provide the *peshmerga* with a larger budget and greater access to more advanced weapons systems. He argues that the unification process is not hindered by technical or political difficulties; unifying the *peshmerga* requires an investment of time and financial resources, the latter of which the ministry does not and cannot have without involvement from Baghdad.[xxvii] This phenomenon indicates that ethnic and regional tensions remain and that political problems in Baghdad preclude it from cooperating with Erbil.

The *peshmerga* are not the only defense entity that have not yet unified since 2006. For example, the police and intelligence divisions continue to be divided. The Zerevani and Bergary are the special forces instruments of the Kurdistan Ministry of Interior. Their major responsibilities include law enforcement, humanitarian assistance, security for diplomatic delegations and protection of government buildings, oil fields and heritage sites.[xxviii] They perform the same functions

but were created by the different parties. While the Zerevani have their headquarters in Erbil, the Bergary are based in Sulaimaniyah. The rest of the Ministry of Interior in Kurdistan has unified, though these two security arms have yet to complete this process. They do not cooperate on operations; they maneuver regionally.[xxix]

According to Zerevani Major General Aziz Weysi, the Zerevani and Bergary will unify when they are integrated into the Ministry of Interior in central Iraq. The Zerevani and Bergary have been trying to integrate themselves into the federal police system since 2008; however, there is no projected date of completion. If and when this unification does occur, these two agencies will no longer be paid by the Kurdistan Regional Government but instead by Baghdad.[xxx] At face, this situation seems identical to the ongoing process of unifying the *peshmerga*. However, the Zerevani and Bergary were created by their respective political parties in 1997; at this time, the Kurdish Civil War was winding down and leaders of the two political parties were beginning their negotiations. The Zerevani and Bergary do not have a history of mutual opposition in the way that the two *peshmerga* groups did. In any case, the situation in which these special forces find themselves indicates that the political situation in Baghdad affects the Kurdistan Regional Government.

The intelligence services in Kurdistan, formed during the height of the Kurdish Civil War, are also not unified. Under the umbrella of the Ministry of Interior, the Asayish (literally: "security/intelligence") has both a KDP branch and a PUK branch.[xxxi] There are two intelligence offices, one for each branch, in each major Kurdish city, including Kirkuk. Masroor Barzani, the head of the KDP intelligence services and son of President Masoud Barzani, argues that the fact that these two agencies have not unified does not mean that they are mutually distrusting or that they are politically operated.[xxxii] At face value, it is difficult not to see the intelligence forces as politically operated entities; in the entrance to Masroor Barzani's office, for example, the emblem of KDP on the wall is larger than the adjacent flag of Kurdistan. Masroor Barzani maintains that though they are distinct, the KDP and PUK intelligence agencies work in conjunction with one another; the Kurdistan Region is much more stable than the rest of Iraq, in part due to this cooperation. Masroor Barzani maintains that there is no need for these two branches to unify for this reason. Unlike the *peshmerga* and the Kurdish special forces, however, intelligence services in Kurdistan have made no initiative to integrate with the intelligence services in Baghdad.[xxxiii] This phenomenon can indicate that distrust still lingers between both the two Kurdish parties and the federal government in Baghdad. Though Masroor Barzani denies that Kurdish intelligence forces spy on each other or on those in Baghdad, it is not insignificant that they maintain distance between them.

The *peshmerga* work in conjunction with the various arms of the Minis-

try of Interior over issues such as defense policy, counter-terrorism and law enforcement. They necessarily need to cooperate and coordinate with one another in order to be effective. While none of these three forces have integrated fully, the Ministry of Peshmerga Affairs and Zerevani commanders cite political problems in Baghdad as the principal hindrance. The Kurdistan Regional Government only has limited funds; once these defense agencies are incorporated into the federal budget, Kurdish leaders believe that they will have sufficient resources to complete the unification process. Iraqi federal politics influences Kurdish domestic politics; in recent years, the inverse has proven to be true as well.

ROLE OF THE *PESHMERGA* IN IRAQ SINCE THE FALL OF SADDAM HUSSEIN

"Let me tell you, politics is much more difficult than war. In politics, there are many more fronts." – Masoud Barzani

Federal and Regional Forces

Once the Iraqi defense forces were reinstated, it became necessary for the *peshmerga* to interact with Baghdad. This reveals another way in which the *peshmerga* have evolved from their traditional role. Rather than fighting the Iraqi army, the *peshmerga* must coordinate and cooperate with it. The power dynamics in Iraq had changed. After the American invasion, the *peshmerga* began to play a larger role in the Iraqi defense system. The *peshmerga*'s relationship with the federal armed services is a litmus test of lingering ethnic tensions between Iraqi Kurds and Iraq's Arab population.

It is important to provide clear definitions and distinctions between the *peshmerga* and the Iraqi national armed forces, particularly as they have evolved since 2003. The *peshmerga* are Kurdistan's regional guard; soldiers are not required to be of Kurdish descent to enlist. At the same time, Iraqi Kurds are free to join the national armed forces. Many of these barriers were shattered in the post-Saddam Iraq.

The *peshmerga* hold an elevated status since the overthrow of Saddam Hussein. Kurdistan scored a major political victory in the Iraqi constitution-writing process by ensuring the region's right to maintain the *peshmerga*. Unlike other militia groups of ethnic origins, the *peshmerga* are a legal entity within Iraq. According to Article 121, Item 5 of the Iraqi federal constitution, "The regional government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces, and guards of the region."[xxxiv] Many be-

lieve that the *peshmerga* are a way to measure Kurdistan's ongoing desire for independence from the rest of Iraq; however, the *peshmerga* are a legal entity under the Iraqi constitution which was approved by popular referendum in 2005. Regional guards are primarily responsible for internal security. Though constitutionally approved, the *peshmerga*'s role in Iraq is still unique; as of early 2011 the *peshmerga* are the only officially recognized regional security force that exist outside of the Iraqi national army. (While several private militias, such as the Badr Organization or the Sons of Iraq, have emerged in Iraq since 2003 they have not been legally recognized by the federal government as a legitimate regional security force.)

Because of the *peshmerga*'s distinct status in Iraq, there are naturally some constitutional issues that need to be reconciled between the KRG and Baghdad. According to Article 110, Item 2 of the Iraqi federal constitution, the federal government has exclusive authority over "formulating and executing national security policy, including establishing and managing armed forces to secure the protection and guarantee the security of Iraq's borders and to defend Iraq."[xxxv] The main mandate of the national army is to protect Iraq's borders, including those in the Kurdistan region. The national army has the exclusive responsibility of border control. The Kurdistan Region shares borders with Turkey and Iran. Thus, there are two divisions of the Iraqi national army charged with protecting these borders; these divisions report to the Iraqi Minister of Interior rather than to the KRG and are financed by the Iraqi defense budget. However, from the Kurdish perspective, it seems as though the Kurdistan Region is not a priority in Baghdad; the General Secretary of the Peshmerga states emphatically that the border guards of the national army are chronically under-equipped.[xxxvi] This situation is particularly precarious along the porous border that Kurdistan shares with Iran.

The Iraqi constitution also provides a clear definition of roles that distinguish regional forces from federal forces. However, there are some discrepancies between the Iraqi federal constitution and the Kurdish constitution over the role of the *peshmerga* in Iraq. (Though it is still a draft, the Kurdistan Regional Government's constitution is still followed within the region.) Article 65, Item 13 of the Kurdish constitution explains that the president of the KRG has the authority, with approval of Kurdistan's Parliament, to send the *peshmerga* outside of the Kurdistan region's borders. The language of this provision is unclear as to whether the *peshmerga* can be deployed to other parts of Iraq or even beyond Iraq's borders.[xxxvii] However, in the Iraqi federal constitution, the prime minister of the federal government has a monopoly on force; he is the ultimate commander-in-chief of the armed forces in Iraq. It is unclear how these constitutional issues could be resolved if the president of the KRG decided to deploy the *peshmerga* beyond the Kurdistan region's borders without consulting the prime minister of Iraq.[xxxviii] At the moment, the KRG has taken the stance that Kurdistan is a portion of a democratic

and federal Iraq. By this logic, the *peshmerga* would abide by the Iraqi constitution in a time of crisis. Mahmoud al-Sangawi, the Secretary General of the *peshmerga* forces, stated, "We hope that there will be no conflicts or wars with neighboring countries. But in such an event, we cannot fight with any country if we do not receive the [Baghdad] parliament's approval because we are part of Iraq."[xxxix] At the moment, defense policy and rhetoric indicates that the KRG is a willing participant in a federal Iraqi state.

Federal and Regional Defense Cooperation

Cooperation between the Ministry of Peshmerga Affairs in Erbil and the Ministry of Defense in Baghdad is necessary to ensure stability. There are also *peshmerga* soldiers who are deployed beyond Kurdistan's borders, particularly in Iraq's disputed areas, which include governorates of Iraq where both Kurdish and Arab populations reside. The most notable disputed region is Kirkuk, an oil-rich province south of the Erbil governorate, but some peshmerga soldiers are also deployed in Ninewa and Diyala.[xl] The *peshmerga*'s responsibilities in these regions are primarily to operate checkpoints and to provide law enforcement forces. Therefore, the Minister of Peshmerga Affairs in Erbil needs to coordinate with the Minister of Defense in Baghdad to ensure that ethnic tensions do not become enflamed.

Relations between Kurdistan and Baghdad are not always amicable. There are several issues that the Kurdistan Regional Government needs to reconcile with Baghdad; for example, the government in Kurdistan is still dependent upon Baghdad for its budget each year. Fiscal issues affect how the *peshmerga* can operate. The Minister of Peshmerga Affairs is currently pushing for the *peshmerga* to be integrated into the Iraqi federal budget because since 2006, there has been no official budget for the peshmerga.[xli] According to the Minister of Peshmerga Affairs, the *peshmerga*'s budget has been approved in Baghdad each year but has never been implemented. Without support from Baghdad, this ministry's budget is currently on loan from the Ministry of Finance in the Kurdistan Regional Government. Jafar Mustafa Ali emphasizes that this loan will be repaid once the Iraqi defense budget is implemented. Even the loans that they currently receive are not adequate; the Ministry can only pay for salaries for its soldiers, so the *peshmerga*'s training and equipment is chronically underfunded.

Officials in the Ministry of Peshmerga Affairs do not speculate openly as to why Baghdad would hesitate to incorporate the *peshmerga* within the national defense forces. There are roughly 80,000 professional fighters in the modern *peshmerga*. Kurds account for roughly eight percent of the federal defense forces, though they are meant to include around 22 percent.[xlii] It is apparent that Kurds are proportionally under-represented in Iraq's defense sector. The Iraqi constitution

clearly states in Article 9, Item 1 that the federal army must be comprised of all sects and ethnicities living in Iraq. This is in contrast to the national army that Saddam Hussein had developed, which was overwhelmingly Sunni with a leadership comprised of exclusively of Ba'ath party members.[xliii] Inversely, current leadership of the Iraqi army is predominately Shi'ite, revealing the shift in power dynamics since Saddam Hussein's disposal.[xliv] Many officials in the Ministry of Peshmerga Affairs believe that Baghdad is unhappy even with this low number of Kurds; there is a fear that the federal government wants to discourage Kurds from joining the national armed forces.[xlv] Ethnic tensions hinder the development of a cohesive defense apparatus.

The *peshmerga*'s equipment is not advanced and also suffers from a lack of support from Baghdad. Jafar Mustafa Ali noted that the *peshmerga* use former Iraqi equipment, which was often captured in past battles. Once again, if the *peshmerga* were integrated into the Iraqi defense budget, many of these equipment shortages could be rectified. In addition, once this integration is completed, the *peshmerga* will also be eligible to receive equipment and training directly from the United States and NATO allies.[xlvi] At the moment, the *peshmerga* can only receive this support with Baghdad's approval. Integration into the federal defense budget would unquestionably strengthen the *peshmerga*'s resources and capabilities. According to Jafar Mustafa Ali, the *peshmerga* have been trying to incorporate itself into the defense budget since 2006. He believes that this change could be implemented later this year, but unfortunately there is no projected date of completion from Baghdad.

If the *peshmerga* were integrated into the federal system, it would undoubtedly become a stronger organization with more resources at its disposal. It would also become more closely linked with the federal government; Kurdistan's successes would be Baghdad's successes as well. Without support from Baghdad, however, the *peshmerga* look towards external sources. Three planeloads of small arms and ammunition from Bulgaria arrived in the Kurdish city of Sulaimaniyah in 2008. This arrival was alarming to American forces that worry about armed conflict between the *peshmerga* and the central Iraqi army, particularly over the status of Kirkuk.[xlvii] If a move like this triggered an Iraqi arms race between the *peshmerga* and the predominately Arab federal army, the stability of a united Iraqi state would be severely undermined. This acquisition was a violation of Iraqi law because only the Ministries of Interior and Defense in Baghdad are authorized to import weapons from abroad. The Minister of Peshmerga Affairs denies that his troops receive any foreign aid.[xlviii] Illegally importing weapons from foreign allies is emblematic of possible tensions between Kurdistan and Baghdad. The fissures between Kurdistan and Baghdad still remain in place, weakening the overall stability of the federal system.

In light of past violence between the Kurdish and Arab populations in

Iraq, it should not be surprising that some tension would remain. The ethnic fault lines, especially over the issue of Iraq's disputed territories, are particularly dangerous in the current political climate. With Kirkuk's status in question and the slow implementation of the Iraqi constitution, the risk of a violent confrontation has grown.

PROSPECTS FOR PEACE?

"A peace is of the nature of a conquest; For then both parties nobly are subdued, And neither party loser." —William Shakespeare

In the end, why does the unification of the *peshmerga* matter when Iraq faces a plethora of other pressing issues? The Autonomous Kurdistan Region is currently the most secure portion of Iraq, enduring fewer acts of terrorism than other regions of the country. However, Iraq has a long and bloody history of violence and ethnic relations remain antagonistic. How can one predict if Kurdistan's current stability is sustainable?

The stability of a country can often be measured by how well its defensive apparatuses are institutionalized.[xlix] The *peshmerga* could follow one of two paths: they could develop into an institution or remain a patrimonial group. If the Iraqi defense system develops as an institution, they would be dedicated to a broader national commitment that supersedes an individual leader, rather than simply serving an ethnic or political interest. Equally important, an institutionalized defense system is likely to survive political changes and reforms, as it serves a greater mission than just one leader. Theoretically, if the *peshmerga* were able to develop into an institution, they would loyally serve President Barzani as well as his successor. Barzani is 65 years old, and a member of the Barzani family has commanded the *peshmerga* since their inception in 1961. As a result, it is unclear how the *peshmerga* will function when the KRG leadership changes, but that is a question that the *peshmerga* will inevitably be forced to address. According to Eva Bellin, a professor of political science at Brandeis University, "An institutionalized coercive apparatus is one that is rule-governed, predictable, and meritocratic" whereas a patrimonial system is "ruled by cronyism."[l] The *peshmerga* have traditionally been patrimonial, but because of the difficulties in unification, they are not yet an institution. They still operate locally and do not cooperate well with their Arab counterparts.

Historically Iraq has had a patrimonial defense system. In Baghdad, Saddam Hussein promoted individuals in the military to higher positions based on their loyalty to him. Similarly, the *peshmerga* have historically centered on the leadership of tribal chiefs. When the leadership changes, a patrimonial system's loyalties to the new order are not as strong; this system leads to instability if a leader is

ever removed from office. The *peshmerga* appear to be more patrimonial than institutional. Considering that the leadership of the two Kurdish political parties has not changed for the past forty years and that the peshmerga have had little success in integration, the Kurdistan region's peace does not appear durable if the political climate ever evolves.

The Second Gulf War has been characterized as a conflict between the Sunni and Shia populations of Iraq. Military and government officials are beginning to worry that the axis of the war is shifting to the Arab-Kurd divide.[li] Colin Kahl of the Center for a New American Security, a think-tank specializing in American national security issues, relayed his concerns in 2008 when he stated, "As Nuri al-Maliki has become more capable and more confident, he's actually become less inclined to reach out to those he most needs to reconcile with."[lii] The federal government remains deadlocked with the KRG over the status of disputed territories and oil, in addition to that of the *peshmerga*. Lingering ethnic tensions and Iraq's political stalemate indicate that the Kurdistan region's current peace is short-lived. The *peshmerga* innately serve Kurdish interests rather than national interests. Therefore, given tepid Kurd-Arab relations, the status of the *peshmerga* could easily emerge as one of the central issues of Iraq's stability.

CONCLUSION

The lingering distrust between the Kurdistan Regional Government and the Iraqi government in Baghdad shows that the coalition government in Iraq is weak. Unfortunately, for a coalition government in Iraq to succeed, the federal system in Baghdad must be strong. It is clear to see how incorporating the *peshmerga* into the federal system would once again strengthen their position. However, this integration would also strengthen ties between the KRG and Baghdad; if the federal government in central Iraq worries that Kurdistan is vying for its independence, providing Kurds with a stake in the system could be an effective mitigation tool.

Kurdistan's problems are political in nature. The Iraqi constitution, passed by popular referendum in 2005, has not been fully implemented. As a result, the political institutions that have been developed are not legitimate. Ethnic and political divides continue to be barriers to Iraq's stability. As a result, it is unclear whether the *peshmerga* will continue to operate in the same fashion if the Kurdistan Regional Government's leadership changes or if the relationship between Baghdad and Erbil degenerates. Thus, northern Iraq may not as stable and peaceful as is commonly presupposed.

[i] Michael M. Gunter. "The KDP-PUK Conflict in Northern Iraq." (*Middle East Journal*. Vol. 50, No. 2, Spring 1996), p. 237.
[ii] Richard Sim. *Kurdistan: The Search for Recognition* (London: Institute for the Study of Conflict, 1980), p. 6.
[iii] Quil Lawrence. *Invisible Nation: How the Kurds' Quest for Statehood is Shaping Iraq and the Middle East*. (New York: Walker & Company, 2008), p. 27.
[iv] *Ibid*, p. 37.
[v] Kevin McKiernan. *The Kurds: A People in Search of their Homeland* (London: St. Martin's Press, 1996), p. 98.
[vi] Bayan Sami Abdul Rahman. In discussion with the author. 10 January 2011.
[vii] David Romano. *The Kurdish Nationalist Movement: Opportunity, Mobilization and Identity* (London: Cambridge University Press, 2006), p. 189.
[viii] Lawrence, p. 87.
[ix] Gunter, p. 237.
[x] Ibid, p. 240.
[xi] Michael Kelly. "The Kurdish Regional Constitution within the Framework of the Iraqi Federal Constitution." (*Penn State Law Review*. Volume 114:3. April 2010), p. 72.
[xii] Lawrence, p. 7.
[xiii] George Packer. *The Assassins' Gate: America in Iraq* (New York: Farrar, Straus and Giroux, 2005), p. 297.
[xiv] Lawrence, p. 176.
[xv] Charles Tripp. *A History of Iraq* (New York: Cambridge University Press, 2007), p. 7.
[xvi] Jafar Mustafa Ali. In discussion with the author. 9 January 2011.
[xvii] Lawrence, p. 186.
[xviii] *Ibid*, p. 14.
[xix] Esther Pan. "Iraq: The Kurds' Agenda" (Council on Foreign Relations, 2 February 2004).
[xx] Dr. Kamal Kirkuki. In discussion with the author. 5 January 2011.
[xxi] Sipan Ali Yusuf. In discussion with the author. 13 January 2011.
[xxii] Maria Fantappie. "Who are the peshmerga?" Niqash. 19 May 2010.
[xxiii] Jafar Mustafa Ali.
[xxiv] *Ibid*.
[xxv] "The Draft Constitution of the Kurdistan Region – Iraq," Article 60, Item 1.
[xxvi] Shakhwan Mahmoud. "PUK: We are prepared for a military solution." Niqash. 22 September 2009.
[xxvii] Jafar Mustafa Ali.
[xxviii] Aziz Weysi. In discussion with the author. 12 January 2011.
[xxix] *Ibid*.
[xxx] *Ibid*.
[xxxi] Mahmoud.
[xxxii] Dana Asaad. "The peshmerga: militia or regular army?" Niqash. 21 May 2008.
[xxxiii] Masrour Barzani. In discussion with the author. 10 January 2011.
[xxxiv] "The Constitution of Iraq," Article 121, Item 5.
[xxxv] "The Constitution of Iraq," Article 110, Item 2.
[xxxvi] Mahmoud al-Sangawi. In discussion with the author. 9 January 2011.
[xxxvii] Kelly, p. 53.
[xxxviii] *Ibid*, p. 56.
[xxxix] Mahmoud.
[xl] Asaad.
[xli] Muhammad Sardar. "Kurds debate military struggle." Niqash. 13 May 2009.
[xlii] Asaad.
[xliii] Samir Al-Khalil. Republic of Fear: The Inside Story of Saddam's Iraq. (New York: Diane Publishing Co., 1991), p. 17.
[xliv] "Iraq's Kurds build up their own army." UPI. 7 December 2010.
[xlv] Jafar Mustafa Ali.
[xlvi] *Ibid*.

[xlvii] Ernesto Londono, "Kurds in N. Iraq Receive Arms from Bulgaria." (*The Washington Post*. 23 November 2008).
[xlviii] Jafar Mustafa Ali.
[xlix] Eva Bellin. "The Robustness of Authoritarianism in the Middle East: Exceptionalism in Comparative Perspective." Comparative Politics, vol. 36, no. 2 (January 2004), p. 145.
[l] Bellin, p. 144.
[li] Thomas E. Ricks. *The Gamble: General David Petraeus and the American Military Adventure in Iraq*. 2006-2008 (New York: The Penguin Press, 2009), p. 296.
[lii] Colin Kahl. "Press Briefing with Colin Kahl." Center for a New American Security, 13 August 2008.

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

by Patricia Letayf '11

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

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

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

A HISTORY OF THE DISPUTED TERRITORY[1]

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

[1]This first section provides a basic summary of modern history of the Kurds in Kirkuk. For a more detailed version, see Liam Anderson and Gareth Stansfield. Crisis in Kirkuk. Philadelphia : University of Pennsylvania Press, 2009.

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

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

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

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

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

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

Seventy-five years of Arabization

As stated above, the territory of the Kirkuk Province today has different territorial
dimensions than the province of the twentieth century. In the 1930s, the size of Kirkuk was about 20,000 km2 whereas today it is 9,679 km2, less than half of its original size.[vi] Kurds and Turkmens inhabited most of these lost lands. Ethnopolitics was the driving factor behind these frequent changes because the Iraqi government hoped to deliberately offset the ethnic balance in Kirkuk. With gerrymandering—in this case, conducted via the addition of predominantly Arab districts and sub-districts to Kirkuk, Baghdad changed the population size and ethnic distribution of the governorate through its multi-phased Arabization policies which attempted to "melt down the ethnicity of the Kurdish people."[vii]

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

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

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

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

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

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

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

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

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

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

MINE OR YOURS: THE ETHNIC NARRATIVES OF THE STAKEHOLDERS

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

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

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

[6] The 1957 census is agreed to be the most statistically accurate of the three.

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

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

The Turkmens

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

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

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

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

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

Arab Iraqis

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

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

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

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

The Kurds

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

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

KIRKUK POST-2003: ISSUES OF GOVERNANCE AND LEGALITY

The fall of the Ba'ath Party

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

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

[8] This was a unilateral move planned by the PUK without any coordination with the United States or the KDP.

Kirkuk and the Transitional Administrative Law

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

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

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

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

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

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

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

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

The 2005 elections and constitution-writing process

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

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

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

During the constitution-writing process, federalism and the management of oil supplies became two of the most controversial issues. With the regards to the first issue, Article 140, "arguably the product of a larger bargaining process between the Kurdish and Shi'a blocs in parliament,"[xxxix] states:

[10] Allocation of the provincial budget by the federal government continues to be an issue in Kirkuk today.

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

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

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

THE CURRENT STATUS OF ARTICLE 140: PROBLEMS WITH IMPLEMENTATION

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

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

And the way to achieve these goals, he believes, is the implementation of Article 140 within the framework of Iraqi law. [xli]

Resolution of property disputes

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

Brookings Institution report, "At the current pace, it is estimated that it will take the Cassation Commission close to thirty years to finish its projected caseload."[xliv]

The census and referendum

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

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

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

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

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

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

[11] In English, the word ta'amim translates to "nationalization."

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

PROPOSED SOLUTIONS TO THE KIRKUK QUESTION

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

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

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

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

[12] Hawija is a predominately Sunni Arab towns whereas Tal Afar is a majority Turkmen town.

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

The Grand Bargain: An "Oil for Soil" deal

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

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

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

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

KIRKUK AND THE KRG TODAY

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

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

Is Kirkuk really a powder keg?

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

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

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

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

What should the KRG do?

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

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

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

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

---

[i] Lionel Beehner: "The Challenge in Iraq's Other Cities: Kirkuk." Council on Foreign Relations. 30 June 2006. <http://www.cfr.org/publication/11036/challenge_in_iraqs_other_cities.html>.

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

[iii] Anderson and Stansfield.

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

[v] Anderson and Stansfield, p. 19-20.

---

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

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

[xlix] *Ibid*.
[l] Ferris and Stoltz, p. 3.
[li] Barkey, p. 18.
[lii] Ferris and Stoltz, p. 5.
[liii] *Ibid*, p. 3.
[liv] David Romano. "Article 140: Time to talk details." Kurd Net. 28 October 2010. <http://www.ekurd.net/mismas/articles/misc2010/10/kirkuk638.htm>.
[lv] Romano. "Article 140: Time to talk details."
[lvi] Knights with Ali, p. 20.
[lvii] *Ibid*.
[lviii] *Ibid*, p. 18.
[lix] *Ibid*, p. 24.
[lx] Romano. In discussion with the author.
[lxi] Joost Hiltermann. "Iraq: Everyone Wants a Piece of Kirkuk, the Golden Prize." 26 February 2009. International Crisis Group. <http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-syria-lebanon/iraq/iraq-everyone-wants-a-piece-of-kirkuk-the-golden-prize.aspx>.
[lxii] "Oil for Soil: Toward a Grand Bargain on Iraq and the Kurds." Middle East Report N°80. International Crisis Group. 28 October 2008. <http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Iraq/80_oil_for_soil___toward_a_grand_bargain_on_iraq_and_the_kurds.ashx>.
[lxiii] Masroor Barzani. In discussion with the author.
[lxiv] Richard A. Oppel, Jr. "Kurdish control of Kirkuk creates a powder keg." 18 August 2008. *The New York Times*. <http://www.nytimes.com/2008/08/19/world/middleeast/19kirkuk.html?_r=1&scp=1&sq=kirkuk&st=cse>.
[lxv] Joost Hiltermann. "Kurds no closer to taking Kirkuk after last Iraqi elections." 8 March 2010. *Foreign Policy*. <http://mideast.foreignpolicy.com/posts/2010/03/08/kurds_no_closer_to_taking_kirkuk_after_iraqi_elections>
[lxvi] Ferris and Stoltz.
[lxvii] Halo Najat Hamza. In discussion with the author. 18 January 2011.
[lxviii] Irfan Kirkukli. In discussion with the author. 11 January 2011.
[lxix] Qubad Talabani. In discussion with the author. 18 February 2011.
[lxx] Ibid.
[lxxi] Denise Natali. "Stifled Kurdish Opposition." 23 February 2011. *Foreign Policy*. <http://mideast.foreignpolicy.com/posts/2011/02/23/stifled_kurdish_opposition>.
[lxxii] Suadad Al-Salhy. "Iraq PM demands Kurdish forces leave disputed city." 3 March 2011. Reuters. <http://www.reuters.com/article/2011/03/03/us-iraq-politics-kirkuk-idUSTRE7225JP20110303?feedType=RSS&feedName=everything&virtualBrandChannel=11563>.
[lxxiii] Yahya Barzanji. "Official: Kurd forces will stay near key Iraq city." 9 March 2011. *Forbes*. <http://www.forbes.com/feeds/ap/2011/03/09/general-ml-iraq_8347103.html>.
[lxxiv] Jim Loney. "Analysis: Kurds serve warning as US withdrawal nears." Reuters. 31 July 2011. <http://www.reuters.com/article/2011/07/31/us-iraq-security-kurdistan-idUSTRE76U19V20110731?feedType=RSS&feedName=topNews&rpc=71>.
[lxxv] *Ibid*.
[lxxvi] Denise Natali. "Are the Kurds still kingmakers in Iraq?" 26 May 2010. Arab Reform Bulletin at the Carnegie Endowment for International Peace. <http://www.carnegieendowment.org/arb/?fa=show&article=40856>.

Appendix 1

Article 140 of the Iraqi Constitution
First: The executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law.
Second: The responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law shall extend and continue to the executive authority elected in accordance with this Constitution, provided that it accomplishes completely (normalization and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31st of December 2007.

Article 58 of the Transitional Administrative Law (TAL)

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

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

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

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

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

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

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

Photo Essay:
A Glimpse of Kirkuk

Ian MacLellan, Geology '12

The view approaching Kirkuk. One of the most contentious issues for the KRG is the governance of oil-rich Kirkuk, a province currently not administered by the KRG. There is an argument that Kirkuk is both historically and culturally Kurdish.

Sunset through a hole in a decaying building in Kirkuk.

Young women walk home from school in Kirkuk.

Soldiers photograph one another next to the eternal flame in Kirkuk. The flame is a slow natural gas seep. The Kirkuk region has valuable natural gas and petroleum reserves, but due to a lack of investment, residents have power for only a few hours a day. Security is also a much larger concern in Kirkuk than Iraqi Kurdistan because of foreign intervention into the politics and ethnic tensions over the governance of Kirkuk.

A farmhouse outside of Kirkuk that was used as a prison to house Kurds during Saddam Hussein's regime.

The basement of a farmhouse outside of Kirkuk where Kurds were imprisoned by Saddam Hussein's regime.

The Ba'ath regime altered the ethnic composition of the Kirkuk governorate by bringing Arabs from southern Iraq to Kirkuk and evicting Kurds and Turkmens from their homes. Many villages such as this one, seen here at night, were flattened to wipe out the Kurdish presence in the region.

Section II:

Foreign Policy of the KRG: Engaging Old Neighbors

Revere and Adhere: Examining the Legality of Kurdistani Diplomatic Engagement

by Patrick Doherty '11

"You know, I still chuckle to myself about the last Arab League summit," laughed Qubad Talabani, a hint of bemusement noticeable in his posh British accent.[i]

Such lightheartedness is more than understandable for Qubad Talabani. Raised in England by his grandparents while his father, former resistance leader and current President of Iraq Jalal Talabani, spent decades commanding armed Kurdish peshmerga in the mountainous northern reaches of Mesopotamia, Qubad knows all too well the difficulties the Kurds have faced at the hands of Baghdad-based central government. The irony of the occasion was not lost on him: "It was amazing to have Jalal Talabani, Hoshyar Zebari, and Rozh Nouri Shawes – three Kurds – serving as the Iraqi delegation [to the Arab League]."[ii]

Qubad is himself a member of an increasingly comprehensive and responsive diplomatic corps with origins in northern Iraq's Kurdish-majority governorates. Having previously represented his father's party, the Patriotic Union of Kurdistan (PUK) in Washington, Qubad has spent almost a decade in America and has served as the Representative to the United States for the Kurdistan Regional Government (KRG) since the Region's administrative unification in 2006.

Operating under the umbrella of the Department of Foreign Relations (DFR), his Washington office is one of a handful of KRG outposts that dot the map of the Western world. The Department's officials are among the most articulate and polished that Iraqi Kurdistan[1] has to offer, and their representatives abroad consider themselves to be "the equivalent of an ambassador of a sovereign state."[iii]

---

[1] When discussing Kurdistan, it is critical to define the various terms used. Many terms are used in numerous and sometimes conflicting instances, but the purpose of this article, they will be kept uniform, even if they may not always be consistent their usage in other publications. 'Kurd' or 'Kurdish' will refer to those comprising or representing the ethno-linguistic group. An 'Iraqi Kurd' is a member of this ethno-linguistic group with Iraqi nationality. 'Kurdistan' (also 'Greater Kurdistan') is the transnational region that maintains a Kurdish majority, which largely includes parts of Iraq, Turkey, Iran, and Syria. 'Iraqi Kurdistan' is the portion of Kurdistan that is within the current boundaries of Iraq. 'Kurdistan-Iraq' or 'Kurdistan Region' is the part of this region that is federally recognized as majority-Kurdish and consists exclusively of the governorates of Dohuk, Erbil, and Sulaimaniyah. The 'Kurdistan Regional Government (KRG)' is the political entity that governs Kurdistan-Iraq. Within Iraqi legislation, 'Kurdistan' and 'Iraqi Kurdistan' are intended to apply to Kurdistan-Iraq, not including areas of Greater Kurdistan found in Iraq but outside the region (namely, Kirkuk). For the purpose of this paper, the term 'Kurdistani' will refer to something or someone that is representative of Kurdistan-Iraq and the KRG, as opposed to the ethno-linguistic 'Kurdish' (the Kurdish language accounts for the difference between these two concepts; without creating this terminology, English makes no such distinction).

Yet with the emergence of a federal Iraq in the wake of the fall of the Baʿathist regime, the introduction of the Kurdistan Region and Iraqi Kurds into the international diplomatic community has raised some concerns. "It rattles people in Baghdad that the Kurds have more than just one person [both federal and regional diplomatic representation]," explained Joost Hiltermann of the International Crisis Group. In terms of diplomatic representation, he said, "Baghdad and Erbil still haven't worked out their differences."[iv]

After decades of terror at the hands of Saddam Hussein's regime, the Kurdistan Region is now beginning to flourish, developing critical diplomatic relationships and establishing itself on the international stage. However, this growth is not without controversy. Is their foray into international diplomacy legitimate? Does the DFR have any legal basis? And, most importantly, does any of this jeopardize the integrity of the unseasoned federal Iraqi constitution?

BAGHDAD AND IRAQI KURDISTAN: A TUMULTUOUS RELATIONSHIP

The Kurdish narrative is one dominated by the idea of resistance: resistance to its neighbors, resistance to former President Saddam Hussein and, above all, resistance to the central government based in Baghdad. Inherently linked to this narrative is the Kurds' adoration of their mountains, to which the Kurds often refer to as "our only friend." The impressive topography of the Zagros Mountains stands in stark contrast to the plains and desert to their south. For years, it seemed as though the mountains doubled as a demarcation line in Iraqi politics, and recent history remains a major roadblock in creating a unified society.

'A Golden Opportunity'

For Iraq's older generations, the trauma inflicted by Saddam Hussein's Baʿathist regime left a wound that has yet to be healed. His notorious Anfal campaign, largely considered a systematic and government-sponsored genocide against Iraqi Kurds, has no doubt created a shared identity amongst this abused population. On the streets of Erbil, the capital of Iraqi Kurdistan, the consequent cynicism and suspicion towards Baghdad is unsurprising.

What is surprising, then, is that amongst Iraqi Kurdistan's politically active population, the federal constitution born from the collapse of Saddam's regime appears to be revered as gospel. Support for the document and a federalist system has even been integrated into Article 7 of Kurdistan-Iraq's constitution:

"The people of Iraqi Kurdistan shall have the right to determine their own destiny, and they have chosen, out of their own free will, to make Iraqi Kurdistan as a federal region within

Iraq, as long as Iraq abides by the federal, democratic, parliamentary and pluralistic system, and remains committed to the human rights of individuals and groups, as stipulated in the Federal Constitution." [v]

It seems that, almost on command, Iraqi Kurds can articulate these sentiments. The repeated assertion, "We are the largest nation without our own state," is often accompanied by the claim that 2003 was the "golden opportunity" for independence.

Yet Iraqi Kurds are quick to declare commitment to federalism, if only for pragmatic reasons. "We don't have access to the sea," pointed out Ayoub Galaly, the head of the non-governmental Democracy Development Organization. "We have every right to statehood, but geography doesn't make it realistic." He further articulated that fear of neighboring Syria and Turkey also was a major factor.[vi] Former Deputy Prime Minister of Iraq and current KRG Prime Minister Barham Salih has publicly stated that "we all want independence," but admitted that inclusion in the federal Iraq created by the 2005 constitution "is so much better for [the Kurds] – with all the resources of this country, a bigger entity."[vii]

Contextualizing the 2005 Federal Constitution

Since its establishment in the early twentieth century, the modern state of Iraq has continuously been confronted with the daunting task of unifying a heterogeneous and divided society. The American invasion and the ensuing fall of the Ba'athist government in 2003 forced Iraq to answer serious questions about its future, and at the focal point of these considerations lay the factional nature of the Iraqi demography. Preexisting social, political, ethnic and religious divisions became significantly more pronounced in the months following the outbreak of war, exacerbated by the absence of a post-war plan. The resulting power vacuum incited a struggle for political authority amongst Sunni and Shia Arabs, Kurds, Assyrians, Turkmen, Arab nationalists, secularists and even monarchists.

It is in this divided context that Iraqis drafted their current constitution. Despite the fact that the Law of Administration for the State of Iraq for the Transitional Period (TAL), Iraq's post-2003 provisional constitution, had claimed that a future federal Iraq would "be based on geography and history" and "not on ethnicity or sect,"[viii] the 2005 draft was widely viewed as the cooperative work of Kurdish and Shia politicians and leaders, both of whom represented regions of Iraq that ostensibly sought and would benefit from autonomy and power at the expense of minority Sunni Arabs.[ix]

While the document was clearly a concerted effort to maintain stability and unity, it is still too early to determine its ability to maintain a cohesive and sustainable Iraqi polity. Provisions allowing for the development of autonomous

regions, from which the KRG derives its legitimacy, are arguably the most significant contribution of the constitution to the current political environment of Iraq.

The Kurds' historical tendencies towards pressing for self-government played a prominent role in the delicate process of concessions and compromise in the constitution-writing process. Representatives of Kurdish political parties had to do their best to show commitment to a future with a federal Iraq while still asserting their rights to certain levels of autonomy and self-government. In an attempt to appease the various ethnic groups in Iraq, the 2005 constitution grants federally-recognized regions a certain level of autonomy. However, the document also stipulates that these powers cannot impinge on authorities exclusively assigned to the federal government. In extending this autonomy to the governments that had developed in Erbil and Sulaimaniyah since 1991, the framers of the constitution had hoped to gain Kurdish support for a central government based in Baghdad.[x]

SEMANTICS, SYNTAX, AND DIPLOMACY: TWO CONSTITUTIONS, MANY CONTRADICTIONS

Foreign and Regional Representation in the Federal Constitution

Within the context of these Iraqi ethnic, linguistic, and religious divisions comes Section Five of the country's Constitution, entitled "Powers of the Regions." Article 117 of the federal constitution officially recognizes the "region of Kurdistan;" this acknowledgment appears to be either the result of lobbying during the writing process or an incentive to encourage Kurdish participation in a unified Iraqi government.[xi] The section grants other governorates and provinces the option to form regions, though as of the publication of this article, Kurdistan remains the only autonomous region of federal Iraq (after the failed 2009 attempt at the formation of a region based in Basra).[xii]

Article 121 of the federal constitution delineates the rights bestowed upon federally-recognized regions, including the rights to governance and budget allocation. According to foreign correspondent and author Quil Lawrence, before sending KRG President Masoud Barzani to the constitution-writing committee in Baghdad in 2005, the Kurdistan Parliament passed a resolution outlining the Kurds' minimum demands, among which was Kurdish representation in Iraq's foreign embassies.[xiii] Able to manipulate the proceedings "with the most democratic of excuses,"[xiv] the Kurds got their wish in fourth provision of Article 121: "The regions and governorates shall establish offices in the embassies and diplomatic missions, in order to follow up cultural, social and developmental affairs."[xv] Based on these terms, Lawrence writes, "Should things in Iraq start to go agley, a Kurdish attaché

with each Iraqi embassy in all the world's capitals would have a chance to spin the story their way."[xvi]

Considering this clause, it is crucial to note that the first provision of Article 121 explicitly states that the regions have no jurisdiction in matters related to the "authorities stipulated in the exclusive authorities of the federal government,"[xvii] which are outlined in Article 110 of Section Four, "Powers of the Federal Government." Amongst these authorities, the most curious are found in its first provision:

"First: Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; negotiating, signing and ratifying debt policies and formulating foreign sovereign economic and trade policy."[xviii]

While the federal constitution grants exclusive rights in foreign policy and diplomatic representation to Baghdad and explicitly states that regions may not infringe in any way on these exclusive rights, the constitution also requires that regions establish offices in the central government's diplomatic missions for social, cultural and developmental affairs. This language allows for, and even encourages, such varied interpretations amongst the regional and central governments that it may endanger its sustainability.

Another Set of Rules: the Constitution of Kurdistan-Iraq

The parliament of Kurdistan, enjoying limited autonomy under the no-fly zone imposed by coalition forces on Saddam, began work on a draft of the Constitution of the Kurdistan Region in 2002, which was approved on November 7 of that year on the condition that it would be revisited in the event of a regime change. Upon the ratification of the 2005 federal Iraqi constitution, the Kurdistan Parliament formed a 19-man committee to rework the Kurdistani draft constitution so as to conform to its national counterpart.[xix] Sherwan Haderi, the Chair of the Law Committee of the Kurdistan Parliament, stressed the importance of adhering to the principles of the Iraqi federal system, claiming the draft committee had gone to great lengths to maintain that the integrity of the 2005 federal constitution, and, by association, a unified Iraqi polity.[xx]

Like its federal counterpart, the Preamble of the Constitution of the Kurdistan Region reads like an indictment of the crimes Saddam's regime carried out against the Kurdish people, acknowledging the sacrifices of the Kurds who contributed to the "mission and goal to establish a developed and civilized Kurdish society" and claiming the region seeks "to build Kurdistan as a united nation for all." However, the section's final paragraph echoes an oft-repeated Kurdish claim: "Now our choices have become unified and our will have [sic] converged with that

of the other components of the people of Iraq and its national forces for Iraqi Kurdistan to be a federal region within the federal state of Iraq."[xxi] Article 7, cited above, emphatically reiterates this position.[xxii]

The constitution itself references many of the rights granted to regions by the federal constitution. For example, the first paragraph of Article 3 stresses,

"The Constitution and the laws of the Kurdistan Region are sovereign and supersede all laws issued by the Iraqi government outside of the exclusive jurisdiction of the federal authorities, as stipulated in Article 110 of the Constitution of the Federal Republic of Iraq."[xxiii]

However, Haderi insists the federal constitution is still the basis for all law in Iraq. "When we wrote the Kurdistan constitution," he said, "we took all measures to ensure that it followed the 2005 federal constitution, because that is the main principle of any federal system."[xxiv] Secretary of the Kurdistan Parliament Farsed Ahmed concurred but also cited Article 115 of the federal constitution, under which "all powers not stipulated in the exclusive powers of the federal government" are granted to the regions and governorates. "If it is not exclusive, then it is regional," he explained.[xxv]

Article 8 of the regional constitution discusses Kurdistan's foreign affairs and diplomatic representation. In the first paragraph, the Article reads:

"International treaties and agreements, which the Federal Government enters into with any foreign state or party, and which affect the status or rights of the Kurdistan Region shall be effective in the Region if said treaties and agreements meet with the approval of an absolute majority of the Members of the Parliament of Iraqi Kurdistan."[xxvi]

Nothing in the article addresses as to who determines whether a treaty or agreement "affects the status or rights" of Kurdistan, although when asked, Ahmed said any dispute would be determined by the federal Supreme Court.[xxvii]

However, Ahmed did claim that based on this article, the Kurdistan Parliament has the mandate to approve any and all international agreements between Baghdad and foreign governments.[xxviii] This point is expanded upon in the second paragraph, which reads:

"Treaties and agreements which the Federal Government enters into with foreign states, shall not be effective in the Kurdistan Region if they deal with matters outside the Federal Government's exclusive jurisdiction, in accordance with Article 110 of the Federal Constitution, unless an absolute majority of the members of the Parliament of Iraqi Kurdistan approve the implementation of said treaties and agreements in the Region."[xxix]

Considering the fact that Article 110 grants exclusive authority for any and all "international treaties and agreements" to Baghdad, it would appear as though there

is no possibility that any "treaties and agreements which the Federal Government enters into with foreign states" – which by definition are "international treaties and agreements" – would fall under matters outside Baghdad's mandate. The third paragraph of Article 8 expands upon this concept, giving the Kurdistan Region the "right to enter into agreements with foreign states regarding issues that do not lie within the exclusive jurisdiction of the federal authorities" as outlined in Article 110, though this is qualified in the fourth paragraph, by which any such agreement is subject to federal approval.[xxx]

Interpreting, Explaining, and Opining

When asked, Haderi and Ahmed struggled to offer a concrete example of a situation in which either the second or third paragraph of Article 8 would be applicable. Both resorted to quoting Article 115 of the federal constitution. Specifically, Ahmed cited the clause under which "priority shall be given to the law of the regions … in case of dispute." This dispute would have to have some credible constitutional basis, however, and regional law cannot simply override the federal constitution in the event of a contradiction.[xxxi]

"The federal government decides broad concepts of foreign policy," Ahmed said. "We cannot leap over these policies. Within these policies, however, we can make agreements so long as it does not contradict the broader policy [of the federal government.]"[xxxii] It must be noted that this explanation still does not address the second or third paragraphs of Article 8, nor does it have a basis explicitly outlined in Article 110 of the federal constitution.

Michael J. Kelly, the Associate Dean of International Programs and Faculty Research and Coordinator of the International and Comparative Law Program at Creighton University School of Law, served as a consultant to Erbil in the draft-writing process of the Kurdish Constitution. In a phone conference, Kelly expressed his doubts over the relationship between Baghdad and Erbil. "[The current arrangement] is probably not sustainable," he said, "because the Iraqis and the [Kurdistanis] are going to interpret [the federal constitution] differently." Kelly stressed that an absence of a means for legal enforcement further complicates the situation. "Without courts, it's two political arguments and no solution." Kelly continued, "There's language in the [regional] constitution that trumps central law. Eventually [the Kurdstanis] will run into an Iraqi federal court that says otherwise."[xxxiii]

Kelly admitted this has significant implications for Kurdish foreign policy. "[Right now], there's a disconnect between the *de jure* and the *de facto* systems," he said of Iraqi and Kurdistani foreign relations. "The US consulate in Erbil is dealing with the KRG," and not with the federal government, according to Kelly. "From the

KRG's point of view," he remarked, "they [are hosting] their own ambassadors," which in practice seems to be the case.[xxxiv]

Kelly believes the KRG, though empowered by the federal Iraqi constitution, "sees it in their interests to have a weaker Iraq. They view it as a zero-sum game – a weaker Baghdad equals a stronger Kurdistan [Region], and vice versa." Because he believes Erbil "will always want a weaker Baghdad," Kelly explained that they "negotiate on international stage for [Kurdistani] interests and not Iraqi interests."[xxxv]

Since the 2005 federal constitution was passed, Kelly claims Masoud Barzani and the KRG have been "interested in shoring up the image of Kurdistan internationally." Kelly cited Barzani's frequent meetings and photo-ops with foreign heads of state, specifically King Abdullah of Saudi Arabia, describing them as "not exactly people a regional governor should be engaging with." However, though the Kurdistani leadership is "about as subtle as the Soviets," Kelly called them "incredibly cagey, which is how they pulled off what they pulled off constitutionally."[xxxvi]

EXAMINING THE KRG DEPARTMENT OF FOREIGN RELATIONS

Since the mid-1970s, various Kurdish political parties have maintained contact with Western governments and rivals of Saddam, hoping to topple his Ba'athist regime. Throughout the 1990s and into the early 2000s, the Barzani-dominated Kurdistan Democratic Party (KDP) and the Talabani-led Patriotic Union of Kurdistan (PUK) both maintained their own representatives to governments abroad. In an attempt to promote Kurdistan-Iraq internationally, this tradition has been continued and the practice systematized with the creation of the KRG's own version of the State Department.

The Diplomacy of Erbil

In the short time since the ratification of the 2005 constitution, Erbil has undoubtedly presented its own interpretations of and intentions for the document—and not only through its Kurdistan-Iraq draft constitution. Citing Paragraph 4 of Article 121 of the federal constitution, Executive Order No. 143 was issued by the KRG's Council of Ministers on 25 January 2009, officially creating the Department of Foreign Relations. Then-KRG Prime Minister Nechirvan Idris Barzani signed the order into law, which empowers the Department of Foreign Relations to carry out the following duties, among others:

"A – Strengthening the position of the Kurdistan Regional Government with foreign countries in the fields of politics, culture, social affairs, economy, and development…

B – Supervising the Kurdistan Regional Government's overseas offices and endeavoring to strengthen KRG relations…
C – Facilitating the missions of foreign representatives within the Kurdistan Region, and endeavoring to promote the Region's bilateral relations…
D – Supervising the visits of foreign delegations to the Kurdistan Region by providing assistance with accommodation and agendas…
I – Cooperating and coordinating with international companies and foreign investors in order to stimulate economic activity and enhance investment in the Region."[xxxvii]

Accompanying each of the first five duties listed is the qualifier "in coordination with the Ministry of Foreign Affairs of the Federal Republic of Iraq,"[xxxviii] implying subordinance to the federal government in terms of foreign policy and diplomatic representation.

The Department claims on its website to "work in concert" with Baghdad's Foreign Ministry "to further activities of the country and the Region abroad." The same page quotes Falah Mustafa Bakir, Head of the Department of Foreign Relations, outlining the Department's vision to "facilitate mutually beneficial partnerships between the Kurdistan Region and members of the international community."[xxxix] Given the federal constitutional limitations outlined in Article 110, it is vague as to what constitutes 'mutually beneficial partnerships' and how the Department anticipates it can 'facilitate' said relationships.

The DFR does, however, claim to have "served as a conduit for international diplomats and business representatives," which, through the promotion of direct foreign investment, has led to a recent "rapid expansion of foreign representations in the region." It is the also the self-described "main point of contact between the Kurdistan Regional Government and offices maintained by foreign governments in Erbil." [xl]

One of the primary duties is the oversight of foreign representative offices abroad. The DFR fleet of missions includes bureaus in Australia, Austria, France, Germany, Iran, Italy, Spain, Switzerland, the United Kingdom and the United States, as well as a mission to the European Union. [xli] Of these, only the office in Bern, Switzerland is in the same immediate neighborhood as its Iraqi counterpart. In the case of Paris and Rome, the KRG office is closer to the heart of the city than the federal embassy. The KRG Representation to Australia is not in the same city as the Iraqi Embassy – while the latter is in the capital of Canberra, the former is in Sydney, a city almost thirteen times larger. Furthermore, Baghdad does not maintain an office with the specific mandate of liaising with the European Union in Brussels. [2]

[2] The Iraqi Ministry of Foreign Affairs does have an Embassy to Belgium in Brussels, but according to the Ministry's website, it is only that. For comparative purposes, the Representative (Consulate) of the Republic of Iraq in New York, for example, is distinguished on the Ministry's website from the Permanent Mission of Iraq to the United Nations, also in New York. No such distinction is made for the Embassy in Brussels.

In a meeting at Department of Foreign Relations in Erbil, Bakir eagerly announced that he had recently returned from a trip to Venice, where he had negotiated a memorandum of understanding (MOU) between the KRG and the Veneto region. According to Bakir, all such bilateral MOUs must be approved by Baghdad, which he said has yet to reject any such negotiated accord. "We want credibility," he explained, "so we [the KRG] don't want to go against the [federal] constitution." In maintaining this position, Bakir also said he communicates with the Ministry of Foreign Affairs in Baghdad daily. [xlii]

Bakir described the MOU as an establishment of "economic, political, and cultural ties" between the two regions, but when others referred to it as an "agreement," he was quick to correct them. "An MOU is not an agreement, it is less specific," Bakir said, offering as a theoretical example a document outlining ways to encourage mutual investment.[xliii] This was an interesting play at semantics, especially considering that the Kurdistan Region's constitution gives the KRG the right "to enter into agreements," as cited above.

A similar situation arose regarding the term "minister." Given that the DFR is not a formal ministry, KRG officials were quick to stress that Bakir not be referred to with this title, although a few would occasionally refer to him as such unintentionally. When discussing foreign representation quarrels between Erbil and Baghdad, even Aydin Selçen, the Turkish Consul General in Erbil, emphatically clarified the wording of the title, saying that "by law," the holder of Bakir's position could not be called a minister because the KRG is adhering to the federal constitution. Selçen went on to describe Bakir as "a good friend" with whom he enjoys both good personal and official relations. In explaining all this, the Turkish representative neglected to comment on any potential cleft between the DFR and the federal constitution or the federal Ministry of Foreign Affairs.[xliv]

This emphasis on semantics is interesting, considering both that there is no specific reference to the government titles in question, as Selçen implied, and that, in practice, Bakir and his office are a de facto ministry. The first paragraph of Executive Order No. 143 describes the DFR as "a Department that falls under the Premiership of the Council of Ministers of the Kurdistan Region of Iraq,"[xlv] as does every other official KRG Ministry. In addition, Bakir is one of four KRG officials listed on the government's website as "senior officials with ministerial rank;"[xlvi] the other three are the Secretary of the Cabinet, Chairman of the Investment Board, and President/Diwan of the Council of Ministers. The DFR is the only government entity under the KRG Council of Ministers[3] with the denomination of "Department."[xlvii]

[3] Essentially a chief of staff

Addressing the Legal Question

After meeting Bakir in Erbil, it became apparent that the relationship between his Department and Article 121 of the federal constitution needed some clarification. Tawfiq Rahman Hamad, Directorate of KRG Offices Abroad, offered the Department's official interpretation of the provision on Bakir's behalf. According to Hamad, paragraph 4 of Article 121 "guarantees that the KRG will be allowed representation within the federal embassies." However, more controversially, Hamad explained that "this paragraph does not limit the KRG's foreign economic and social representation to offices within these embassies." [xlviii] The paragraph in question, as shown above, offers the regions the opportunities to "follow cultural, social and developmental affairs" through their offices in the embassies but neither permits nor limits economic relations. Meanwhile, Article 110 stipulates that the federal government has exclusive authority over "formulating foreign sovereign economic and trade policy."

Furthermore, this interpretation essentially means that the DFR believes Article 121 ensures there will be KRG representation in federal Iraqi embassies, but does not prevent them from establishing their own missions to further KRG aims. Following this logic, the existence of the DFR is not directly related to Article 121, a point that also made.[xlix] This is inconsistent with the preface to Executive Order No. 143, however, which reads: "Pursuant to Paragraph 4 of Article 121 and relevant Paragraphs and Articles of the permanent Constitution of Federal Iraq, … we have decided the following…"[l] Here, the official order itself from which the DFR derives its mandate cites Article 121 as the basis for its authority, although it is important to note that many features of the DFR predate this executive order.

Abdulhakeem Khasro Jawzal, a PhD candidate and Assistant Instructor at the public Salahaddin University in Erbil, offered another, only marginally different interpretation: "The Iraqi constitution says there should be Kurdish representation. [Executive Order No.] 143 is based on this." Although Jawzal noted that Article 110 gives Baghdad the exclusive right to determine international policies, he indicated that the "implementation [of these policies] into procedures are for the regions to decide."[li]

This interpretation was rather consistent amongst Kurdistani officials. Bakir posited that the DFR is not "formulating" foreign or economic policy but rather implementing federal policy on behalf of the KRG.[lii] In a phone interview, Qubad Talabani echoed these claims. "The [federal] constitution delineates that formulating foreign policy is Baghdad's prerogative," he explained, but qualified this by saying it was not necessarily their exclusive authority to execute the argument. "This is not an argument we are making," he added, "just a possible legal one."[liii]

Following this logic, DFR officials believe they are still working within the framework of the federal constitution despite maintaining offices separate from the federal embassies. The Department of Foreign Relations maintains a relationship with the federal Ministry of Foreign Affairs via a designated coordinator, and Jawzal explained that the DFR also has "set up a section to support the coordinator's role in maintaining this relationship." He also noted that "a committee has been formed to determine the nature and mechanics of the KRG's representation within the Federal Ministry," but that to date this committee has not yet completed its mission.[liv]

Othman Ali, Jawzal's colleague at Salahaddin University, described the KRG perspective as three-pronged. First and foremost, citing its recognition and legitimacy by the federal constitution, the KRG is a legal entity, whose policies must be recognized both by Baghdad and by the international community. Second, Ali stressed the Kurdish experience of genocide, specifically the Ba'athist regime's use of chemical weapons against Iraqi Kurds in Halabja in 1988 and the effect it has had on both the people and the region. Third, he cited UN Resolutions 688, 1514 and 1880, all of which "emphasize the federalism of Iraq. In spite of these resolutions and the federal constitution," he continued, "the central government is not coming forward to solve power-sharing, resources and boundary disputes." It is because of this, Ali reasoned, that the KRG must be represented internationally in order to protect the rights of its citizens. In Professor Ali's opinion, diplomatic relations could coax foreign governments to "rally for us to Baghdad from abroad."[lv] A slight sense of distrust of Baghdad seemed common amongst the legal and political scholars at Salahaddin and in the Kurdistan Parliament.

Ali used international comparisons to lend some legitimacy to Iraqi Kurdistan's position. "There are three types of federalism," he said, distinguishing them based on varying levels of international diplomatic engagement. Ali grouped Iraq with states like the United Arab Emirates, Brazil, Switzerland, Belgium and Canada, given their regional representation abroad.[lvi]

While some of the Salahaddin professors felt the constitutional provisions are straightforward, others disagreed. "Unfortunately, Article 110 is so generalized," lamented Dr. Hussain Tawig Fayzolla, Dean of Salahaddin's College of Political Science. "There are problems in its legal explanation." He specifically cited the wording of "treaties and accords," asking, "Where is the limit?" He continued, "The way to deal with legal contradictions is that we should be able to go to the federal courts," though he soon thereafter questioned the validity of federal court decisions because of its supposed politicization.[lvii]

Meanwhile, Asow Muhammad questioned the existence of any dispute. "We have not seen any complaint from the central government concerning foreign

policy," he said. "It's not a central issue."[lviii] His opinion echoed those of several KRG spokesmen interviewed.

Kurdistan Abroad

When meeting one of the DFR's representatives, it is as much from the general presentation as the particulars of the interview that one gains a more complete understanding of the KRG's foreign relations. Though born to a prominent Kurdish political family – her father served as KRG Deputy Prime Minister from 1999 to 2004 until he was assassinated alongside her brother that year – Bayan Sami Abdul Rahman was raised in the United Kingdom from the age of 11, ultimately earning a degree in history from the University of London. Her impeccable British accent is accompanied by an articulacy that no doubt lent itself to her fifteen years as a journalist for the *Financial Times*.[lix] Given Rahman's extensive education and experience, it is easy to understand why the KRG appointed her as their High Representative to the United Kingdom in 2005.

A few days before our interview, our delegation had been introduced to Rahman at a restaurant at the Erbil International Hotel (commonly referred to as the Sheraton), where she was accompanied by a number of British parliamentarians. When later describing the meeting, the High Representative painted a picture of her office that was reminiscent of a lobbying group, frequently meeting with all-party parliamentary groups[4] to further the KRG's interests vis-à-vis the United Kingdom. "From [the British] perspective," she said, "it is in the UK's interest to have good relations and an economic opportunity," particularly with this unique "majority-Muslim, emerging democracy."[lx]

Rahman described herself and her colleagues within the DFR as diplomatic envoys[lxi] – a term also used by Qubad Talabanil[xii] – but lamented the lack of diplomatic status, citing unresolved constitutional issues related to Article 121. However, "in practical terms," she noted, "in London it doesn't make a difference. We still have full access," pointing to her inclusion at an Arab ambassadors reception by the Conservative Party (who apparently failed to make the ethnic distinction). Like Professor Ali, she also compared Kurdistan-Iraq's own representation to that of Catalonia, Flanders, Quebec, and Taiwan – all of which maintain a corps of representatives in London that form a sort of diplomatic union of the "have-nots."[lxiii]

Unlike the DFR in Erbil, Rahman said that her office does not maintain daily contact with the Iraqi embassy in London, saying simply, "We don't need to. We're much more proactive anyways." In a certain sense this is absolutely true; the

[4] Similar to Congressional subcommittees in that legislative representatives from various political parties consider specific matters, be they geographic (e.g. China or Brazil) or subject-oriented (Armed Forces or Human Trafficking).

Iraqi embassy, as a formal diplomatic representative, files into line like every other embassy representing sovereign states in London. The KRG representation is much more nimble, not only capable of lobbying to the aforementioned All-Party Caucus Groups in parliament, but also able to meet with potential investors and essentially sell the region as a good place to do business. Rahman was acutely aware of this and distinguished her role from the typical bureaucratic structure of diplomacy, noting "we have more autonomy than an embassy… We report to the Department of Foreign Relations and to President Barzani's office, but I don't need permission for 99 percent of what I do."[lxiv]

Qubad Talabani, her counterpart in Washington, agreed. "The job was different when I first took it," he said. When he was first posted to the United States, Talabani explained, "We [the PUK] were a rebel group, so everything was very political." With the inception of a federal Iraq, Talabani said the focus has transitioned to a primarily cultural and economic one, but still noted the uniqueness of his position. "A KRG representative's job is so much easier [than working for the Iraqi embassy]," since he is able to avoid over-bureaucratization.[lxv]

"There are advantages to this sort of autonomy and trust," Rahman said, though also conceding that, at times, "there is a disadvantage in the lack of feedback from Erbil." She did say, however, that her office was at least in contact with the Department of Foreign Relations headquarters in Erbil on a daily basis.[lxvi]

Contrary to her typically calm and composed demeanor, Rahman responded passionately to the suggestion of a constitutional discrepancy between Baghdad and Erbil concerning foreign representation. "We shouldn't have to wait for the federal government," she said. "We have been oppressed for too long. We want to bring the rest of Iraq with us."[lxvii]

Two Offices, One Nation?

Concerning the physical location of the representatives' offices, Rahman claimed that the KRG does not interpret the clause as requiring the two to be physically in the same building. Surprisingly, much like Professor Ali, Rahman cited Catalonia, Flanders and Quebec as examples of regions with representation in London separate from their national embassies.[lxviii] In similar fashion, Hamad also sought to legitimize by comparison, citing Quebec, Catalonia and Taiwan as examples of "regions around the world that maintain independent international offices."[lxix]

Such comparisons ignore the fact that these regions operate under different historical circumstances and, more importantly, different national constitutions. Though they offer some sort of precedence for regional representation in

geopolitics, these arrangements – such as that between Catalonia and Madrid or Quebec and Ottawa – have little bearing on Kurdistan-Iraq when it comes to a question of legality. All did say, however, that based on its own interpretation of the constitution, the KRG cannot have official relations with any state or international organization that Baghdad does not. Recognition of this limitation was often introduced to begrudgingly explain why the KRG does not maintain a relationship with Israel, despite the fact that it supports a two-state solution.

Nevertheless, the KRG does maintain a Mission to the European Union in Brussels. While Baghdad hosts a delegation on behalf of the European Union and maintains official relations with the continental organization, it does not have an office with the mandate of Mission to the EU, as noted above. Bakir acknowledged this, but since the office was opened prior to 2005, he referred to Article 141 of the federal constitution.[lxx] According to this article,

> "Legislation enacted in the region of Kurdistan since 1992 shall remain in force, and decisions issued by the government of the region of Kurdistan, including court decisions and contracts, shall be considered valid unless they are amended or annulled pursuant to the laws of the region of Kurdistan by the competent entity in the region, provided that they do not contradict with [sic] the Constitution."[lxxi]

In a follow-up email, Hamad similarly cited Article 141. "This article," he wrote, "reinforces the KRG's right to maintain its international offices so long as their work does not conflict with the work of the federal Ministry of Foreign Affairs or otherwise violate the constitution."[lxxii]

Given the final clause, it is unclear if, despite its establishment in the late 1990s, the continuation of the DFR's Brussels-based mission contradicts the federal constitution. However, Bakir did say that his Department is in talks with Baghdad to validate all of their offices, so as to alleviate any potential sources of political tension or discrepancies.[lxxiii] Such an effort alone reveals that the DFR both recognizes the issue and confirms Talabani's assertion that the KRG is not "working against the federal state."[lxxiv]

THE CHANGING FACE OF GEOPOLITICS

Rahman remarked that, with such a young federal constitution and the lingering effects of the 2003 invasion and ensuing civil war, everyone is still trying to decipher federal Iraq's place in geopolitics.lxxv Diplomatic representation of governments based in both Baghdad and Erbil fit within this complicated and unfinished puzzle.

Because of the novelty of the federal constitution, the levels of autonomy given to federally-recognized regions and some vague language, Iraq finds itself

in a precarious position. Despite the relative decrease in violence and the restoration of law in Iraq, the political implications of a "state-within-a-state" and certain ambiguous elements of the federal constitution will be determined in the coming years. Diplomatic engagement and the development of foreign relations on the part of the KRG will have a serious impact on the viability of a unified Iraq and also offer substantial insight into Kurdish visions of and commitment to a federal Iraqi polity.

The Kurdistan Region's inclusion and participation in a federal Iraq is still a point of contention. In a 2005 referendum, 98 percent of voters of Iraqi Kurdistan preferred independence to inclusion in Iraq.[lxxvi] Talabani said that he believed that at the aforementioned Arab League summit his father and his Kurdish colleagues represented Iraq "admirably," much to the chagrin of the Kurdish streets. But he also pointed out that this position is only temporary. "It's only a matter of time before the President is Arab," he said, which he believes is a positive feature of the federalist system. It is in these early stages of that system, however, when Talabani believes politicians must "address Kurdish concerns."[lxxvii]

Selçen credited Condoleezza Rice with creating a shift in geopolitics and diplomatic relations. During her tenure as US Secretary of State, she began an initiative to open a mission in all cities with a population exceeding one million people. Consequently, Selçen said that the logistics of international relations have become different and that "diplomacy has a more light-footed approach."[lxxviii] Rahman and Talabani are undoubtedly manifestations of this. On behalf of the DFR, they have done a service not only to the Kurdistan Region, but also to the nation of Iraq as a whole by presenting it through a prism that differs from that of the war-torn images shown on Western news outlets.

However, since the ratification of the 2005 federal constitution, control of government ministries has essentially been divided along sectarian lines. The federal Ministry of Foreign Affairs is one of the ministries nominally under "Kurdish" control, with the KDP's Hoshyar Zebari at the head. Perhaps it is for this reason the DFR has yet to become a source of major conflict between Erbil and Baghdad. Nevertheless, much like the presidency, Zebari's hold on this position is not permanent. With Kurdish diplomats representing Iraq internationally and the KRG sending its own envoys across the globe, there is a distinct possibility of alienating the rest of the Iraqi populace, in particular its primarily-Shi'a Arab majority. Addressing "Kurdish concerns" cannot be done at the expense of the whole of Iraq.

In order to ameliorate a potential source of conflict, the DFR must establish the nature of its relationship with Baghdad. It must seek to validate its offices abroad, a measure that Bakir has said is already in motion. However, approval from the current Kurdish-controlled Ministry of Foreign Affairs is not necessarily sufficient in preventing contention. The fact remains that the constitutionality of

the DFR is uncertain and the interpretations varied. A rift of this nature has the potential to become a point of contention between the KRG and non-Kurdish or non-Kurdistani political parties. Given the KRG's insistence on their reverence for and allegiance to the 2005 federal constitution, their adherence to its principles is necessary for the integrity and sustainability of both the document and a unified federal Iraq.

---

[i] Qubad Talabani. In discussion with the author. 18 February 2011.
[ii] *Ibid*.
[iii] Bayan Sami Abdul Rahman. In discussion with the author. 10 January 2011.
[iv] Joost Hiltermann. In discussion with the author. 15 November 2010.
[v] Constitution of the Kurdistan Region, Iraq (Draft), Article 7.
[vi] Ayoub Galaly. In discussion with the author. 15 January 2011.
[vii] Quil Lawrence. *Invisible Nation* (New York: Walker & Company, 2008), p. 312.
[viii] Charles Tripp. *A History of Iraq* (Cambridge: Cambridge University Press, 2007), p. 286.
[ix] Tripp, 301.
[x] *Ibid*.
[xi] Constitution of Iraq, Section Four, Article 117.
[xii] "Basra's bid for autonomy stalls." CNN. 21 January 2009. <http://edition.cnn.com/2009/WORLD/meast/01/21/iraq.basra.petition/index.html> (19 December 2010).
[xiii] Lawrence, 268.
[xiv] *Ibid*.
[xv] Constitution of Iraq, Section Five, Chapter One, Article 121.
[xvi] Lawrence, 270.
[xvii] Constitution of Iraq, Section Five, Chapter One, Article 121.
[xviii] Constitution of Iraq, Section Four, Article 110.
[xix] Farsed Ahmed. In discussion with the author. 16 January 2011.
[xx] Sherwan Haderi. In discussion with the author. Erbil, Iraq. 16 January 2011.
[xxi] Constitution of the Kurdistan Region, Iraq (Draft), Preamble.
[xxii] Constitution of the Kurdistan Region, Iraq (Draft), Article 7.
[xxiii] Constitution of the Kurdistan Region, Iraq (Draft), Article 3.
[xxiv] Sherwan Haderi.
[xxv] Farsed Ahmed.
[xxvi] Constitution of the Kurdistan Region, Iraq (Draft), Article 8.
[xxvii] Farsed Ahmed.
[xxviii] *Ibid*.
[xxix] Constitution of the Kurdistan Region, Iraq (Draft), Article 8.
[xxx] *Ibid*.
[xxxi] Farsed Ahmed.
[xxxii] Ibid.
[xxxiii] Michael Kelly. In discussion with the author. 11 November 2010.
[xxxiv] Ibid.
[xxxv] Ibid.
[xxxvi] Ibid.
[xxxvii] Kurdistan Regional Government – Executive Order No. 143. January 25, 2009.
[xxxviii] Ibid.
[xxxix] "Department of Foreign Relations," Kurdistan Regional Government, 7 December 2009. <http://www.krg.org/articles/detail.asp?lngnr=12&smap=04080000&rnr=267&anr=19906>.
[xl] Ibid.
[xli] "How to Contact KRG Representations Worldwide." Kurdistan Regional Government. Updated 29 September 2010, <http://www.krg.org/articles/detail.asp?rnr=161&lngnr=12&smap=04080100&anr=65> .
[xlii] Falah Mustafa Bakir. In discussion with the author. Erbil, Iraq. 16 January 2011.

[xliii] *Ibid.*
[xliv] Aydin Selçen. In discussion with the author. 11 January 2011.
[xlv] Kurdistan Regional Government – Executive Order No. 143. January 25, 2009.
[xlvi] "Kurdistan Regional Government Ministers." Kurdistan Regional Government. Updated 28 October 2009. <http://www.krg.org/articles/detail.asp?smap=04060000&lngnr=12&rnr=159&anr=32148> .
[xlvii] *Ibid.*
[xlviii] Tawfiq Rahman Hamad. Email to author. 10 March 2011.
[xlix] Falah Mustafa Bakir.
[l] Kurdistan Regional Government – Executive Order No. 143. 25 January 2009.
[li] Adbulhakeem Khasro Jawzal. In discussion with the author. 8 January 2011.
[lii] Falah Mustafa Bakir.
[liii] Qubad Talabani.
[liv] Tawfiq Rahman Hamad.
[lv] Othman Ali. In discussion with the author. 8 January 2011.
[lvi] *Ibid.*
[lvii] Dr. Hussain Taqig Fayzolla. In discussion with the author. 8 January 2011.
[lviii] Asow Muhammed. In discussion with the author. 8 January 2011.
[lix] Bayan Sami Abdul Rahman. In discussion with the author. 10 January 2011.
[lx] *Ibid.*
[lxi] *Ibid.*
[lxii] Qubad Talabani.
[lxiii] Bayan Sami Abdul Rahman.
[lxiv] *Ibid.*
[lxv] Qubad Talabani.
[lxvi] Bayan Sami Abdul Rahman.
[lxvii] *Ibid.*
[lxviii] *Ibid.*
[lxix] Tawfiq Rahman Hamad.
[lxx] Falah Mustafa Bakir.
[lxxi] Constitution of Iraq, Section Six, Chapter Two, Article 141.
[lxxii] Tawfiq Rahman Hamad.
[lxxiii] Falah Mustafa Bakir.
[lxxiv] Qubad Talabani.
[lxxv] Bayan Sami Abdul Rahman.
[lxxvi] Lawrence, p. 258.
[lxxvii] Qubad Talabani.
[lxxviii] Aydin Selçen.

Erasing the Frontier: Turkey's Trade and Investment in Iraqi Kurdistan

by Khaled Al-Sharikh '11

INTRODUCTION: ERASING THE FRONTIER

***"Our prime minister's vision is full economic integration. One day you won't notice the frontier between Turkey and Iraq."*—Aydin Selcen, Turkish Consul General in Erbil**[i]

Eighty percent of food and clothes in Iraqi Kurdistan come from Turkey. The volume of trade between Turkey and Iraqi Kurdistan stands between $6 billion[ii] and $9 billion[iii], and the Turkish government is looking to expand this to over $20 billion within the next five years.[iv] Sixty percent of firms registered in Iraqi Kurdistan are Turkish, with Turkish company assets worth more than $620 million.[v] Turkish energy companies such as Pet-Oil and Genel Enerji have also won bids to develop gas and oil fields in northern Iraq. Turkish Foreign Minister Ahmet Davutoğlu even visited Iraqi Kurdistan in October 2009, leading a delegation of 70 officials and businessmen. He met with a former enemy of Turkey, Kurdish Regional Government (KRG) President Masoud Barzani, announcing the opening of a Turkish consulate in Erbil, the region's capital, and declaring that the cooperation between Turkey and the KRG "will contribute to the even further development of Erbil. This will become a bridge between Iraq and Turkey. We are the gate of Iraq to the European Union. And Erbil is our gate opening to Basra."[vi]

This economically-driven rapprochement is especially noteworthy given that the Turkish state's troubled history with the Kurdish people within its borders and beyond has been marked by bloody conflict and damaging civil strife. There have been nearly 40,000 casualties in Turkey's three-decade long conflict with the separatist Kurdistan Workers' Party (PKK). Kurdish identity within Turkey has been suppressed from the Republic's founding in 1923 in a number of ways including the prohibition of spoken Kurdish in public for many years and the ban of all mention of the word "Kurd" in school history textbooks until 1991.

Central to this state-sponsored suppression of Kurdish identity is the ideology of Turkey's founding fathers. Kemalists hold that one of the greatest threats to the integrity of the Turkish Republic is ethnic conflict fomented by foreign actors. This led to a foreign policy defined by cautiousness and isolationism to avoid

provoking other nations into upsetting the delicate ethnic balance in Turkey. However, in recent years under the current ruling Justice and Development (AK) Party, there has been a shift in the foreign policy paradigm of the Turkish Republic leading to more active, assertive and self-confident intervention in regional affairs—a foreign policy very much in line with what the late President Turgut Özal sought to achieve. The promotion of a more activist foreign policy is based on the belief that Turkey now needs to acknowledge and accept its multi-ethnic, multi-cultural demography. The increasing democracy and the salience of public opinion in Turkey also led to the creation of powerful ethnic interest groups which lobby the state to take a stand and be more actively involved in the international arena.

The Kurdish Regional Government (KRG) of strongly autonomous Iraqi Kurdistan has had to maintain a delicate balance. On one hand, they desperately need Turkish investors to take advantage of the relative stability of the region and jumpstart economic development. On the other, the KRG cannot be seen as alienating the widespread Kurdish nationalist sentiments by handing over remaining elements of the PKK who are currently mounting attacks on Turkey from suspected bases in the Qandil Mountains of Iraqi Kurdistan. The Turkish Armed Forces (TAF) have mounted air and ground attacks on the PKK in Iraqi Kurdistan since the fall of Saddam Hussein's regime in spite of condemnation from the KRG and the central Iraqi government.

Are these extraordinary Turkish investments in Iraqi Kurdistan a projection of Turkey's power and representative of the aforementioned paradigm shift? If so, does the Turkish regime hope to turn these investments into economic leverage so they can have a say in the future of Iraqi Kurdistan (and potentially prevent increased autonomy or even independence)? Does Turkey run the risk of empowering Iraqi Kurdistan economically through trade such that independence becomes a more viable option? Or is it in fact increasing Iraqi Kurdistan's dependence on Turkey? Or are these investments simply a demonstration that business and politics in Turkey operate separately under the pro-business AK Party, rather than a strategic attempt to expand Turkish influence? Could Turkey's method of investment lead to it rivaling other foreign actors such as Iran for influence in Iraq?

Ankara's rapprochement with Erbil appears to be influenced by more than just economic interests and a completely benign "zero-problem" policy with its neighbors. Turkey desires to create a sphere of influence in what it considers its near-abroad in Iraqi Kurdistan. By engaging so actively with the KRG and increasing the region's dependence on Turkey, they are attempting to "smother them with love," as described by Joost Hiltermann of the International Crisis Group, and use increasing economic ties as a means to exercise leverage over Iraq's Kurds. [vii] Turkey views Iraqi Kurdistan as a landlocked entity with few options for the political

and economic support it so desperately needs in light of tense relations with the central government in Baghdad. The AK Party is actively fostering Turkey's economic dominance over Northern Iraq to achieve three main objectives.

What are Turkey's goals in Iraqi Kurdistan?

The primary objective is to find a solution to the long-standing Kurdish question in Turkey by subsuming potentially subversive Iraqi Kurds into its sphere of influence. This particular objective is two-pronged. Firstly, Ankara wants to use its economic ties to pressure the KRG into hindering and eventually combating the PKK presence in Iraqi Kurdistan. Secondly, the AK Party seeks to establish economic stability and prosperity in southeast Turkey through trade and business with Iraqi Kurds. The AK Party views the elimination of separatist elements and negative sentiments amongst Turkey's Kurds related to economic disparity as the only long-term solution. By the same token, Ankara believes it can also use its leverage to pressure the KRG if nationalist sentiment amongst Turkey and Iraq's Kurds gets out of hand with an unprecedented economic interaction—for instance, by limiting trade across the Habur border gate.

The second objective relates both to the AK Party's desire to become a regional energy transit point and to its need to diversify its sources of oil and gas imports. The KRG estimates their unexplored oil reserves to be around 45 billion barrels.[viii] EU energy experts estimate that Iraqi Kurdistan can provide between five and ten billion m3 of natural gas.[ix] Turkey has long harbored ambitions to be a major energy hub, taking advantage of its energy-rich neighborhood which contains an estimated 70 percent of the world's proven hydrocarbon reserves.[x] Turkey is attempting to become an energy hub through its flagship project, the Nabucco pipeline, which is intended to bring oil and gas from the Caspian Sea and Iraq to European markets. As a geographically pivotal though energy-poor nation surrounded by energy-rich neighbors, Turkey hopes to increase its weight in the international community through this project. In addition, Russia supplies Turkey with a third of its imported oil and two-thirds of its imported gas.[xi] Though relations between Ankara and Moscow are currently cordial, Turkey's reliance on Russian energy has hindered its ability to assert itself on the world stage. Diversifying energy imports is a key strategic goal of the AK Party and Turkey is eagerly searching for opportunities in Iraqi oil and gas.

The final objective is for Turkey to utilize its influence amongst Iraq's Kurds to have a say in the uncertain future of Iraq and for Iraqi Kurdistan to serve as a buffer should the situation in Iraq deteriorate after the planned United States withdrawal by the end of 2011. Iraqi Kurds have emerged as kingmakers in the struggle between Sunni and Shiites in Iraq's fragile political system. Iran is cur-

rently perceived as the most influential actor in Iraq as a result of its close ties with the ruling Shiite parties, currently led by Prime Minister Nuri Al-Maliki. Turkey aims to challenge Iran's hegemony through the Kurds, and potentially establish its own dominance in Iraq, historically a lucrative market for Turkish goods. The AK Party's desire to carve out a sphere of influence falls in line with its neo-Ottoman foreign policy—an ambitious drive to reestablishing Turkey's long-lost dominance over former Ottoman territories exemplified by its willingness and propensity to use its imperial history as a tool of foreign policy. While Turkey's political exertions in Iraq (such as its facilitation of talks between United States forces and Sunni insurgents) are well-documented, it is through economics, the launching pad for Turkey's push in Iraqi Kurdistan, that Turkey aims to establish this hegemony. In addition, Turkey wants to strengthen Baghdad's ability to cement northern Iraq's status as a federal region within Iraq, to prevent Iraqi Kurds from declaring their own state. Turkey is also hedging its bets by enhancing ties with the Kurdistan Region. Should this risky adventure fail, Iraqi Kurdistan is seen as pivotal buffer zone to the rest of Iraq should violence intensify or a civil war erupt.

In light of these objectives, Aydin Selcen's statement, quoted earlier, suddenly appears far more ominous. Rather than an idealistic reverence for economic integration, it is in fact through economics that Turkey wishes to transform Iraqi Kurdistan into a vassal state with little mobility and ability to act out of Turkey's purview. By the time the frontier between is no longer "noticeable," Iraqi Kurdistan will have become an economic dominion of Turkey and deprived of its ability to stoke the flames of Kurdish nationalism without risking serious economic consequences.

Iraq Kurdistan is in many ways a victim of its geography. Landlocked, though blessed with an abundance of hydrocarbons, Iraqi Kurdistan does not have the option of either being left alone by their neighbors or practicing isolationism. However, it would be remiss to read into the Kurdish position as one of complete helplessness. Though not a state, the KRG could learn from smaller states in the region, such as those in the Gulf, on how to pursue different options amongst the other large regional actors like Iran, Saudi Arabia, Syria, Israel or, indeed, the Iraqi central government. Turkey is attempting to limit these options by pioneering investment in Iraqi Kurdistan and maintaining an immovable foothold over the region. Stoking Kurdish nationalist or separatist sentiment amongst Turkey's Kurds also remains an option for the KRG, but Turkey's policy aims at making this an extremely costly measure for Iraqi Kurds. Even today, Turkey often limits crossings over the Habur border gate in response to any lack of KRG action taken against the PKK.

BUILDING NETWORKS AND LEVERS OF INFLUENCE: TURKISH TRADE AND INFRASTRUCTURAL DEVELOPMENT

***"The common vision of the businesspeople living in the region, the regional government's and official representatives is to secure mutual friendship and cooperation with Turkey. Our mission is to become a leader in the region as we deserve."*— Lütfü Küçük, Chairman of the Young Business Association of Turkey (TÜGİAD)**

Through extensive trade with and investment in northern Iraq, the AK Party is pursuing a multifaceted approach towards transforming Kurds, at home and in Iraq, into an asset for Turkey rather than a damaging liability used by foreign actors against it. Firstly, Turkey intends to use commonalities in culture and shared Islamic heritage to foster a rapport and build networks between Turkish and Iraqi Kurdish businessmen. This would provide Ankara an avenue through which it can exercise its influence using what it believes to be its greatest asset—the private sector.[xii] Turkey, having become the 17th largest economy in the world with record growth rates until the financial crisis, is a regional economic powerhouse, and the AK Party wants to translate its economic strength into greater ability to pressure the KRG to combat PKK elements in northern Iraq and to prevent the KRG from attaining independence or increased autonomy.[xiii] Turkey also wants to use trade with Iraqi Kurdistan as a way of achieving prosperity in the historically deprived Kurdish-dominated provinces of southeastern Turkey to wean them away from separatist ambitions.

Infrastructural development

Of the 1,200 Turkish companies in Iraq, 300 are construction firms.xiv These firms completed $2 billion in infrastructure projects. The KRG is planning $100 billion in construction projects, and Turkish firms are expected to benefit greatly.[xv] Of the $5 billion in trade between Turkey and Iraqi Kurdistan in 2008, $1.5 billion was in construction materials and contracting services, and the vast majority of foreign contractors in Iraqi Kurdistan are Turkish.[xvi] Some of the construction is in major, high-profile infrastructural development. The Erbil International Airport, reportedly with the second longest runway in the world, was built by major Turkish construction company Maykol-Cengiz İnşaat.[xvii] In addition to two new overpasses and repairs to Sulaimaniyah University, a major airport in Sulaimaniyah is also being planned by AGS, another Turkish construction company [xviii]

Turkish companies have developed a reputation for knowing how to win contracts in Iraqi Kurdistan with their skilled knowledge base and ability to "ne-

gotiate the often heavy red tape in the developing and autocratic world." [xix] Many believe that their competitive advantage lies in their understanding of Kurdish culture and business in the Muslim world. A Kurdish businessman noted that "[Turkish contractors] are near to us in culture. It is easy to cooperate." A London-based consultant believes that "Turkish firms are becoming serious rivals because they can relate to Muslim cultures and are very competitive."[xx] Turkish Consul General Aydin Selcen emphasizes the cultural connection between Turks and Iraqi Kurds, claiming that "we share a common culture, our interests are common; our economies complement each other."[xxi]

In addition to exploiting their common culture with Iraqi Kurds, Turkish construction companies have immense experience working in the Middle East. Indeed, many of today's largest Turkish construction companies grew on the back of projects in the Middle East in the 1970s as a result of the oil-boom in Gulf states and went on to become major regional players in the construction sector.[xxii] An understanding of Kurdish and Islamic culture combined with experience working in the region make Turkish companies prime candidates for any construction project. Construction companies in Turkey recognize lucrative opportunities in northern Iraq. Real estate in Iraqi Kurdistan is worth $10 billion according to local government estimates.[xxiii] Initially, the construction was mainly infrastructural in major projects such as roads, bridges and highways. Now, projects have become more diverse with schools, houses, malls and tourists sites all planned.[xxiv]

The Turkish private sector's active involvement in Iraqi Kurdistan's infrastructural development demonstrates a number of key insights into Turkish policy in the region. The willingness of Turkish businessmen, who are key constituents of the AK Party, and indeed that of Turkey's Consul General to utilize commonalities in culture to facilitate infrastructural investment is indicative of dramatic shift in Ankara's attitude vis-à-vis the Iraqi Kurds. Rather than viewing the freedom of Kurds in Iraq to practice their culture as a threat to Turkey's unity, the AK Party is attempting to transform Kurdish culture into an asset. This strategy in and of itself is reminiscent of the Ottoman acceptance of multiculturalism, utilizing their shared Islamic heritage as force bringing them together. Although implemented mainly by the Turkish private sector, the key infrastructural projects completed by Turkish companies will facilitate Ankara's pursuit of economic hegemony over the region. Networks based on this common Islamic heritage are being rapidly built amongst Turkish and Iraqi Kurdish businessmen. Once completed, these long-term construction projects will facilitate the activities of all private sector activities, including those of Turkish companies. The main concern expressed by Kurds is related to the Turkish companies' employment policies. Turkish construction firms seem to prefer hiring Turks and bringing them to Iraqi Kurdistan rather than hiring locals. This is because to Turkish workers have more experience than their Iraqi

Kurdish counterparts and earn only marginally higher wages.[xxv] Some estimate that there are around 50,000 Turkish workers in Iraqi Kurdistan.[xxvi]

Facilitation of trade

Waves of Turkish business delegations supported by both the Turkish government and the KRG have visited Iraqi Kurdistan in the past two years. A TÜGİAD delegation led by its chairman Lütfü Küçük visited Erbil from April 2-5, 2010. Küçük identified a plethora of investment opportunities in Iraqi Kurdistan, including construction, energy generation, agriculture, tourism, food processing, health services, industry and real estate value assessment. [xxvii] Küçük implored his fellow Turkish businessmen to "set off to discover the world for market diversification" and to "analyze northern Iraq as well." He went on to claim that "words were not enough to express; one should go and see."[xxviii]

Another such visit was a small delegation of 25 industrialists visiting the Erbil Chamber of Commerce from İzmir. The heads of both the Erbil and Dohuk Chambers of Commerce cordially welcomed their visit. Ayad Abdulhalim, the head of the Dohuk Chamber stated the following regarding the desire for Turkish investments:

> "There are no other products that can compete with the Turkish ones in this region. Turkish goods are the best we can get here. Northern Iraq is a hub that sends Turkish goods to other regions and cities in Iraq. We would like to further improve our relations with Turkey. We invite industrialists from İzmir to Duhok. We can guarantee these investors all kinds of incentives and conveniences."[xxix]

This statement is indicative of a number of advantages Turkish businesses enjoy. The higher quality of Turkish goods compared to products from other countries is a key advantage which Turkish industrialists aim to exploit, making their business and investment far more attractive to Kurds than that of other regional actors. Another advantage implied are the immense incentives offered to foreign investors, including Turks, by the Kurdish investment law which allows for foreign ownership of land, transfer of profits and even a ten-year tax exemption on investments. [xxx] Turkish businessmen not only have immense experience working in the region, but they also are accustomed to capitalist environments. They are self-confident and have no qualms about having their products and services compete with those of other countries, which is the reason they are flocking to the burgeoning market in Iraqi Kurdistan.

There is also direct AK Party involvement in trade relations between the Kurdish and Turkish businessmen. Turkey's Minister of State for Foreign Trade Zafer Çağlayan led a delegation of 250 businessmen to Iraqi Kurdistan in June

2010. He met with the highest-ranking KRG officials including President Barzani, Prime Minister Barham Salih, former Prime Minister Nechirvan Barzani and Minister of Trade Sinan Chalabi (an Iraqi Kurd and a naturalized Turkish citizen). Çağlayan arrived with the stated goal of opening two new border crossings and expanding annual trade between Turkey and the KRG to $20 billion from its current estimated $6-9 billion within four years "as expected by [Turkey's] prime minister." These Kurdish officials also proposed the establishment of a free trade zone at the border crossing Zakho.[xxxi] Çağlayan expressed hope, in a speech to a forum of over 500 Turkish and Iraqi businessmen in Erbil, that "improving business ties will eradicate the problems between us."[xxxii] The Turkish consulate in Erbil also works hard to facilitate the visit of Kurdish businesspeople to Turkey. According to Deniz Kutlu, advisor to the Turkish Consul General in Erbil, the consulate works "13-14 hour days" to complete visa requests for Kurdish businessmen. The Turkish consulate even suggests that Iraqi Kurds with businesses visit Turkey two to three times a month.[xxxiii]

As a result of trade with Turkey, the Habur border gate at Zakho (Turkey's only border crossing with Iraqi Kurdistan), has become a lifeline for Iraqi Kurds. [xxxiv] As previously mentioned, a stunning 80 percent of Iraqi Kurdistan's goods are Turkish and cross through the Habur border gate. These visits by Turkish government and private sector officials are key foreign policy exertions for the AK Party. At a conference in Bahrain, Turkish Foreign Minister Ahmet Davutoğlu summarized the reasoning behind Turkey's desire for economic integration:

"Soft security is as important as hard security. If we do not have economic, political, cultural and energy substance of regional security, there cannot be military or hard security in our region. So the most important aspect we need to focus on is the substance; a comprehensive understanding of regional security."[xxxv]

Davutoğlu and the AK Party aim to establish levers of influence through the private sector. Through trade, cooperation on infrastructural projects and constant exchange of visits between Turkish and Iraqi Kurdish businessmen, Turkey is establishing an increasingly cohesive network of sympathetic decision-makers. This push for deeper economic ties is instigated by key constituents of the AK Party—the so-called "Anatolian tiger" capitalists in up-and-coming cities in the mixed Turkish-Kurdish hinterland such as Gaziantep and have so far amassed 75 percent of the KRG's foreign direct investment.[xxxvi] Not only will these businessmen serve as agents of Turkish influence in Iraqi Kurdistan, but they will also facilitate the improvement of the conditions of Kurds in Turkey—a key goal of the AK party. Erdoğan has actively pursued the Southeastern Anatolia Project (GAP), which is essentially an implementation of the late President Turgut Özal's very own GAP plan in the early 1990s. Through a number of grand infrastructural projects,

Erdoğan aims to spend $11 billion, create 3.8 million jobs and increase the GDP per capita of the region by 209 percent.[xxxvii] Expanding trade with Iraqi Kurdistan would undoubtedly greatly benefit the Kurds of Turkey and enhance the growth of this sensitive region.

The increase in trade also provides Turkey with the ability to truly pressure the KRG to combat PKK elements present in Northern Iraq. Turkey has often halted movement across the Habur border gate in response to PKK attacks.[xxxviii] By increasing Iraqi Kurdistan's dependence on Turkish goods and by becoming leaders in the region Küçük believes they deserve to be, Turkey is acquiring an increased ability to assert its will over Iraqi Kurds.

A PIPEDREAM: TURKEY'S ENERGY INVESTMENTS IN IRAQI KURDISTAN

"We do not want to be only a transit country…The Kurds know that their oil export route is through Turkey."—senior Turkish official [xxxix]

Sasha Suderow, a graduate student at The Fletcher School of Law and Diplomacy at Tufts University, noted that "it was no coincidence that Turkish overtures to the KRG began in April 2008 as crude oil surpassed $115 per barrel (a 100 percent increase in 24 months)."[xl] Qubad Talabani, the KRG Representative to the United States, believes that "commodity trade opened political opportunities with Turkey but our future relationship will be driven by energy investment."[xli] Turkey's two most important objectives in the energy sector are to become a major energy hub and ensure the security of its oil and gas imports as domestic demand increases.[xlii] Iraqi Kurdistan, with its estimated three to six billion m3 of natural gas and 45 billion barrels of oil, is critical to achieving both of those objectives.[xliii] The AK Party, in tandem with Turkish petroleum companies, has seized the opportunities presented to them. They aim to incorporate Iraqi Kurdish gas into their flagship energy project—the Nabucco pipeline. Ankara also wants to maintain access to Iraq's oil through its Kirkuk-Ceyhan pipeline.

"An ocean of oil"

The 960 kilometer Kirkuk-Ceyhan pipeline has the capacity to export 500,000 barrels of oil per day, a fourth of Iraq's output, through Turkey's major port city. The pipeline has been operational since 1987 but a combination of war, sanctions and sabotage have prevented it from ever reaching its capacity, limiting it to 250,000 barrels a day.[xliv] Turkey and Iraq recently renewed the pipeline agreement for 20 years.[xlv] This pipeline was Turkey's first step towards becoming a major energy hub and will continue to be crucial. The tension between the central

government and the KRG over the status of Kirkuk adds layers of complexity to the procurement of oil in the disputed region. However, both Baghdad and Erbil have had extensive agreements with Turkey in order to maintain the pipeline, and this will continue to be a vital piece of Ankara's energy puzzle.[xlvi]

There is also an abundance of oil in the KRG-controlled provinces of northern Iraq. According to Musa Mohammed, an economics professor at Salahaddin University in Erbil, "Turkey knows very well that Kurdistan is not a sea of oil; it is an ocean of oil." He continued to remark that Iraqi Kurdistan needed Turkey to build its outdated or, in some cases, non-existent oil infrastructure and as an export partner.[xlvii] Turkish oil companies have benefited greatly from a number of fortuitous circumstances. The primary benefit is Turkey's proximity to Iraqi Kurdistan, facilitating the transport of heavy equipment. Another key advantage is the KRG's tense relationship with Baghdad over its right to export its own oil. The major oil companies such as ExxonMobil, BP and the China National Petroleum Company have been wary of risking Baghdad's ire in order to be best-positioned to develop Iraq's lucrative southern oil fields near Basra. Hence, they have not positioned themselves in Iraqi Kurdistan, leaving small- to medium-sized Turkish, Canadian and Norwegian companies to take advantage of their absence.[xlviii] This is an ironic situation given Turkey's key policy of insisting on KRG agreement with Baghdad over oil to cement Iraqi Kurdistan's status as a federal region of Iraq.

Turkish oil companies, the major beneficiaries, were amongst the first to enter the market for Iraqi Kurdish oil. The Iraqi interim government awarded its first two contracts to Turkish and Canadian firms in December 2004.[xlix] However, as early as 2003, the *New York Times* reported that Pet-Oil and Genel Enerji were drilling and producing oil from the Taq Taq oil fields—29 km east of Kirkuk.[l] According to University of Kentucky Professor Robert Olson, "There's no way this deal could have happened without the support of the Iraqi, Kurdish or Turkish sides, including the [Turkish] Armed Forces."[li] Pet-Oil plans on investing $50 million in Iraqi Kurdistan's oil sector.[lii] Güntekin Köksal, general manager of Pet-Oil, declared in July 2005 that he expected to find "billions of barrels" in Iraqi Kurdistan, as his company began to lift oil from the Kifri region in partnership with an American company.[liii] Pet-Oil and Genel Enerji signed contracts with the KRG in 2008 to develop fields in Iraqi Kurdistan. Ali Ak, Pet-Oil's current general manager, justifies these deals in both political and economic term, explaining that:

"It is politically good for Turkey and good for Turkish-Kurdish relations. When you invest in northern Iraq, this means you will stay there for years. Turkish companies will earn money, and Turkey will benefit from pipeline revenues. And if you have so many companies there for years, you will have a say in that country's politics."[liv]

The biggest obstacle to Turkey's investment in Iraqi Kurdistan's oil sector is the lack of a federal hydrocarbons law, which would set guidelines for Kurdish deals with foreign oil companies. Turkey is adamantly refusing to help export the KRG's oil until it reaches an agreement with Baghdad. Ankara is wary of facilitating the export of Iraqi Kurdistan's oil outside the purview of the Iraqi central government because it does not want to facilitate any greater autonomy for the KRG.[lv] However, as recently 6 December 2010, Iraqi Oil Minister Hussein Al-Shahristani declared the row over unilaterally agreed KRG contracts with foreign companies over, indicating that Iraqi Kurdistan could export 150,000 barrels of oil per day by 2011.[lvi]

Nabucco Pipedream

Compared to Syria or Iraq, Turkey offers the most stable route for Iraqi Kurdistan's potentially abundant and vastly unexplored natural gas reserves.[lvii] By the 2016 completion of the pipeline project, Iraqi Kurdistan's natural gas could be key to the Nabucco pipeline supplying Europe through Turkey.[lviii] Construction of an Iraqi feeder line to the Nabucco pipeline, which would take Iraq's gas to the city of Ahiboz in Turkey, is underway. BOTAŞ, a Turkish state-owned company, is completing the construction.[lix] Along with Azerbaijan and potentially Turkmenistan, Iraq, slated to supply ten billion m3 of natural gas, will be one of the main suppliers to the Nabucco pipeline.[lx] Indeed, the Nabucco group said that out of its three suppliers, Iraq was its most viable partner for future gas. According to Dimitar Abadjiev, head of corporate affairs of the Nabucco Gas Pipeline International, "Iraq is bigger, and it's just on the border with Turkey. It's easier. It's much less dependent on Russia. We've had preliminary talks […] and I'm optimistic."[lxi]

It is impossible to separate Turkey's desire to diversify its oil and gas imports without discussing it in the context of its relationship with Russia. Davutoğlu has spoken very frankly in the past about the limits to Turkey's flexibility caused by its overreliance on Russian energy. In response to condemnations of Turkey's muted response to Russia's invasion of Georgia in 2008, he implored the international community to "understand the geographical conditions of Turkey" and went on to admit that "Turkey is almost 75-80 percent dependent on Russia [for energy]…We don't want to pay the bill for the strategic mistakes by Russia or Georgia."[lxii] Turkey is hindered by its dependence on Russian energy. This dependence on a historic rival with whom Turkey is competing for influence in the Caucasus is deeply inhibiting. It can flex neither its political nor economic muscles without resolving this issue. Therefore, Iraqi Kurdish gas and oil are critical in weaning Turkey off its reliance on Russian energy.

As is the case with trade and infrastructural development, Turkey also aims to utilize its oil and gas interests in Iraqi Kurdistan to exercise influence over the KRG. Indeed, the KRG's agreement with Baghdad could very well be a result of Turkish pressure, given that they have refused to export the KRG's oil. By investing so heavily in Iraqi Kurdistan's energy sector, Turkey has taken control of the KRG's strongest potential weapon which would have been key in any attempts to gain greater autonomy or independence.

GATEWAY TO IRAQ

"The [Iraqi Kurdistan] region is a gateway for business in Iraq…The region can be a good bridge for Turkey to enter the Iraqi market."—Falah Mustafa Bakir, Head of KRG Department of Foreign Relations[lxiii]

Prior to the 1990 invasion of Kuwait, Iraq used to be Turkey's number one trading partner but today is its fifth largest. Deniz Kutlu, the commercial attaché at the Turkish Consulate in Erbil, believes "there is no reason why they couldn't be number one in five years."[lxiv] While Turkey's business is largely focused on the Kurdistan region, Ankara highly values the Iraqi market as a whole. In fact, there has been much infrastructural development completed in the rest of Iraq, though not on the scale of that in Iraqi Kurdistan due to the volatile security situation.

The Turkish Ministry of Foreign Affairs proudly lists its contributions to Iraq on its website. The total worth of works undertaken by Turkish companies in Iraq is over $4 billion. Over 50 percent of Iraq's refined oil products were supplied through Turkey. Turkey also supplies 275 mw/hour of electricity to Iraq with plans to increase it to 1200 mw/hour. A Turkish company has even undertaken the restoration the Al-Askari mosque, a Shi'a Muslim holy site.[lxv]

In light of a recent report by Iraq's National Investment Committee which states that there are 750 projects valued at $600 billion ready to be implemented, Turkish companies have recognized lucrative opportunities in the rest of Iraq.[lxvi] The Iraqi Export Promotion Center noted that the Iraqi construction sector recently boomed because of the volume of demolished buildings waiting to be rebuilt and a demand for infrastructural projects such as highways, bridges and harbors. Schools, hospitals, water purification plants and power plants are also being built. The Eurasia Industrialists and Business Association (ASİAD) claims that in Basra alone, there is a need for 44,700 new houses and 9,000 buildings to be built.[lxvii] Over 65 percent of the Turkish construction companies in Iraq are operating out of Erbil. In 2007, there were 39 separate projects by Turkish investors valued at $565 million, and 72 projects valued at $1.2 billion were completed by 2008.[lxviii] In an un-

precedented move, the World Bank insured an investment by the Turkish company Karo Dis Ticaret ve Sanayi to build a PET plant (where the raw material used to manufacture bottles is processed) to the tune of $5 million against risks of war and civil unrest.[lxix]

From a secure base in Iraqi Kurdistan, Turkish companies can finally re-enter Iraqi markets. Again, the AK Party is hoping Turkish and Iraqi businessmen create networks based on a common Islamic heritage. When Saddam Hussein's regime fell, Turkey found itself unable to influence events because of its non-involvement in previous decades. In a reprisal of the activist policy prescribed by President Özal in the Gulf War era, Ankara is trying to establish levers of influence in Iraq in order to be able to influence change which will inevitably happen.[lxx] The Turks primarily want the Kurds to become their main allies in Iraq, but they are also seeking to establish ties with Iraq's Sunni and Shi'a Arabs in a realm they know best—the private sector.

Additionally, as Iraqi Kurds emerge as the kingmakers in Iraq, Ankara's influence over Erbil will translate into influence over Baghdad. According to Joost Hiltermann, Turkey views Iran's influence in Iraq as "threatening," so a key component of their Iraqi Kurdistan policy is to "maintain a strategic position after the US withdrawal."[lxxi] The influence Turkey seeks over the Iraqi Kurds is similar to that which the Iran has fostered over decades with Shiites in Iraq.[lxxii]

ASSESSING ALTERNATE INTERPRETATIONS

There are three major interpretations of the AK Party's policy on Iraqi Kurdistan and Ankara's extensive economic relations with Erbil. One of the interpretations, that of Turkey's hegemonic ambitions, has already been discussed at length and appears to be the most convincing of the three possible assessments. The second interpretation is that Turkey's economic ties with Iraqi Kurdistan do not represent a shift in its traditional strategic culture valuing caution abroad to facilitate domestic reforms and development. The third assessment is inspired by a liberal view of international relations: Turkey is pursuing an EU-like network of economic interdependence via its extensive investments in northern Iraq in order to establish stability and order in a historically volatile region.

Same objective, different style

Observers may note that there has been no change at the core or objectives of Turkey's foreign policy as much as there has been an employment of different methods. Based on this interpretation, the AK Party, led by its charismatic leaders Prime Minister Recep Tayyip Erdoğan and Foreign Minister Ahmet Davutoğlu,

have adopted the foundational objective of "Peace at Home, Peace in the World" so fervently espoused by Turkey's founders who valued domestic political reforms above all foreign policy concerns. In other words, the AK Party wants to limit the ability for conflict and instability in its region to hinder its domestic reforms and economic development. Due to the effects of globalization as well as the clear and present dangers of terrorism and subversion from beyond its borders, it is now impossible to hunker down and remain at the sidelines of regional events as it would have been earlier in Turkey's history. Therefore, according to this assessment, Erdoğan and Davutoğlu seek to foster stability in their region though extensive mediation of political disputes and the promotion of economic interdependence in order to limit the ability of foreign actors to utilize their ethnic make-up to break up their nation.

With regards to deepening economic ties with Iraqi Kurdistan, this analysis would indicate that rather than seeking to extend a Turkish sphere of influence in northern Iraq, the AK Party wants to promote economic stability in the region in order to restrict any foreign or Kurdish desires to upend the plethora of domestic reforms sought by the ruling party, including the limitation of the involvement of the Turkish Armed Forces (TAF) in domestic politics and the development of more inclusive democracy in line with the European Union's demands for Turkey's accession.

On the surface, this appears to be a compelling school of thought. However, this particular interpretation does not take into account the extensive risks involved in this allegedly cautious foreign policy paradigm. As previously mentioned, acknowledgment of ethnic differences in the make-up of Turkey are diametrically opposed to the Kemalist-nationalist ideology promoting one unified, homogenous Turkish identity. Liberalizing trade between Turkey and Iraqi Kurdistan, and indeed the trade between Iraqi Kurds and the Kurds of southeastern Turkey, runs the risk of reenergizing Kurdish nationalist and separatist ambitions. Additionally, the risk of being economically intertwined with Iraq, an unstable country with an uncertain future, would also be considered too high for Kemalist-nationalists to accept.

Liberal economic-interdependence

Some view Turkey's economic integration with Iraqi Kurdistan in the context of its promotion of a network of interdependence in the Middle East. Turkey's opening to Iraqi Kurdistan should be seen in a functionalist, liberal light according to this interpretation. The AK Party seeks to establish an economic union similar to that of the EU, hence fostering everlasting peace and stability amongst previously warring nations. Similarly to the booming trade and removal of visa requirements

with Syria and Iran that are often used as examples of Turkey's attempts to liberalize trade in its region, Turkey's vibrant economic relationship with Iraqi Kurdistan is regarded as a core of the AK Party's dedication to free trade and enterprise. As evidenced by alleged plans to rebuild the Baghdad-Hejaz railway, the infrastructural development is also viewed in this light. Turkey aspires to foster connections in the greater Middle East as well as the Caucasus and Balkan states with Turkey at its center.

This analysis does not take into account that it is historically a region's dominant power who seeks free trade to utilize its economic advantages in new markets and exert political influence through trade and investment. There are now 16 cities in Turkey which generate over $1 billion in trade,[lxxiii] and Turkey's gross national product could grow to $1 trillion by 2015.[lxxiv] They have extensive access to Western markets and higher-quality manufacturing than any of the other major regional actors, with the exception perhaps of Israel which does not have access to most Arab markets. Turkey is the best candidate to be the dominant player amongst the large regional actors. Iran, perhaps the nation with the biggest manufacturing capacity in the region outside Turkey, suffers from harmful sanctions, unrest over subsidy reforms and isolation from the international community—all of which diminish the quality of Iranian products compared to Turkish goods. Erbil views Ankara as a better partner than Tehran and Baghdad largely because of higher quality of Turkish goods.[lxxv] The AK Party is pursuing economic interdependence because they are confident that their enterprises would dominate a regionally integrated economy and further enhance their burgeoning hegemony. The trade balances are likely to be in favor of Turkey, and Ankara will not hesitate to flex its economic muscles should its interests be threatened.

Additionally, in a liberal point of view which historically values actors outside of the state structure, there may very well be pressure on the AK Party from its constituents and supporters in the Turkish business community, especially among Anatolian Tigers—the entrepreneurs from medium-sized cities who rose to prominence—who want to explore new markets in Turkey's near-abroad. Western European markets are less interested in products emanating from Turkey's construction sector and semi-advanced industries such as textiles, so these business communities want to reach out to the Greater Middle East, starting with the burgeoning market of Iraqi Kurdistan.[lxxvi] With real estate valued at an estimated $10 billion, relative security and immense energy potential combined with an accommodating investment law, there are a plethora of opportunities for Turkish investors to explore.

Entrepreneurs, led by the Anatolian Tigers, have been increasingly influential, but the politics of Turkey would be sorely misunderstood if one were to believe that they were the major drivers behind Turkey's national security policy—a

cornerstone of which is the AK Party's policies in Iraqi Kurdistan. Turkey aspires to use these entrepreneurs as agents of its influence in Iraqi Kurdistan.

CONCLUSION: "LITTLE AMERICA"

It is important to remove the concept of Turkish regional hegemony from the negative connotations of such a powerful word. Hegemony over a region, according to Tufts University Professor Malik Mufti, implies that regional actors in fact internally accept the hegemon's dominance.[lxxvii] Iraqi Kurds overcome their troubled history with Turks because they have internally accepted that Turkey is the prime candidate to play the "big brother" role that Iraqi Kurdistan so desperately needs. While Iraqi Kurds sympathize with the plight of their kin in Turkey, they still manage to find enough commonalities in culture and interests to overcome any guilt revolving around doing business with the oppressor of the Turkish Kurds. The author of a *Business News Europe* article on Turkish trade with Iraqi Kurdistan dryly noted that "blood may be thicker than water, but not oil."[lxxviii]

Turkish foreign policy in Iraqi Kurdistan is the culmination of a decades-long diametric shift in paradigm. Most argue that Erdoğan and Davutoğlu are successors-in-thought to Özal. While this is true, one cannot underestimate the influence of Democrat Party of the 1940s and 50s, led by Prime Minister Adnan Menderes and President Celâl Bayar. Bayar made public his desire for Turkey to become a "little America"—a democratic bastion of capitalism and free-trade which would exert itself as a hegemon in its own region.[lxxix] Turkey, in many ways, has become a "little America." It has acquired the American sense of self-confidence and entrepreneurial enterprise with a desire to look beyond its borders for new places to conquer through the market, rather than through its military might alone. These are all evident in Turkey's policy in Iraqi Kurdistan. Through Ankara's partnership with the private sector, they seek to capitalize on the strength of their economy and industry in a way unimaginable in the dark days of the 1980s—when civil unrest and economic hardship were the norm in Turkey.

Turkey, under the AK Party, now unashamedly accepts its status as the successor state to the Ottoman Empire and is willing to take on fellow former empires Russia through its pursuit of Iraqi Kurdish energy and Iran through its involvement in the Iraqi private sector. Fears over a potential coalescing of Kurdish identity which would come with greater integration with Iraqi Kurdistan are dismissed by the AK Party, who sees strength in a multicultural Turkey, just as the Ottomans saw strength in its multicultural empire. Should Kurdish nationalist sentiments get out of hand however, Turkey appears to have acquired the right levers to temper it if need be.

[i] Abigail Fielding-Smith. "Turkey Finds a Gateway to Iraq." *Financial Times*. 14 Apr. 2010. <http://www.ft.com/cms/s/0/4e027bc0-47e6-11df-b998-00144feab49a,dwp_uuid=f39ffd26-4bb2-11da-997b-0000779e2340.html#axzz17T02nFEG>.

[ii] "Industrialists from İzmir in Arbil to Establish Business Ties." *Today's Zamaan*. 03 Nov. 2010. Web. 20 Nov. 2010. <http://todayszaman.com/news-226151-industrialists-from-izmir-in-arbil-to-establish-business-ties.html>.

[iii] Qasim Khidhir Hamad. "Turkey Looking for Economic Integration with Kurdistan Region." *Niqash*. 18 May 2010. <http://www.niqash.org/content.php?contentTypeID=28&id=2679&lang=0>.

[iv] "Turkish Minister Targets $20bn Investment in Iraqi Kurdistan." *Iraq Business News*. AK News, 04 July 2010. <http://www.iraq-businessnews.com/2010/07/04/turkish-minister-targets-20bn-investment-in-iraqi-kurdistan/>.

[v] "Turkish Investments Surpass $620 Million in Northern Iraq." *Hürriyet Daily News*. 25 July 2010. <http://www.hurriyetdailynews.com/n.php?n=turkish-investments-surpass-620-million-in-n-iraq-2010-07-25>.

[vi] Grigoriadis, Ioannis N. "The Davutoğlu Doctrine and Turkish Foreign Polic." Diss. Bilkent University, 2010. ELIAMEP.gr. Aug. 2010. Web. 13 Nov. 2010. <http://www.eliamep.gr/wp-content/uploads/2010/05/%CE%9A%CE%95%CE%99%CE%9C%CE%95%CE%9D%CE%9F-%CE%95%CE%A1%CE%93%CE%91%CE%A3%CE%99%CE%91%CE%A3-8_2010_IoGrigoriadis1.pdf>.

[vii] Joost Hiltermann. In discussion with the author. 15 Nov 2010.

[viii] Robert Olson. "Relations among Turkey, Iraq, Kurdistan-Iraq, the Wider Middle East, and Iran."*Mediterranean Quarterly* 17.4 (2006): p. 33. <http://muse.jhu.edu/journals/mediterranean_quarterly/v017/17.4olson.html>.

[ix] Ali Khajavi. "Iraq's Alternative Routes for Reaching the European Gas Market." EKEM | Research, Documentation, Opinion. 22 Nov 2010. <http://www.ekemeuroenergy.org/en/index.php?option=com_content&view=article&id=118:iraqs-alternative-routes-for-reaching-the-european-gas-market&catid=35:analyses&Itemid=57>.

[x] Ahmet Evin et al. "Getting to Zero: Turkey, Its Neighbors and the West", Transatlantic Academy Report. 3 June 2010, p. 17.
<http://www.transatlanticacademy.org/view/resources/uploaded/GettingtoZeroFINAL.pdf>

[xi] *Ibid*, p. 19.

[xii] International Crisis Group, "Turkey and Iraq's Kurds: Conflict or Cooperation", Middle East Report No. 81 (13 November 2008), p. 13

[xiii] Robert Olson. In discussion with the author. 29 Nov 2010.

[xiv] David L. Philips, "Confidence Building between Turks and Iraqi Kurds." Atlantic Council of the United States, June 2009, p. 13. <http://www.acus.org/files/publication_pdfs/65/ConfidenceBuilding-BetweenTurksandIraqiKurds.pdf>.

[xv] *Ibid*.

[xvi] International Crisis Group. "Turkey and Iraq's Kurds: Conflict or Cooperation," p. 13.

[xvii] "Turkish Business Association Visits North Iraq." *Hürriyet Daily News*. 9 Apr. 2010. <http://www.hurriyetdailynews.com/n.php?n=business-association-visits-north-iraq-2010-04-09>.

[xviii] Stuart Mathews. "Reconstructing Iraq." *Arabian Business*. 6 Nov. 2010. <http://www.arabianbusiness.com/reconstructing-iraq-359942.html>.

[xix] Vela, Justin. "Turkey Means Business in Kurdistan." *Asia Times*. 23 July 2010. <http://www.atimes.com/atimes/Middle_East/LG23Ak04.html>.

[xx] *Ibid*.

[xxi] "Industrialists from İzmir in Arbil to Establish Business Ties." *Today's Zamaan*. 03 Nov. 2010. <http://todayszaman.com/news-226151-industrialists-from-izmir-in-arbil-to-establish-business-ties.html>.

[xxii] International Crisis Group. "Turkey and the Middle East: Ambitions and Constraints." Europe Report No. 203 (7 April 2010), p. 2
<http://www.crisisgroup.org/~/media/Files/europe/turkey-cyprus/turkey/203%20Turkey%20and%20the%20Middle%20East%20-%20Ambitions%20and%20Constraints.ashx>.

[xxiii] Arwa Damon. "Risky Business in Iraqi Kurdistan." Middle East Market Place. CNN. Erbil, Iraq, 19 Oct. 2010. YouTube. Waliomer, 19 Oct 2010. <http://www.youtube.com/watch?v=92ygOXIEEYM>.

[xxiv] Stuart Matthews. "Reconstructing Iraq." *Arabian Business*. 6 Nov 2010. <http://www.arabianbusiness.com/reconstructing-iraq-359942.html>.

[xxv] Justin Vela. "Turkey's Dual Cause in Northern Iraq." *Business News Europe*. 15 July 2010. <http://www.bne.eu/story2191>.
[xxvi] Vela, "Turkey Means Business in Kurdistan."
[xxvii] "Turkish Business Association Visits North Iraq." *Hürriyet Daily News*.
[xxviii] *Ibid*.
[xxix] "Industrialists from İzmir in Arbil to Establish Business Ties." *Today's Zamaan*. 03 Nov. 2010. <http://todayszaman.com/news-226151-industrialists-from-izmir-in-arbil-to-establish-business-ties.html>.
[xxx] "CNN Talks to Barham Saleh about Investing in Kurdistan." World News. London, United Kingdom, 17 June 2010. YouTube. KurdistanRegion, 2 July 2010. <http://www.youtube.com/watch?v=AVOCl0oSF1M>
[xxxi] "Iraqi Kurdistan Eyes Opening New Border Crossings with Turkey." Kurd Net. Reuters, 1 July 2010. <http://www.ekurd.net/mismas/articles/misc2010/7/state4008.htm>.
[xxxii] Vela, "Turkey Means Business in Kurdistan."
[xxxiii] Deniz Kutlu. "Advisor to Turkish Consulate in Erbil Says Bilateral Relations Developing." Interview. AK News. 17 May 2010. <http://www.aknews.com/en/aknews/9/146453/>.
[xxxiv] International Crisis Group. "Turkey and Iraq's Kurds: Conflict or Cooperation," p. 13
[xxxv] Serpil Açıkalın. "Turkish-Iraqi Relations in Light of Davutoglu's Visit to Iraq." USAK - ISRO. 21 Aug 2009. <http://www.usak.org.tr/EN/makale.asp?id=1029>.
[xxxvi] Sasha Suderow. "Turkey's "Zero Problem" With Iraqi Kurds Means Big Bucks." *The Huffington Post*. 9 Nov. 2010. <http://www.huffingtonpost.com/sasha-suderow/turkeys-zero-problem-with_b_781071.html>.
[xxxvii] Ekrem Eddy Güzeldere. "Was There, Is There, Will There Be a Kurdish Plan?" *Turkish Policy Quarterly*, vol. 7, no. 1 (Spring 2008), p. 99-110.
<http://www.turkishpolicy.com/images/stories/2008-01-turkey/EkremGuzeldere.pdf>.
[xxxviii] "Habur Border Gate to Be Temporarily Closed." *The Journal of the Turkish Weekly*. 5 Mar 2010. <http://www.turkishweekly.net/news/98985/habur-border-gate-to-be-temporarily-closed.html>.
[xxxix] International Crisis Group, "Turkey and Iraq's Kurds: Conflict or Cooperation." p. 1-3.
[xl] Suderow.
[xli] *Ibid*.
[xlii] Evin, p. 19.
[xliii] "CNN Talks to Barham Saleh about Investing in Kurdistan."
[xliv] Vela, "Turkey Means Business in Kurdistan."
[xlv] "Kirkuk Ceyhan Pumping Likely to Resume Thursday." Iraq Business News. 10 June 2010. Web. 07 Dec. 2010. <http://www.iraq-businessnews.com/2010/06/10/kirkuk-ceyhan-pumping-likely-to-resume-thursday/>.
[xlvi] *Ibid*
[xlvii] Khidhir
[xlviii] Julian Lee. "Kurdistan Investment Report." Interview. YouTube. Baghdadinvest, 9 Aug 2010. <http://www.youtube.com/watch?v=51rhBF46n7M>.
[xlix] Olson, p. 42.
[l] *Ibid*.
[li] Olson, in discussion with author.
[lii] Vela, "Turkey means business in Kurdistan"
[liii] Olson, p. 44
[liv] ICG, "Turkey and Iraq's Kurds," p. 14
[lv] Ibid, p. 15
[lvi] "KRG, Baghdad to Resolve Disputes over Oil Contracts." AK News. 6 Dec 2010. <http://aknews.com/en/aknews/2/200384/>.
[lvii] ICG, "Turkey and Iraq's Kurds", p.13
[lviii] Fielding-Smith
[lix] "Modification of Feeder Line Concept." Nabucco Gas Pipeline Official Website. 23 Aug. 2010. <http://www.nabucco-pipeline.com/portal/page/portal/en/press/NewsText?p_item_id=8E79E5BF557DCC2DE040A8C0010178CA>.
[lx] Ibid.
[lxi] "Nabucco Sets Sights on Iraq." Upstream Online. 30 Sept 2010. <http://www.upstreamonline.com/live/article230940.ece>.

[lxii] "Getting to Zero," p. 15.
[lxiii] Fielding-Smith.
[lxiv] Kutlu interview, Ak News.
[lxv] "Turkey's Contributions to Iraq." Rep. of Turkey Ministry of Foreign Affairs. <http://www.mfa.gov.tr/turkey_s-contributions-to-iraq.en.mfa>.
[lxvi] "Still More Room for Turkish Companies in Iraq." *Today's Zamaan*. 25 Oct. 2010.
[lxvii] Ibid.
[lxviii] Ibid.
[lxix] Matthews.
[lxx] Malik Mufti. "Turkey and the Middle East." Fares Center Roundtable Discussion. Massachusetts, Medford. 23 Nov. 2010.
[lxxi] Fielding-Smith.
[lxxii] Mufti, Fares Center Lecture.
[lxxiii] Werz, Michael. "Understanding Post-Referendum Turkey." Interview. Center for American Progress. 26 Oct 2010. <http://www.americanprogress.org/issues/2010/10/postref_turkey.html>
[lxxiv] Olson, p. 38.
[lxxv] International Crisis Group, "Turkey and Iraq's Kurds: Conflict or Cooperation," p. 14.
[lxxvi] Werz.
[lxxvii] Mufti, Fares Center Lecture.
[lxxviii] Business News Europe.
[lxxix] Mufti, Fares Center lecture.

"The Border Does Not Exist:" Solving the Puzzle of Kurdish-Iranian Relations

by Mark Rafferty '13

Three hundred and eighty-six kilometers of mountains separate the Autonomous Region of Kurdistan from Iran, but however rugged the terrain, it has never impeded a steady two-way flow of trade goods, cash, refugees, migrants and armed insurgents. During the last century of Iraqi Kurdish resistance to centralized Iraqi rule, Iran alternately played the role of friend to Erbil and to Baghdad. Depending on the balance of power at the time, Iran consistently supported the relatively weaker side, supporting Baghdad to ensure that Iraq did not disintegrate–lest an independent Kurdistan fan the flames of separatism in Iran–but also supporting Erbil so that Iraq would not become strong enough to pose a serious challenge to Iran. This policy of maintaining careful balance in Iraq is one that Iran still pursues today, and it has dictated Iranian relations with the Autonomous Region of Kurdistan.

Since the fall of Iraq's Baathist regime in 2003 and the ratification of a new constitution in 2005, the Kurdistan Region has seen stability and economic growth unparalleled elsewhere in Iraq.[i] At the same time, it has exercised disproportionately large influence in Baghdad, and in the case of constitutional ambiguities, it has been able act upon its own interpretations.[1] While Kurdish leaders have stated that they are not currently seeking independence, it is clear that the Kurdistan Region is less dependent on the central Iraqi state than it was before.

Iran has two reasons to fear these recent gains; first, they may be setting the stage for future independence, and second, they may inspire Iran's Kurds to agitate for similar gains under Iran's federal system. Iran has thus taken a three-pronged approach to curbing Kurdish gains in the region. It has worked to exercise quiet influence in the upper ranks of the Kurdish politburo, it has sponsored armed insurgent groups to decrease the region's domestic security and finally, it has waged a military campaign against Kurdish border villages, shelling them nearly every spring since 2003. While Iranian-Kurdish political dealings take place away from the public eye, this paper deals with the latter two Iranian approaches. This article seeks to prove that Iran's sponsorship of insurgents and its campaigns on the

[1] An example of this has been Kurdistan's foreign policy initiatives, which have been quite active since 2005 despite the constitutional provision that gives the federal state exclusive control over foreign policy. For more on this, see this journal's report on Kurdish Foreign Policy written by Patrick Doherty.

border are not, as Iraqi, Kurdish and Western officials publicly state, thoughtless attempts to sow chaos in the region but are instead attempts at calculated coercion.

In the second part of the paper, cultural ties and economic relations between Iraqi Kurdistan and Iran will be examined. The two neighbors have a great deal of cultural affinity with one another and for many reasons, the Kurdish and Persian populations are closer to one another than with the neighboring Arab population; however, because of the disjuncture between the Iranian people and their government, it is unlikely that good relations between populations will have any effect on relations between governments. With respect to economic ties, Iran and Iraqi Kurdistan have a high degree of economic interconnectivity, with a large volume of trade and essential goods passing between them; however, the theory of complex interdependence, which predicts that high levels of economic trade will raise the costs of conflict and encourage cooperation between states, is not applicable here, as both states have other outlets for trade and can afford reduced cooperation.[2]

This paper advocates a long term, realist view of Kurdish-Iranian relations. Looking at the relationship through a narrow window will lead to an artificially dualistic view of one state as oppressing, leviathan, capricious and untrustworthy, and the other as passive, victimized and consistent. Of course, there are grains of truth in all of those epithets, but it is naive to think that any country can possess a monopoly on virtue. Instead, the Iraqi Kurdistan and Iran can be more accurately viewed as self-interested actors in a regional system, in which the triangle of power relations between Tehran, Baghdad and Erbil has been complex and fluid.

Looking to the future, it is reasonable to expect that Tehran's balancing act will continue. If Iraq should continue on its current trajectory and the Kurdistan Region continues to grow in power relative to the Iraqi state, Iran can be expected to step up its coercion and intimidation. Conversely, if the central Iraqi state should become more stable and able to challenge its neighbor, Tehran might lend a hand of support to the Kurds. One clear lesson emerges: the oft heard Kurdish proverb, "The Kurd has no friends but the mountains" may be true. But the same thing could be said of the Persians, the Arabs and all the other groups caught in the disarray of this regional whirlpool.

KURDISH NATIONALIST ASPIRATIONS: REPRESSED POTENTIAL

Kurdish nationalism has gained strength as a motivating force over the last century, and both Kurdish and Iranian leaders are acutely aware of the power

[2] Although Kurdistan is a region of the sovereign state of Iraq, theories that explain relations between sovereign states can still apply to Kurdistan, albeit in modified form. With respect to economic activity and trade, Kurdistan has enough autonomy that its interactions with Iran are similar to those between two states.

of this movement when the political climate has allowed it to gain momentum. The pan-Kurdish movement, which is a relatively recent phenomenon given that the collective Kurdish identity is itself relatively young, mourns the divisions of the Kurdish people at two distinct points in their history. The first division came after a clash of the Ottoman and Persian Empires in 1514 that resulted in the defeat of the Persians and the division of Kurdish lands between the two empires. The second division came after the Ottoman defeat in World War I. Allied forces initially signed the Treaty of Sevres, in which the Kurdish areas of the empire were given the option of declaring independence, but after pressure from Turkey, the allies capitulated and signed the Treaty of Lausanne, which divided Kurdish lands among Syria, Turkey and Iraq. Throughout most of the twentieth century, Kurdish nationalism in Turkey, Iran and Iraq has primarily been a struggle for independence and statehood. At various times, this has been a cross-border movement, with Kurds refusing to recognize existing national borders, and at other times, the struggle has been confined locally.[ii]

Kurdish politicians and military officers in Mahabad, Iran, declared an independent Kurdish republic named after its capital city near the border with Iraqi Kurdistan in 1946. The so called Mahabad Republic, which defied Iranian rule, received military and monetary support from the Soviet Union, which occupied northern Iran at the time. Sympathetic Kurds from Iraqi Kurdistan rushed across the border to take part in the rebellion, and many played key roles in the new government. It was here that the Kurdistan Democratic Party (KDP) was founded; under the leadership of patriarchs of the Barzani tribe, it has dominated Iraqi Kurdish nationalism to this day. Thus, though the movement took place in Iran, it was a shared venture between Iraqi and Iranian Kurds who at the time did not recognize a border between their territories. Less than a year after the Republic's founding, however, the Soviet Union withdrew from Iran due to international pressure, and the Mahabad Republic was crushed. The memory of this uprising is firmly engrained in the minds of the Kurdish and Iranian leaders as an example of the power of united Kurdish nationalism.

After the fall of Mahabad, a number of open Kurdish revolts occurred in Iraq, a testament as much to the organization and determination of the Iraqi Kurds as to the perennial weaknesses of the Iraqi state, permitting the movement to gain strength. Kurdish rebellions against Iraqi rule occurred in 1918, 1930 (under the British mandate), 1961, 1974, 1987 and 1991, and though these were not explicitly pan-Kurdish movements, the nationalist aspirations that were being expressed were shared by Kurds in Turkey and Iran as well. [iii]

Now, after the 2003 toppling of Iraq's Ba'athist regime and the international recognition of Kurdistan as an autonomous entity under federal Iraqi rule, the

Kurds of Iraq profess to be satisfied with their semi-autonomous status.[iv] Kurdish politicians have sought to assuage international fears by giving numerous reassurances that they are no longer seeking independence. At the same time, however, there are reasons to doubt Kurdistan's future within the federal system. While at the surface level Kurdish politicians speak of wanting peace with their Iraqi Arab brothers, it is apparent that there is reconciliation that has yet to take place. The abuses perpetrated by the Ba'ath regime were unspeakably horrific, and although the regime has been ousted, there appears to be a residual resentment and mistrust of the Arab people as a whole.

Although Iraq's constitution lays out a framework for peaceful coexistence between the two peoples, its implementation has been slowed in recent years by disputes over trade, oil contracts and the Kirkuk province, all conflicts that are essentially not struggles for possession of resources, but control of them. If Kurdish leaders foresaw harmonious cooperation with Iraqi Arabs in the future, there would be no need to jockey for control of revenue and oil flows. The importance the Kurdish politicians place on this control speaks volumes about their long term expectations about the Iraqi state. Whether the slow implementation of the constitution is the result of Kurdish or Arab obstinacy is irrelevant; the important thing is that Iraqi Kurds have made it clear that their inclusion in the Iraqi federal project is contingent on basic guarantees by the constitution and central government.

TEHRAN'S BALANCING ACT

Iran's relationship with Kurdistan has always been dictated by concerns of power balance, which have led Iran to alternatively repress and support Kurdish nationalism in Iraq. Iran's first goal is to maintain its territorial integrity, which means preventing Kurdish nationalism in its own territories, and similarly, ensuring that Kurdish nationalism in Iraq will not spill over the border. The memory of the Mahabad Republic serves as a frightening example to Iranian leaders of Kurdish capabilities. Thus, at times when the Iraqi state has been weak and Iraqi Kurdish nationalism has appeared to have greater chances of success, Iran has acted against it. At other times, however, Iran has found it useful to support Kurdish nationalism.

Iran's other main priority has been to protect its safety, which means balancing the power of the Iraqi state. Iran and Iraq have long had conflicting interests in the region, and an eight-year war that left over one million dead testifies to the dangers that Iraqi power has posed to Iran. Thus, at times when Iran has needed to curb the power of Iraq, it has often found it useful to support the Kurds of Iraq in their struggle. The Shah of Iran supported a 1974 Kurdish rebellion that weakened

Saddam's regime and successfully coerced him into signing the 1975 Algiers Pact which resolved several ongoing disputes between the two countries. Near the end of the war between the two countries in 1987, Iran enlisted the help of Kurdish forces in fighting against Saddam. In fact, Kurdish and Iranian troops fought side by side in some of these battles.

At different periods of history, Iran has supported and repressed the Kurds of Iraq, but what has remained constant is Iran's desire to see balance in Iraq. An Iraq that is too strong would threaten Iran's interests, while a state that is too weak might lose its grip on Kurdistan. Thus, Iran can be described as pursuing a policy of balance, supporting the Kurds when Iraq is strong and opposing the Kurds when Iraq is weak.

IRAN AND KURDISTAN TODAY

The period from 2003 until today can certainly be described as one of a weak Iraqi state. While the chaos from the invasion has mostly subsided, the country as a whole is plagued by terrorism, divergent political factions, corruption, politicization of the military, ethnic division, economic woes and general political instability. While Iraq is not in a position to threaten Iran or any of its neighbors, it does not have the power to keep a strong hold on its Kurdish population either. Indeed, the Kurdish position since 2003 has been one of confident strength. The Kurds held disproportionately large bargaining power in the constitutional negotiations of 2005,[v] and they managed to forge a constitution that solidified an autonomous region with significant independent powers. Since then, the Kurdistan Regional Government (KRG) has been able to push the limits of these constitutional powers, interpreting vague passages in their interests and pushing ahead on new initiatives with minimal consultation with Baghdad, while Iraq has been mostly unable to prevent them from doing so. Kurdistan's economy is booming, and Iraq benefits from these revenues. International investment dollars, which have been slow to come to Iraq, have been flowing into Kurdistan by the billions. While Iraq has been plagued by terrorism, Kurdistan has been relatively secure. Kurdistan also maintains a military force and several security apparatuses that give it a fair degree of power. In short, Iraqi Kurdistan is now in one of the strongest positions it has ever been in vis-à-vis the Iraqi state.

The diminishing power gap between the Kurdish region and the Iraqi state is often discussed in mainstream media and policy circles and is most likely not a secret to Iranian leaders. Therefore, according to the logic outlined in the previous section, Iran's leadership would most likely want to curb Kurdish power, lest it set a dangerous precedent for Iran's own Kurdish population. This has in fact been the

case since 2003, as Iran has undertaken a protracted campaign of showing its force along the Kurdish border, using limited force against Kurdish border villages under the guise of anti-terrorism operations and sponsoring non-state terrorist actors within Kurdistan.

Iran's use of force along the Kurdish border has occurred in the context of supposed anti-terrorism operations. Iranian Air Force and Artillery units have bombarded Kurdish villages on the mountainous border on multiple occasions in the last eight years following Iranian claims that members of the PJAK, Iran's militant Kurdish organization, have been taking refuge there. Well-documented cases of Iranian attacks on Kurdish soil have occurred in April 2003, May 2006, July-September of 2007, May 2008, May 2009, July 2010, September 2010 and July and August of 2011. In all of these cases, Kurdish and international media have reported the internal displacement of Kurdish citizens and the destruction of homes, businesses and infrastructure. The United Nations Office for the High Commissioner of Refugees (UNHCR) has attested to this internal displacement and disruption of economic activity.[vi]

While Iranian officials have claimed after each attack to have killed PJAK insurgents and disrupted terrorist activities, Kurdish officials have often denied this, responding that only innocent civilians live in the affected areas. Iran and the KRG have negotiated more than once and have reached agreements to stop the attacks in exchange for Kurdish denial of sanctuary to the PJAK, but despite these settlements, attacks have continued. It is important to note that Iran has not been the only state to invade Kurdistan on the pretext of chasing Kurdish terrorists—Turkey mounted a number of similar attacks on northern Kurdistan from 2003 to 2008. Those attacks have largely diminished since Turkey and the KRG reached an understanding in 2008 and made a commitment to cooperation, though the implicit threat of Turkish force is constantly present. Today, KRG officials cite Iranian incursions as their most significant security concern.[vii]

While the KRG does have its own military force, the *peshmerga*, and several intelligence apparatuses, it is in no position to directly confront the Iranian army. Iran has over half a million active duty soldiers,[viii] the ability to call upon massive reserves and firepower vastly superior to that of the Kurds. Given the staggering inequality of power between the two, there is essentially no contest. In addition, Kurdistan lacks the constitutional legitimacy needed to protect its own border with Iran. Section 4, Article 110, Point 2 of the Iraqi Constitution gives the federal Iraqi Constitution the exclusive power of "formulating and executing national security policy, including establishing and managing armed forces to secure the protection and guarantee the security of Iraq's borders and to defend Iraq."[ix] Thus, while the KRG *peshmerga* have the legitimate right to maintain security within

the autonomous region, the KRG must rely on the Iraqi National Army (INA) for border protection. INA forces report directly to the Iraqi Ministry of the Interior in Baghdad; thus, when Iran has attacked Kurdish territories since 2005, the Kurds' only recourse has been to submit complaints to the Ministry of the Interior.

The direct use of force is not the only way that Iran has made its power felt in Kurdistan. As in elsewhere in Iraq, Iran has made the use of non-state insurgent groups crucial to its strategy in Kurdistan.[x] The group that has garnered the most attention has been Ansar al-Islam, a marginal Islamist organization that waged low-level campaigns in Kurdistan before 2003. Touted by Colin Powell as a group that was sponsored by Al-Qaeda and Saddam Hussein—a dubious claim in and of itself—Ansar al-Islam was made one of the primary targets of the US invasion.[xi] After being effectively routed by American and Kurdish forces in 2003, it has since maintained a low profile presence and has not posed a significant threat to Kurdish security. Nonetheless, substantial evidence exists to report that the Iranian Revolutionary Guard supports the group, which has caused considerable consternation among the Kurds and their American allies.[xii]

Iran has also made its presence felt in Kurdish politics, although little of this effort has been visible to the public eye. In this way, Iran has been operating similarly in Kurdistan as well as in Iraq as a whole. Both dominant parties in Kurdistan, the PUK and the KDP, have had deep ties with the Iranian government, although the parties have fluctuated in their distance over times, and often, the Iranian support for one party has led to the alienation of the other. Today, it is difficult to find primary evidence of Iranian influence in the government, but clues abound. First, although the KRG and the Iranian government conduct dialogues that are visible at the public level, they are not enough to account for the amount of communication between the two governments. Second, Kurdish officials themselves have attested to Iran's influence in their government. According to one anonymous upper level official in the Kurdistan Parliament, "the current Kurdish cabinet would not be able to stand if it did not have Iranian approval."[xiii]

EXAMINING THE PURPOSE OF IRANIAN POLICY

While Kurdish officials publicly decry Iranian actions as irresponsible and aimed only at creating chaos and instability in the region, they can in fact be understood in the context of a more strategic logic. Given the Iraqi state's weakness since 2003 and the strength of the Kurdistan Regional Government, Iran would want to ensure that Kurds remain committed to their role within the federal system. There are two ways of doing this: first, by raising the benefits of Kurdistan's sub-state role, and second, by raising the costs of any attempts at independence. The first,

the raising of benefits, has been shown by increased Iranian trade with Kurdistan since 2003. In a strategy similar to that pursued by Turkey since 2008, the Iranian government is, in a sense, rewarding the Kurdish government for its compliance to the Iraqi constitution.

The second, the raising of costs, has been affected by Iran's use of force, support for insurgents and political meddling. In his article "The Diplomacy of Violence," political scientist Robert Schelling offers a compelling explanation for the incentives for a country to use a limited amount of force as a deterrent.

> "There is a difference," he writes, "between taking what you want and making someone give it to you, [...] between defense and deterrence, between brute force and intimidation, between conquest and blackmail, between action and threats. It is the difference between the unilateral, 'undiplomatic' recourse to strength, and coercive diplomacy based on the power to hurt."[xiv]

According to Schelling, coercive diplomacy is often desirable over brute force because it saves resources and energy to both sides.

Hypothetically, Iran could physically prevent Kurdistan from becoming a powerful regional force or declaring independence by preemptively disabling its political, military and economic infrastructure, but this would require a massive military operation, cost money and lives and risk a strong international reprisal. Instead, Iran has opted for targeted violence, applying a small amount of violence to Kurdistan's border regions. On one hand, the violence gives Kurds a powerful incentive to bend to Iran's will; if they comply, it is presumed that the violence will be stopped. On the other hand, the violence also gives the Kurds a small taste of the greater violence that Iran is capable of inflicting. Although it is not likely that Kurdish leaders would ever overestimate their own military power, the violence serves as a collective reminder to Kurds across the region of the real horror that comes with Iranian bombs. Thus, with a limited application of force, Iran is able to deter Kurdish belligerence and ensure that its role will be respected.

In the framework of this theory, there are several requirements for coercive diplomacy to be effective. First, the power using violence must make its goals clear, and second, its adversary must understand that the violence is not arbitrary but is instead contingent on misbehavior. In the Kurdish case, both of these requirements hold true. While Iran has claimed to be attacking PJAK militants in the area, it is clear to all that indiscriminate shelling of entire villages is not the most effective method of counterinsurgency available to the Iranian military. Here it may be useful to reexamine the dates of Iranian attacks on Kurdish soil in the last decade. They began in April of 2003, just a few weeks after the invasion of Iraq and the liberation of Kurdistan from Ba'athist rule. They occurred again in April of 2006 after the creation of a federal Iraqi state in which Kurdistan officially received

its autonomy. They have continued each spring since then, as Kurdistan has continued to become more economically and politically independent from Baghdad.[3] Thus, Iran's violence is not arbitrary but is in fact directly related to fears of Kurdish independence, and Kurdish leaders understand this message. In one interview, a senior-level official in the Ministry of Peshmerga was asked about an ongoing visit of Kurdish Prime Minister Barham Salih to Tehran. "It doesn't matter what they are negotiating about. While we are in negotiations, the Iranians will probably shell a few of our villages just to remind us that they can."[xv]

Iran has made its desires clear to Kurds on both sides of the border, and it appears that for now, the KRG is willing to abide by them. Of course, this is not to argue that the threat of Iranian force is the only deterrent keeping Kurdistan in the federal Iraqi state. Other factors include continuing economic dependence on Iraq, the threat of Iraqi or Turkish force and a dependence on continuing legitimacy in the international community. Nonetheless, as Kurdistan's close neighbor, Iran is considerably important in blunting Kurdish aspirations.

CULTURAL TIES: STRONG, BUT AT THE POPULIST LEVEL

The Kurds of Iraq have a great number of cultural and economic ties to Iranian Kurds and Persians, so it is important to examine the effects that these have on bilateral relations. Culturally, the Kurdish connection to Iran runs deep. For Kurds in Iraq and Iran, the connection is relatively intuitive; although the development of a common Kurdish identity is a relatively new one, dating back to the sixteenth century, Kurds on both sides of the border have since come to see themselves as one people. Mullah Mustafa Barzani, leader of the Kurdish nationalist movement for a better part of the twentieth century, is said to have once quelled objections to his pan-Kurdish demands by stating simply: "The borders do not exist." [xvi] Although political realities have brought some detachment to Kurds across the border, a shared common identity persists. Families straddle the border, and some Iranian Kurdish families send their sons or daughters to Iraqi Kurdistan for service in the peshmerga.[xvii]

While Iraqi Kurds do not share the same perception of unity with Iran's Persians, they still hold a close cultural affinity, no doubt because they are members of the same Indo-European ethnic and language group.[xviii] Both share a distinctness from the Semitic people and Arabic language, and in recent centuries, their struggles against Arabs have often brought them to common ground. Because Iran and Iraqi Kurdistan share a long border, travel and trade across it have been relatively fluid over the years. Many Kurds have attended secondary school and univer-

[3] While this has not been overtly acknowledged, it is likely that the shellings have occurred in spring due to the thawing of mountain snows and the increased traffic over the border that comes with warmer weather.

sity in Iran or have lived there to find work. Many older Kurds speak fluent Farsi, and stereos in Kurdistan commonly play Iranian pop music. Persian Shiites travel through Kurdistan on their pilgrimages to Iraqi holy cities Karbala and Najaf, and many come to Kurdistan for tourism, staying at its mountain resorts and enjoying the beautiful landscapes.

This degree of cultural affinity would suggest to some, especially adherents of the constructivist theories of international relations, that Kurdish-Iranian relations should be more harmonious than they are. Constructivism, in its simplest form, states that social perceptions can determine national identities and significantly influence power politics; in this case, because the Kurdish people and the Iranian people feel empathy for one another, this theory predicts that their leaders would be more likely to seek mutually beneficial cooperation. In recent years, however, this appears not to have been the case because in the Kurdish perception, there is a wide gap between the Iranian government and the Iranian people. Perhaps because the current leadership has lost its legitimacy from the Iranian people, there exists a duality in the minds of the Kurds: friendly people, unfriendly government. Once that distinction has been drawn, it is possible for the governments to hold animosity, regardless of the people's perceptions of one another.

ECONOMIC TIES: CONNECTED, NOT DEPENDENT

Perhaps a more important arena to examine is that of economic ties between Iran and Kurdistan. Trade between the two states is important to both economies. In 2006 the KRG passed a foreign investment law that it calls "the most liberal in the region." It allows foreign firms to retain full ownership over projects within Kurdistan and gives firms generous incentives to invest in the region.[xix] As a result, Kurdistan has seen a flood of investment in the past four years, much of it coming from its neighbors Turkey and Iran. With over 100 Iranian firms present Iran was the second most heavily invested country in Iraqi Kurdistan in 2008. Iranian investment spans many sectors from construction to finance to infrastructure, and both sides continue to indicate a desire for investment. Over 185 Iranian companies participated in a trade fair in Sulaimaniyah in July 2010 to highlight possibilities for investment. The director of the Telecommunication Company in Iran declared an interest in setting up a fiber optic telecom network in Iraqi Kurdistan, and the head of Iranian Kurdistan's Power Distribution Company discussed plans to provide electricity to the Iraqi Kurdish province of Bashmakh.[xx]

The flow of goods across the border is significant and growing. There are three active border crossings from Iran into Iraqi Kurdistan: Bashmakh, Haj Omran, and Qasre Shirin. According to Feiz Ali Khorashid, a member of Iraqi Kurdistan's Legislative Council, trade between Iraqi Kurdistan and Iran through these

three border points currently has an annual value of [approximately] $2 billion. The same report predicts that the value of the year's trade will increase to $4 billion by the end of 2010.[xxi]

Kurdistan imports fresh produce and food products from Iran. At the same time, the region has begun exporting some crops to Iran. According to one Kurdish official in Sulaimaniyah, 462 tons of vegetables and herbs were exported to Iran through the Bashmakh crossing.[xxii]

In March of 2010, Iran and the KRG announced plans to build a "joint industrial town" in Iranian Kurdistan on the border with Iraqi Kurdistan outside of Bashmak, east of Sulaimaniyah. KRG Prime Minister Barham Salih, after meeting with the governor of Iran's Kurdistan province, declared, "Iran and Iraq enjoy great deal of interactions. The relations must extend to economic and civil sectors to increase investments in the two countries."[xxiii] The plans, which remain vague, reiterate calls for a border crossing that would be open 24 hours per day, a proposal that has been promoted by Kurdish officials since 2009.[xxiv] Whether or not these plans come to fruition is of little significance; instead they are important because both sides demonstrate a commitment to economic cooperation.

It may be tempting to infer that this high level of trade will cause both sides to work harder for a harmonious future. The international relations theory of complex interdependence, outlined by scholars such as Robert Keohane and Joseph Nye, provides a compelling framework for understanding relations between countries that trade with one another. By trading with one another, countries are raising the benefits of mutual cooperation while simultaneously raising the opportunity cost of conflict. Constituent groups within the countries, including businessmen, traders, people who benefit from imported goods and politicians with ties to trade, may all influence government policies to encourage more cooperation. Countries that trade in essential goods as opposed to luxury items are even less likely to desire conflict due to the prohibitive costs.

Several of these assumptions are true in the Iranian-Kurdish context. Different groups in each society do have vested interests in trade, from private interests to state enterprises, to hybrid enterprises on both sides. And the goods that each country is importing—food, electricity and clothing—are relatively essential. But it does not appear that these economic ties have drastically affected political relations between the two states. This is due to the fact that upon closer inspection, it is revealed that Kurdistan and Iran are interconnected, but not interdependent. Both countries benefit from each other, but right now, neither country needs the other.

Iran is not dependent on Kurdistan for its economic survival. Iran's GDP in 2010 is estimated at $863.5 billion,[xxv] and it has alternative sources for many of the goods that it receives from Kurdistan. Iran's situation is somewhat unique in

that, pressed by international sanctions, it has looked to Kurdistan for goods that it cannot obtain elsewhere, such as parts for cars and airplanes. In addition, the efficient currency transfer centers of the financial district of Erbil serve as convenient hubs for cash transactions. For now, however, Iran is not dependent on Kurdish trade, which has been demonstrated by Iran's willingness to use a suspension of such trade for political purposes.

Iran has closed its borders with Kurdistan several times in response to political events since 2003. U.S. Forces in Sulaimaniyah arrested an Iranian citizen, Mahmoud Farhadi, in September 2007 accusing him of being an agent of Iran's Revolutionary Guards' Quds force. Iran responded by closing its border crossings with Kurdistan. While the United States, Iran and Iraq wrangled over custody of the man, land transport between the two countries was halted for two weeks, during which time Iraqi Kurds felt the importance of Iranian goods. In one interview, the head of the Sulaimaniyah Chamber of Commerce stated that normally, 60 percent of consumer goods in Sulaimaniyah came from Iran and that the closures were depriving almost 35,000 Iraqi Kurds of work.[xxvi] Prices of goods rose sharply during this period until 8 October, when, after two days of high level negotiations between KRG ministers and Iranian officials, the borders were reopened.[xxvii] Iranian authorities announced in December 2010 that Kurdish vehicles entering the country would be charged a 3,000 dinar insurance tax, which incensed truck drivers and led to a strike that left borders closed for two days until Iran reversed their decision. For Iran's part, it appears that the border with Kurdistan is not considered an economic lifeline.

While Kurdistan imports a large amount of goods from Iran and certainly was hurt in the short term by the suspension in trade in 2007, it has many other economic partners. Its cooperation with Turkey, begun in large part after 2008, dwarfs its trade with Iran; while there are over 100 Iranian firms operating in Kurdistan, there are nearly 500 Turkish ones.[xxviii] It is estimated that 80 percent of goods sold in Iraqi Kurdistan are made in Turkey, and annual trade between the two reached approximately $6 billion in 2009.[xxix] Reaching out beyond its immediate neighbors, Iraqi Kurdistan has also attracted investment from Europe, the Gulf states and east Asia. While Iran does provide food and electricity to Kurdistan, it is not the sole provider of these goods, and in a time of need, Kurdistan could easily turn elsewhere. When asked about the border closures, Masroor Barzani, the head of Kurdish Intelligence and Security, casually quipped "This is the Middle East, not the United States-Canada border."[xxx]

It is possible that as international sanctions continue to bear down on the Iranian economy, it will become more dependent on Kurdistan as a financial outlet. Or it is possible that should Turkish-Kurdish relations encounter difficulty, Kurdistan would become more dependent on Iranian food imports, but both of these

scenarios are distant hypotheticals. For now, Iran and Iraqi Kurdistan remain independent enough that the economic costs do not make conflict prohibitive; thus, Iran is able to militarily antagonize Kurdistan without risk of massive economic loss.

LOOKING AHEAD

The future of Kurdish-Iranian relations is closely intertwined with relations between Erbil and Baghdad. In the foreseeable future, there are two possible scenarios: that of a weak central Iraq and that of a strong central Iraq. In the first scenario, Iraq continues on its current course of development: Kurdistan retains its broad constitutional powers over its governance and security, foreign investment continues to bolster the Kurdish economy, the federal Iraqi government remains paralyzed by corruption and infighting and the KDP-PUK coalition maintains solid control over a stable KRG. In this case, even if Kurdish officials continued to deny aspirations for independence, Iran would still frown on such a position of Kurdish power. In Iranian eyes, it would lay the long-term foundations for the development of a more powerful Kurdish enclave which would, after several generations, be prepared for independence. In the short term, the Kurds' success in Iraq might inspire Iranian Kurds to press harder in their demands.

In this scenario, Iran would continue to press harder against the KRG, using its political influence to bring the Kurdistan government in line with its goals, and use strategic application of military force on the Kurdish border to remind the Kurds of Iranian dominance. As time passes and INA forces become better prepared to defend Kurdistan's borders, Iranian attacks may lead Kurdistan to draw closer to the central Iraqi for protection, which would satisfy the goals of Tehran and Baghdad.

The second scenario entails the development of a stronger Iraqi state, one that is capable of exercising more control over the KRG. In this scenario, the Iraqi government is able to form an effective coalition that challenges Kurdish demands; undecided issues such as the disputed territories, Kirkuk and oil revenues are either left undecided or resolved in Iraq's favor, and the KRG is weakened by factionalism. This last proposition seems more likely in light of the recent growing power of opposition movements in Kurdistan such as the Gorran Party. Outside of the political arena, growing dissatisfaction with perceived government patronage and corruption have erupted into mass protests, such as those that rattled Sulaimaniyah in February 2011.

If this were to be the case, it is likely that Iran would adopt a more conciliatory tone with Kurdistan, as there would be far less to fear. There would be no need for displays of Iranian military force or political manipulation. In fact, if the Iraqi

state were stay strong in such a situation, Iran might look to strengthen the Kurdish position to prevent the emergence of a strong Iraq as it did in the 1970s and 1980s. Given the current state of Iraqi politics, however, it is unlikely that Iraq should be in any such position of power in the foreseeable future.

---

[i] *The Kurdistan Region: Invest in the Future*, an Official Publication of the Kurdistan Regional Government, 2009, p. 13.

[ii] Edmund Ghareeb. *The Kurdish Question in Iraq*. Syracuse University Press, 1981, p. 13.

[iii] Michael Kelly. "The Kurdish Regional Constitution within the Framework of the Iraqi Federal Constitution: A Struggle for Sovereignty, Oil, Ethnic Identity, and the Prospects for a Reverse Supremacy Clause", in the *Penn State Law Review*, 2010, p. 710-725.

[iv] "Iraqi Kurdistan to Stay Part of Iraq", *ArabTimesOnline*. <http://www.arabtimesonline.com/NewsDetails/tabid/96/smid/414/ArticleID/163120/reftab/96/t/Qaeda-plots-bomb-attacks-in-US-EU/Default.aspx>.

[v] Andrew Arato. *Constitution Making Under Occupation: The Politics of Imposed Revolution in Iraq*. Columbia University Press, 2009, p. 47.

[vi] Governorate Assessment Report, Sulaimaniyah. UNHCR, September 2007.

[vii] Jafar Mustafa Ali. In discussion with the author. 9 January 2011.

[viii] IISS (International Institute for Strategic Studies). *The Military Balance 2001-2002*. Oxford University Press, 2001, gives an estimate of 513,000.

[ix] Constitution of Iraq, Section 4, Article 110, Point 2.

[x] "Radical Islam in Iraqi Kurdistan: The Mouse that Roared?", International Crisis Group, February 2003, p. 8

[xi] Michael Lortz. "Willing to Face Death: A History of Kurdish Military Forces – the Peshmerga – from the Ottoman Empire to Present-Day Iraq", Florida State University Masters Thesis, 2005, p. 66.

[xii] Masroor Barzani. In discussion with the author. 10 January 2011; ICG Report.

[xiii] KRG cabinet official. In discussion with the author. January 2011. The official, who is involved in security matters, asked to remain anonymous.

[xiv] Thomas Schelling. *Arms and Influence*. Yale University Press, 1966, excerpts from pp. 1-34.

[xv] Anonymous upper-level KRG official. In discussion with the author. January 2011.

[xvi] Edmund Ghareeb. *The Kurdish Question in Iraq*. Syracuse University Press, 1981, p. 13.

[xvii] Anonymous Iranian women serving in the Zerevani Peshmerga unit. In discussion with the author. January 2011.

[xviii] Michael Gunter. *The Kurds Ascending: The Evolving Solution to the Kurdish Problem in Iraq and Turkey*. Palgrave MacMillan, 2008, p. 132.

[xix] "Economy and Business, Kurdistan's Investment Law: The Friendliest in the Region," KRG.org. 25 June 2010. <http://www.krg.org/articles/detail.asp?lngnr=12&smap=03010800&rnr=145&anr=18620>.

[xx] "Iran's TCI Offers to Help Iraq Telecom Sector", *Iraq Business News*, 1 July 2010. <http://www.iraq-businessnews.com/2010/07/01/irans-tci-offers-to-help-iraq-telecom-sector/>

[xxi] "Iran Trade with Iraqi Kurdistan to Expand", *Iraq Business News*, 22 April 2010. <http://www.iraq-businessnews.com/2010/04/22/iran-trade-with-iraqi-kurdistan-to-expand/>.

[xxii] "462 Tons Crops Exported Through Bashmakh in 2010", AKNews.com, 17 December 2010. <http://aknews.com/en/aknews/2/203057/>

[xxiii] "Iran, Iraq to Build Joint Indistrial Town", Iran English Radio, 31 March 2010. <http://english.irib.ir/programs/item/59784-iran-iraq-to-build-joint-industrial-town>

[xxiv] "Sulaimaniyah Governor visits Bashmakh Crossing Border", Sulygov.com September 2009. <http://www.sulygov.com/details.asp?ID=236>

[xxv] "Iran" in The World Factbook 2011, United States CIA, 2011. <https://www.cia.gov/library/publications/the-world-factbook/geos/ir.html>.

[xxvi] "Closure of Iranian Border Affects Kurdistan Region's Economy", Gorillasguides.com, 30 September 2007. <http://gorillasguides.com/2007/09/30/iraq-closure-of-iranian-border-affects-kurdistan-regions-economy/>

[xxvii] **"Iran Repoens Bashmakh Crossing with Kurdish Region", *Digital Journal*. 8 October 2007. <http://www.digitaljournal.com/article/238329>.**

[xxviii] **The Kurdish Regional Government, *The Kurdistan Region: Invest in the Future*, Published by Newsdesk Media Group on behalf of KRG Representation in the USA, 2009, p. 165.**

[xxix] **Kevin Philips. Atlantic Council Blog. <http://www.acus.org/new_atlanticist/turkey-and-iraqi-kurdistan-are-strategic-partners>.**

[xxx] **Masroor Barzani.**

Photo Essay: Kurdistan's Armed Forces

Ian MacLellan, Geology '12

The Kurdistan Regional Government (KRG) Parliament building. Rather than fight for an independent state of their own, The residents and government of Kurdistan have largely put aside their personal grievances together as a region for a peaceful and democratic federal Iraq.

A Zerevani soldier plays an electric piano in the dining hall of a base outside Erbil. A portrait of Iraqi Kurdistan President Masoud Barzani hangs on the wall above the soldier. The Zerevani Special Forces are part of the Kurdish peshmerga. Within the myth and lore of the peshmerga there is a sanctification of the mountains and of political figures such as Mullah Mustafa Barzani, father of the current president.

Zerevani soldiers practice hand-to-hand combat. The Zerevani, like the rest of the Kurdish military and government, are transitioning from fighting in the mountains to organizing a region and providing regular services and support.

Portrait of a female Zerevani soldier.

Two Zerevani soldiers on a training course.

Section III:

Social Policies of the KRG: Women and Healthcare

Health and Democracy in Iraqi Kurdistan

by Rajesh Reddy '12

"Everyone shall have the right to obtain healthcare and medical treatment, regardless of their ability to assume the expenses thereof." - Article 24 of the Draft Kurdish Constitution

"Too many times, we have asked the government to help us. But it is in vain. They promise and do nothing. When I think of the budget and the millions and see my situation, I feel like I am dead."- Sulaimaniyah woman who lost her father-in-law and baby to cholera[i]

Post-Saddam Erbil is a panorama of development, with the number of hotels, consulates and hospitals rising at rapid rates. Since the new millennium, Kurdistan has embarked on an ambitious development program, expanding services and trade networks, while also establishing relations across the globe. Despite this growth, the country has seen periods of unrest just as recently as this year. [ii] Protesters cite widespread corruption, a lack of basic services and the siphoning of state money into private pockets. The region's health system has suffered from weak existing infrastructure, insufficient capacity or quality of services, an influx of IDPs and difficult access to rural citizens. While reconstruction has meant renewed investment in new health centers and hospitals, overcrowding and limited services still plague the system. Secondary and tertiary health care rapidly grow in urban areas, and primary health remains a low priority. Health policy has stagnated and cannot overcome the antiquated system of party politics. Without a clear strategic policy direction and effective governance, Kurdistan risks further exacerbating the socioeconomic gap in its constituency and failing its responsibility to provide services to a growing population.

The RAND corporation study "Health System Reconstruction and National Building" found that "nation-building efforts cannot be successful unless adequate attention is paid to the population's health. In addition, efforts to improve health can be a powerful tool for capturing of the residents."[iii] A thorough analysis of health system reconstruction entails looking at two representative factors: infrastructure and resources, and coordination and planning.iv This paper will, using existing scholarship and personal interviews, consider both components.

BRIEF BACKGROUND OF KURDISH HEALTH STRUCTURES

Prior to the Gulf War, Iraq once had the most effective and modern health system in the Arab world.[v] It was widely considered the most advanced in terms of technology, expertise and its primary health care system.[vi] Immediately after the first Gulf War, however, the population's health rapidly declined. The conflict severely damaged the country's infrastructure, and the Ba'athist regime of Saddam Hussein exacerbated the problem by cutting public health expenditures. As a result, health indicators like infant mortality, which had been improving since the 1960s, quickly deteriorated while incidence of infections diseases like cholera, typhoid, dysentery and hepatitis increased sharply.[vii] The Oil-for-Food Program, though marred by corruption, is believed to have averted a famine, though malnutrition remained a serious problem.[viii]

The Kurdistan Region had been neglected and oppressed by the Ba'athists since 1975. Internal conflict and the civil war from 1994-1998 further weakened the Kurdish region. As the Speaker of the Kurdistan Parliament Dr. Kemal Kirkuki explained, the region suffered from "a double embargo" of both international and domestic sanctions.[ix] Additionally, the central government had done little to build up the health infrastructure for the northern provinces.[x] Faced with these odds, the Kurdish areas were left to their own devices to build up a health hierarchy after 1991 from almost nothing.[xi] But with few resources over the decade, the post-2003 KRG inherited a region with very little infrastructure.

INFRASTRUCTURE & RESOURCES

The Kurdish health authorities have had their own budget since 2003.[xii] While the rest of Iraq suffers from continued instability, Iraqi Kurdistan is blessed with security and ample foreign investment. So after nearly two decades of self-rule, the KRG has had time to develop its political institutions and capabilities.

Since the joint administration agreement of 2006 that united the Erbil, Dohuk and Sulaimaniyah administrations, the Ministry of Health is responsible for all health policy and strategy.[xiii] The Ministry, faced with complications from the unification, has begun to decentralize the ministry and pass on some of the powers to local government and hospital managers to give them more autonomous control.[xiv] The reforms thus freed the ministry to concentrate on strategic planning since in the past, health ministers were responsible for all decisions, and these decisions were often made based on political demands and subjective planning.[xv] As former KRG Minister of Health Dr. Abdul Rahman Yones describes,

"The [former] system was based on providing a completely free national health service for

all, but the system deteriorated and does not function properly anymore in today's rapidly changing environment. We are working on improving it by bringing in some modern ideas from health care systems around the world, such as Lebanon and Iran."[xvi]

While the current system is based on the provision of free national health services for all citizens, there has been no implementation by the KRG of either health insurance or of a social security system.[xvii]

Minister of Planning Dr. Ali Sindi described the pace of development, saying "Kurdistan is in better shape, which is really not true in infrastructure… Kurdistan is behind in main issues."[xviii] As of 2003 the central government allocates 17 percent of the federal budget to the Kurdistan Region. The Minister cited the $54 billion in U.S. aid to Iraq in 2004, stressing that only roughly $1 billion went to Kurdistan, despite the autonomous region's recent progresses. Furthermore, the region is still recovering from years of Ba'athist rule during which Saddam destroyed nearly 4,000 villages. The net effect of this policy was the influx of villagers into main cities like Erbil and Sulaimaniyah.

This flight to the cities is the cause of a key health sector issue: overcrowding. While northern Iraq's health care system is better provided with private health centers than its federal counterpart (1.3 PHCs per 10,000 compared with 0.5 for the country as a whole), their effectiveness is questionable. According to NGO officials in the region, while health facilities below the Green Line are prone to being fewer, more dilapidated and likely to be looted, overcrowding of central hospitals is just as serious a problem in the north. "Below the Green Line there is clearly more of a structured health system," says Erbil-based Qandil NGO project manager Marinka Baumann. "Health workers report to a district chief, who knows roughly what is going on in the policies and guidelines."[xix] In the Kurdish provinces, health services are also hampered by infrastructure problems like a degraded or disrupted electricity supply, sanitation and communication.[xx] The cumulative effect of low resources and strategic mishandling has contributed to growing discontent, especially among rural and poor populations.

Rural Healthcare

Inequality and poor health among these vulnerable populations threaten the social stability of the region. Few efforts by the KRG have improved health for rural populations, leaving large disparities between urban and rural health. The main cause of this disparity is the lack of access to healthcare.[xxi] Rural communities were promised approximately 30 new clinics by the KRG in 2009, but only a handful have been completed due to lack of allocated funds. Existing healthcare facilities in rural areas are similarly underfunded and also understaffed, thereby

ill-equipped to deal with demand. The World Health Organization (WHO) found that 70 percent of primary healthcare centers in all of southern Kurdistan are in need of renovation and have restricted access to water and electricity. Only two-thirds were found to be staffed by medical assistants with limited knowledge and resources. These statistics are worse in rural areas. Villagers often report visiting clinics during operating hours to find them closed; one villager reported not having successfully seen a doctor in twenty years.[xxii] Weak infrastructure in rural areas like poor roads, lack of electricity and clean water hinders future progress in healthcare.

According to the former health minister Dr. Abdul Rahman Yones, Kurdistan lacks sufficient educational services for nursing staff and medical technicians and a lack of specialist training opportunities for doctors.[xxiii] Nurses are in short supply, leaving doctors in the KRG area to often carry out tasks routinely performed by nurses.[xxiv] Dr. Affan Jafar describes the problem as a legacy of war: "During the conflict with Hussein in the 1980s, there was a large exodus of MDs from Kurdistan," Jafar says. "And then there was no investment in medical facilities for almost 20 years. As a result there was little training available for doctors."[xxv] The region has, however, benefited from an influx of medical specialists from the south. Hundreds of general and specialist doctors as well as young trainees have sought refuge in the northern cities.[xxvi] As of 2005, the majority of interns and doctors at the Sulaimaniyah Teaching Hospital were Arabs.

Despite the arrival of healthcare professionals from the south, Kurdistan still faces a shortage of specialized health services. This shortage is one of the reasons why, since 2003, the budget for healthcare has been focused on spending on secondary and tertiary care, providing disproportionately high funding on specialties and leaving little for primary care.[xxvii] Yet without adequate primary care, many patients, especially rural ones, do not seek care until the condition has progressed to a serious or critical stage. By that time, treatment requires far more resources and time.[xxviii] In the past few years, the Health Minister Dr. Zyran has committed to devote greater resources towards primary care efforts, saying, "I am trying to shift spending from secondary and tertiary care that benefit only five percent of the population to the primary health system that benefits 95 percent of the population."[xxix]

Drug Supply

The Kurdish healthcare system bears the additional burden of being inextricably dependent on Baghdad for drugs. Conflict in the south, says former minister Dr. Yones, severely reduces availability of basic life-saving medical supplies. Under national law, medical supplies and drugs must be acquired through

the federal government, which earmarks 17 percent of supplies for the region. This Central Drug Distribution Network is precarious as poor management and the ongoing security situation hamper distribution. Furthermore, the central government has not taken into account the influx of IDPs fleeing violence and instability in the south, causing an increase in shortfalls.[xxx] While some medicines are purchased locally by the Ministry of Health, this system also suffers from delays and shortfalls. Dr. Yones estimates that, due to conflict, corruption and inefficiency, Kurdistan receives only a third of its allocated drug requisitions.[xxxi]

Infrastructure

Health development in Kurdistan cannot improve without reforms in corresponding sectors. As the RAND study on health development and nation-building confirmed:

> Health reform is linked to other sectors, such as power, transportation and governance. Measures of success should focus on outcomes, such as improvements in basic health indicators—for example, lower infant mortality—rather than outputs, such as number of rebuilt hospitals or the number of doctors and nurses trained.[xxxii]

Health is so tightly linked to other sectors like electricity, housing, water and sanitation that development must occur parallel across these sectors.[xxxiii] Electricity and fuel are in short supply, with Erbil governorate receiving only five to seven hours of electricity on average daily. To make up for this shortage, nearly 80 percent of the governorate's population uses private generators. At around 8,500 Iraqi dinar (about $7 USD) per Ampere and a 64,000 dinar (about $55 USD) installation fee, many families report having to spend up to half their income just on electricity.[xxxiv] Similarly, fuel shortages have led many families to rely on the black market where prices remain steep.[xxxv] While major cities have experienced significant urban development, the region still suffers from a housing crisis. The price of housing has skyrocketed since 2003 when compared to average income levels. A European Council on Refugees and Exiles associated member report in 2007 describes the following example:

> An employee at Sulaimaniyah University, looking for an apartment to live in with her future husband makes US$ 200 (approximately 254,000 Iraqi Dinars, IQD) per month, while her fiancé earns only US$ 80 (approximately 101,000 IQD) per month. In Sulaimaniyah, houses are offered at a monthly rent of US$ 200-800. The couple does simply not earn enough to afford their own accommodation.[xxxvi]

The issue does not concern only shortage of housing but overpriced housing. Ex-

perts believe unofficial general inflation rates to be around 40-50 percent. Urbanization further contributes to housing price rise. Both rural Kurds and IDPs exerted stress on the urban job market and reduced the availability of affordable housing. This population influx has not only placed pressure on the low wage sector but also led to a fall in daily wages by about 50 percent in this sector.[xxxvii] Frustration with the rising cost of living and the lack of employment opportunities have spurred recent demonstrations in Sulaimaniyah.

COORDINATION AND PLANNING

Budget & Statistics

"The problem is always the budget."— Nawzad Hadi, Governor of Erbil[xxxviii]

Health indicators show that the Kurdistan Region is indeed enjoying some success. Infant mortality and mortality of children younger than five years have both been halved since 2006, says former Minister Yones.[xxxix] Nevertheless, many public projects are held up by political complications. The high degree of bureaucracy also presents a problem. Public hospitals suffer from inadequate budgets and are forced to appeal to the general director of health for the most basic needs. Indeed, those working in healthcare can all agree that, as Dr. Haweizy of the Emergency Management Centre puts it, "The budget is little, very little." [xl] For example, the Rizgary Hospital has a budget of just $5000 USD per month and must appeal to the Ministry for supplies. This budget crunch also serves to push physicians into private practice as salaries are far less in the public sectors—just about $800 USD a month.[xli]

Any strategic efforts are hampered by a severe lack of validated health indicators required for needs assessment, planning and policy. Only the World Health Organization Iraq-wide indicators and subjective surveys by the World Bank, the World Health Regional Office for the Eastern Mediterranean (EMRO), and Iraq Comprehensive Food Security and Vulnerable Analysis offer reliable statistics. Some experts attest that "resource allocations are based more on political whim than actual health needs matching the population, epidemiological and socioeconomic profiles of Kurdistan's constituencies."[xlii] They cite the 2010 budget allocation of one-fifth of Erbil's total resources to build a new office for the Ministry of Health.[xliii] Furthermore, Sulaimaniyah province, the largest by population, receives the least resources with only 15.7 percent allocation. Impoverished rural areas receive 27 percent allocation and developed urban areas 73 percent.[xliv] Additionally, as Minister of Ali Sindi described in a meeting, the Kurdish region suf-

fers from the lack of an updated census, which is repeatedly blocked by political impasse. The Kurdistan Region suffers from health surveillance and management-related data that are not standardized and not optimally used.[xlv]

Private-public Relationship

Arguably the most serious factor contributing to healthcare inequality is the system of healthcare fees. While healthcare is officially free for all, the situation on-the-ground is far from this ideal. Public primary care centers officially operate between 8:30 AM and 12:30 PM. Patients pay a nominal co-pay of 250 Iraqi Dinars (IQD), which is equivalent to approximately 25 cents, and can see however many primary care physicians in one day as they wish. As a result of overcrowding and high demand, consultation times are very short (observed on average around two minutes).

The health system allows doctors to work in public hospitals during the day and operate their own private practice (to which they often refer their public hospital patients) in the evening. These practices actually "'feed off the hospitals' public diagnostic services to augment their own business."[xlvi] In the ancient city center of Erbil, a "doctor's alley" has sprung up, offering private services without any sort of monitoring or scrutiny. The Rizgary Hospital only operates between 8:00 AM and 1:30 PM, after which the building is left with only one doctor on rotation per department.[xlvii] Even during working hours, resources are strained. According to a Kurdish Globe report, "up to 140 people visit the ear, nose and throat departments every day, where they wait in a noisy reception area to see the doctors, who themselves are busy, trying to find working equipment. Asked if they can cope with the huge numbers of patients, Shirzat, a medical assistant, just says that they are 'too many,' before going back to work."[xlviii]

Public sector funding has often found its way to the development of urban private primary care centers. "Capital costs for the construction of nearly a dozen such centers was covered by USAID, originally intended for public use. However, these centers have recently been given governmental 'pilot' approval for private provision and use."[xlix] The quality of private centers are far superior to the public ones and can provide specialized healthcare services, such as T.B. centers, infertility clinics, lab test centers, dental poly clinics and other sought-after services. These private clinics, however, charge patients between IQD 15,000 and 25,000 IQD ($12-20 USD) for just the examination, which accounts for more than a quarter of an average family's monthly wages. Additional services, treatment or drug provisions cost even more. *Kurdish Globe* reports, "Patients pay 20,000 Iraqi dinars ($18 USD) for a meeting with a doctor in a private clinic for just a four to six minute consultation. Sometimes, patients wait months to see a good doctor."[l]

To temper the public-private divide, the KRG has opened up consultant clinics at the district level, where physicians can work from 3:00 to 6:00 PM in the winter and 3:00 to 7:00 PM in the summer. At such clinics, consultations and prescriptions cost around IQD 1,170 ($1 USD). In addition to this compensation, physicians receive a ministry salary. Rural, often poorer populations—who have insufficient medical coverage in rural areas and face overcrowding in urban public hospitals—benefit from the cheap specialist services.[li]

Nevertheless, the two-tiered system of public and private hospitals has reinforced existing inequities in access and quality of care. It also inhibits the socioeconomic development of the country as the poorer and rural elements of the population are left without adequate healthcare.[lii] Furthermore, the lack of real social welfare or a universal insurance safety net leaves poorer and older elements vulnerable to catastrophic health expenditures.[liii] The few pension and welfare benefits that do exist are not widely available, and "due to a lack of funding, not all persons in need receive social welfare and access may at times depend on political/personal links rather than actual needs."[liv]

Primary Care

Primary care is the "provision of integrated, accessible health care services by clinicians who are accountable for addressing a large majority of personal health needs, developing a sustained partnership with patients, and practicing in the context of family and community."[lv] A report by Melinda Moore of the RAND Corporation found that "primary care facilities and services are not yet systematically organized, managed or monitored."[lvi] Primary care physicians are meant to serve a gateway function, treating what they can in their capacity and funneling the rest into specialized services. In Kurdistan, however, this referral system is neither adhered to nor enforced. "Simple conditions that can be treated at the care center (eg. diarrhea, fever) are overwhelmingly referred to hospitals, and patients' requests for drugs are generally unchallenged by physicians."[lvii] Primary care physicians often send patients to their evening private evening practices where prices are unaffordable to rural and poorer populations. Thus, physicians have negative incentives to fulfill their referral role or spend more time with patients in public hospital settings. Due to low co-pay in the Kurdish public health care system, patients also over-utilize services, leading to an overextended and overcrowded system. Without proper primary care, rural and poorer populations often do not receive care until their condition has progressed to a critical or serious stage.[lviii] The jumble of public, private, and unlicensed providers means that, in reality, "there is no 'system,' but a fragmented set of services…with a parasitic orientation towards the use of public hospitals." [lix] To strengthen the primary care system, interventions must

focus on three key areas. First, organization and management of [primary care] services must be reformed. This includes more efficient distribution and management of facilities, better referrals and continuity of care and continuous quality improvement. Second, the health care workforce (especially primary care physicians and nurses) must be strengthened through both education and training to improve qualification and through management interventions to enhance distribution performance. Lastly, data collection and analysis, surveillance and response systems and management information systems need to be improved.[lx]

IDPs

Perhaps the most vulnerable group, internally displaced peoples (IDPs), are hit the hardest by the widening inequality gap. Nearly 2.8 million people have been displaced within Iraq as of 2009, and Kurdistan hosts the largest number of IDPs. Sulaimaniyah province houses almost half a million IDPs, the largest displaced population outside Baghdad.[lxi] The Sulaimaniyah Governorate hosted over 360,000 IDPs as of February 2006. By the end of 2007, the governorate absorbed 67,844 IDPs displaced by the Samarra bombing, of which the majority resided in Sulaimaniyah City (46 percent) and most of which were ethnic Arabs (65 percent).[lxii] Furthermore, they have not indicated any willingness leave; in 2008, the Iraqi government offered $600 to families that return home, but fewer than one percent have accepted. Kurdish officials are also reluctant to permanently accept these IDPs. "We don't have enough job opportunities in Kurdistan," said Head of the Department of Foreign Relations Falah Mustafa Bakir, "but we don't want to send them back to the insecure situation in the south…Iraqis should stay in Iraq."[lxiii]

In an interview, a United Nations Office for Project Services (UNOPS) coordinator described the unique situation of Sulaimaniyah IDPs. While Erbil has been able to absorb the mostly skilled labor that comes there way, Sulaimaniyah has found the task much more difficult:

> "Sulaimaniyah differs from Erbil. The city has not expanded, so people have to go to the outskirts," she says. "Also, standard of living is lower and there are less job opportunities and Arab education institutions. Poorer elements often go to Sulaimaniyah, and the only jobs are daily wage and low-skill, low-pay jobs. They are not living in good living conditions because of low availability, high costs and their low income."[lxiv]

These poorer IDPs live precarious lives in refugee camps in the outskirts of the city, where they survive with a lack of basic sanitation and few health resources.

Kurdistan Health Foundation, a local NGO, discovered that many refugees are largely blocked from accessing the public health system. This problem, says local human rights activist Venus Shamal Karim, constitutes part of "a pattern

of neglect" on the part of Kurdish officials.[lxv] Dr. Nasik Abdul Wahid, a pediatrician providing services to the IDPs, relayed that "the local authorities are required to provide health services to the refugees under law, but the truth is people in this camp can only get medical services by paying. And it's too expensive."[lxvi] Many of these IDPs are still waiting on the KRG to transfer their food ration cards from Baghdad, without which they cannot access the system of government food support.

In the Sulaimaniyah province, the paperwork itself for transferring registration takes about one month, during which IDPs are left without access to food rations. Water shortages and low access to clean food supplies also deter healthy living as an increasing number of IDPs are exposed to contaminated water sources. [lxvii] IDP monitoring indicates that 62 percent of IDPs in Sulaimaniyah are living in overcrowded conditions, and 100 Arab families from Baghdad and Diyala are living in the Qalawa Camp located eight kilometers outside the city. This camp suffers from poor sanitation and common ailments like dehydration, diarrhea and rashes. Furthermore, officials have deemed this camp illegal and seek to relocate its inhabitants.[lxviii] Another camp in Erbil, Al-Khazir, was set up temporarily in May 2007 for 150 families from Mosul only to be closed in September of the same year. While most IDPs live in apartments within the city, the destitute in the camps face what former Minister Yones agrees is an inhuman predicament. The KRG and government of Iraq "insist on policies designed to encourage people to go home… As a result, the poorest people among the displaced have been left to live in camps, rather than resettled in permanent housing."[lxix]

Corruption

While Kurdistan has recently been flushed with foreign investment and growing revenues, "ordinary Kurds are struggling to survive, while state money gets siphoned off into private pockets."[lxx] A whistleblower in the Ministry of Planning confirmed the lack of transparency in the process of public works bidding. [lxxi] Businessmen often encounter political leaders who sell public works projects to relatives who may or may not be capable of their execution. The project often gets sold repeatedly until a real construction company is hired. At this point, a fraction of the original funds are still available.

While the Iraqi budget has been growing—a projected $82.6 billion for 2011[lxxii] and with the 17 percent share for Kurdistan, there still remains a growing gap between ordinary Kurds and the political elite. Contaminated water supplies have led to cholera outbreaks and with erratic electricity supply, many are left without power to boil their water.lxxiii In Sulaimaniyah, people have reported getting running water for four hours every three days and electricity for three to four

hours per day.[lxxiv] Journalist Ari Harshin concludes that the KRG operates like a mafia state: "There is no transparency. They are dividing the budget of the Kurdish Regional Government between the PUK and the KDP, 58 percent for the KDP, 48 percent for the PUK. It is a very strange model of democracy."[lxxv]

Frustration with the government has led to demonstrations dating back to 2006. Dissatisfaction has arisen over alleged corruption, restrictions on freedom of press and lack of public services. According to a the United Nations High Commissioner for Refugees (UNHCR) report on Sulaimaniyah, "there was a high incidence of fraud cases reported during the first quarter of 2007, and bribery and corruption are common."[lxxvi]

POLICY RECOMMENDATIONS

The KRG should encourage private sector development not by direct investment but by attracting foreign companies to invest in the health sector. According to a study by Dr. Goran Abdullah, 80 percent of the doctors in Kurdistan believe the private and public sector should be separated, and 85 percent would be willing to work for the public sector if monthly salary were increased by 300 percent.[lxxvii] Since Kurdistan is still in a development phase, the private sector and foreign investment should be the main sources of funding for secondary and tertiary services. Public subsidies should be re-directed towards basic public health programs such as "immunizations…sick-child care, family-planning, prenatal and delivery care and treatment for tuberculosis and STDs.[lxxviii]

The current system has proven highly inefficient. Public hospitals are in danger of becoming little more than referral stops to costly private centers.[lxxix] This public sponsorship of private care should be limited so that the public no longer has to pay a significant portion of their income for private care. Furthermore, policymakers must focus on regulating the wide variety of private clinics. On this note, NGOs should be more formally incorporated into the health structure as they play a vital role in treating poorer populations.[lxxx]

There are enough primary health centers (PHCs), but they, and the size of the population served per PHC, need to be standardized and categorized across provinces.[lxxxi] PHCs are supremely important in local settings and act as the first and main primary care providers for communities. They also ensure that resources are more effectively used and that patients are properly referred so that conditions do not progress to a serious stage before treatment. Similarly, increased use of telemedicine and expanded health education campaigns can promote safe and healthy behavior in communities.[lxxxii]

There is an urgent need for better epidemiological profiles and health statistics. Without updated and available indicators of health system structures,

processes and outcomes, the Ministry of Health cannot base its policies and budget resource allocations on evidenced health needs. Melinda Moore of RAND lists enhanced surveillance and response systems as one of the most important and feasible interventions for improving primary care.[lxxxiii] Such surveillance should be used not only to track disease, but also to monitor programs and target policies.[lxxxiv]

Health governance capacities are severely lacking. With Kurdistan's current decentralized model of health care, the Ministry of Health must strengthen planning and management competences as well as accountability. Accreditation and licensing systems are outdated and un-enforced and continuing medical education is weakly enforced. Such poor leadership and management competences have lead to inefficient and ineffective use of resources and staff.[lxxxv] Continuing education systems and licensing and recertification systems for medical processionals should be established.[lxxxvi] Medical students should be trained in primary care and more students should be trained as primary care specialists. Family medicine is the foundation of modern medical care and should therefore be incentivized.[lxxxvii] Likewise, there is a need for more and better trained nurses. They should receive enhanced training in clinical skills throughout their education so they can be better used at PHCs.[lxxxviii]

KURDISTAN: A FALSE DAWN?

"We are not a democracy, but we are democratizing." – Qubad Talabani, KRG Representative to the United States[lxxxix]

It is clear that Kurdistan has made vast progress in the past decade; after inheriting scarce infrastructure, the region has seen significant and rapid development and unprecedented foreign investment. Observers agree that Kurdistan is in far better shape than the unstable south and central regions. Nevertheless, when it comes to healthcare, KRG policy requires serious reform. Public funds go to waste as most Kurds live on unreliable electricity and water and face an ever-rising cost of living. With a growing post-war population and an expanding budget, the regional government must re-direct public funds and attack corruption that stunts public works projects. Public hospitals suffer from under-budgeting, overcrowding and weak management of resources. Physicians lack incentives to improve care, and nurses are in short supply and undertrained. Meanwhile, rural populations, poorer elements and IDPs lack access to proper care—after struggling to see a doctor, they often find themselves referred to private services that they cannot afford. The KRG must confront the growing socioeconomic gap between ordinary Kurds and the political elite. Demonstrations in Sulaimaniyah this year have revealed Kurdish frustration with their officials. Kurds are demanding basic services and an end

to the corruption. The KRG must answer their calls, define its values and reform accordingly, or Kurdistan's status as "beacon of democracy" may prove to be a false dawn.

---

[i] BBC
[ii] Rand Health System Reconstruction 1
[iii] Rand Health System Reconstruction 2
[iv] Rand Health System Reconstruction 2
[v] Iraq: Socioeconomic 10
[vi] Rand Health System Reconstruction 2
[vii] Rand Health System Reconstruction 2
[viii] Dr. Kemal Kirkuki (Interview 01/05/11).
[ix] (Corpwatch)
[x] (IRIN, IRAQ: Special)
[xi] (KRG, Health minister)
[xii] (Swiss 10)
[xiii] (Swiss 10-11)
[xiv] (Swiss 11)
[xv] (KRG, Health Minister)
[xvi] (KOFF)
[xvii] Dr. Ali Sindi. In interview with the author. 5 January 2011.
[xviii] (IRIN 2004)
[xvix] (IRIN 2004)
[xx] (Kurdishaspect)
[xxi] (Kurdishaspect)
[xxii] (Reuters)
[xxiii] (Reuters)
[xxiv] (Lancet Profile)
[xxv] (Reuters)
[xxvi] (KRG, Health Minister)
[xxvii] (KurdishAspect)
[xxviii] (KurdishAspect)
[xxix] (UNCHR Assessment Report, Erbil)
[xxx] (The Lancet, Reconstruction)
[xxxi] RAND
[xxxii] RAND
[xxxiii] UNHCR Erbil 24
[xxxiv] UNHCR Erbil 25
[xxxv] Iraq: The Socioeconomic Situation 3
[xxxvi] Iraq: The Socioeconomic Situation 7
[xxxvii] Nawzad Hadi. In interview with the author. 5 January 2011.
[xxxviii] Lancet
[xxxix] (KurdishGlobe, An Ailing Healthcare)
[xl] (KurdishGlobe, An Ailing Healthcare)
[xli] (Tawfik-Shukor 3)
[xlii] (Tawfik-Shukor 3
[xliii] (Tawfik-Shukor 3
[xliv] (Melinda Moore 4)
[xlv] (Shukor, Khoshnaw 4)
[xlvi] (KurdishGlobe, An Ailing Healthcare)
[xlvii] (KurdishGlobe, An Ailing Healthcare)
[xlviii] (Shukor, Khoshnaw 4)
[xlix] (KurdishGlobe, Health reforms vital in Iraqi Kurdistan)
[l] (Iraq: The Socioeconomic Situation 15)

[li] (Shukor, Khoshnaw 5)
[lii] (Shukor, Khoshnaw 5)
[liii] (UNHCR Sulaimaniyah 34)
[liv] (Melinda Moore 7)
[lv] (Melinda Moore 7)
[lvi] (Shukor, Khoshnaw 4)
[lvii] (Kurdishaspect, Future of Rural Health)
[lviii] (Shukor, Khoshnaw 5)
[lix] Melinda Moore 10
[lx] (Lancet)
[lxi] UNHCR Sulaimaniyah 6
[lxii] (Interview 01/16/11)
[lxiii] (Interview, 01/15/11)
[lxiv] (Lancet)
[lxv] (Lancet)
[lxvi] (UNHCR Sulaimaniyah 27)
[lxvii] (UNHCR Sulaimaniyah 22)
[lxviii] (Lancet)
[lxix] (BBC, Corruption)
[lxx] (BBC)
[lxxi] (Reuters, Update)
[lxxii] (BBC)
[lxxiii] (BBC)
[lxxiv] (BBC)
[lxxv] UNHCR Sulaimaniyah 10
[lxxvi] (KurdishGlobe, Health reforms are vital in Iraqi Kurdistan)
[lxxvii] *World Development Report* 1993,7
[lxxviii] (Shukor, Khoshnaw 5)
[lxxix] See Denise Natali's Kurdish Quasi-State for more on dependency on non-governmental organizations and institutions
[lxxx] (Melinda Moore 11)
[lxxxi] (Melinda Moore 17)
[lxxxii] (Melinda Moore 28)
[lxxxiii] (Melinda Moore 25)
[lxxxiv] (Shukor, Khoshnaw 4)
[lxxxv] (Melinda Moore 23)
[lxxxvi] (Melinda Moore 20)
[lxxxvii] (Melinda Moore 21)
[lxxxviii] (BBC)

The Fertile Crescent Unveiled: Analyzing the State of Gender Politics in Iraqi Kurdistan

by Afsheen Sharifzadeh '13

This paper explores the current state of women's rights and gender politics in Iraqi Kurdistan and gauge its success in the backdrop of the projected goal of democracy. In doing so, it shows that the successes on the women's rights front in Iraqi Kurdistan vis-à-vis Baghdad are due to an underlying cultural divide between the Kurdish and Iraqi Arab identity, and that the Kurdish Regional Government's penchant for modernization and democratization has espoused an unprecedented commitment to the integration of gender issues in social and public policy. Setbacks in the enactment of pro-women's legislation and civil reforms are the result of amenable institutional inefficiencies and anti-government opposition rather than traditionalist political dogma. The paper is divided into five main sections: an overview of the history of women's rights in Iraq and Iraqi Kurdistan beginning in the 20th century, an analysis of the legislative and civil movements on women's rights within Kurdistan since 1991, the current issues for women's rights and politics, an evaluation of the current setbacks for reformists and a proposal of solutions consistent with the profile of a democratic polity.

A HISTORY OF WOMEN'S RIGHTS IN CENTRAL IRAQ AND IRAQI KURDISTAN

The history of women in Iraqi Kurdistan is distinct from that of women central and southern Iraq and is defined in general by greater involvement and liberties. The distinction lies in differing ethnic and historical narratives and thus different social frameworks and value systems. However, providing a backdrop of women's rights in the whole of Iraq is an obligatory undertaking when attempting to analyze the development of the status of Kurdish women. Moreover, while Kurdistan as a region has been traditionally separated from central and southern Iraq, political and social developments in Baghdad nonetheless engendered crucial transformations in Kurdistan and altogether serve as a basis of societal comparison.

Iraq as a country is not unaccustomed to the movement for women's equality. As early as the country's founding in 1920, Iraqi women enjoyed far more freedom than women living in many countries in the area. Throughout the 1930s,

Iraqi women were critical in the effort for gaining independence from Britain, collecting donations, providing food for soldiers and petitioning for the release of Iraqi soldiers. Thus, as early as the mid-20th century, at least a preliminary infrastructure for women's participation in society had already come into existence, and at this time a number of independent women's groups were established. Established in 1952, the League for the Defense of Women's Rights, a subsidiary of the Iraqi Communist Party, became particularly influential.[i]

These women's groups staged massive protests for their civil rights, specifically against abuses at the hands of the British, and by 1959 they claimed to have a membership of 25,000 Iraqi nationals. [ii]

Additionally, the introduction of the Personal Status Law of 1959—which removed judiciary power regarding issues of divorce, inheritance and child custody from the 'ulama and placed them within the realm of civil administration—was greatly influenced by women in the General Federation of Iraqi Women and the Iraqi Women's League.[iii] This law marked a great step forward for reformists from the Islamic conservative hegemony of the 'ulama in Iraq that had previously dominated civil affairs from religious courts.

When the Ba'ath Party seized power in 1968, certain gains for the women's front were overturned, but new liberties were also granted. Moreover, while a girl's inheritance was limited to half that of a boy's, women were admitted into universities, government and public sectors to an unprecedented extent, and the prosperous years of the 1970s and the 1980s saw efforts toward eradicating illiteracy among women in order allow them to support the war-time labor force.[iv] At one point in Saddam's 24-year reign, the percentage of women in the civil service even reached 40 percent.[v] This attempt to eradicate illiteracy by making education compulsory significantly abridged the education gap between men and women in Iraq, and in 1980, one year after Saddam Hussein's ascension to the presidency, women were also given the right to vote and hold office.

Following the establishment of a *de facto* Kurdish autonomous region in northern Iraq in October 1991, the history of Iraqi women diverges from that of Kurdish women. There were, however, a few prior developments specific to the Kurdistan Region that contributed to the state of women's affairs. Women in Iraqi Kurdistan have experienced a certain amount of freedom as early as 1910, and this liberty led to the publication of women's journals such as *Kadinlar Dunyast*, or "Women's World," through 1921.[vi] At a time when Kurds were experiencing great difficulties under the Ottoman Empire, the first Kurdish women's organization, known as the Society for the Advancement of Kurdish Women, was established in Istanbul in 1919 with the objective of advocating Kurdish rights and pushing forward the interests of women.[vii] Separate from the reforms in Baghdad, the Women's

Union of Kurdistan was established in the Kurdish province of Sulaimaniyah in 1997 with a mandate to educate women about their rights through media campaigns and to provide leadership training for women.[viii] The group has been active in organizing panel discussions, holding seminars on violence against women and collecting signatures against problems such as honor killings.[ix] In a memorandum to the Masoud Barzani, President of the Kurdistan Regional Government, the group demanded the eradication of tribal family relations, a social system unique to the Kurds in Iraq that treats women as property, and the prohibition of violence against women by bringing murderers to trial.[x] Historically, Kurdish women also played an active role in the Kurdish struggle for independence, fighting in the guerilla *peshmerga* forces or supporting male fighters as nurses. When hostilities ceased, women benefited from political and social benefits granted to them for service, and their tacit subservience under previous regimes gave rise to a new sense of entitlement.

Thus, the Kurdistan region dealt with women's issues separately from those of central Iraq as early as the beginning of the 20th century, and these divides in social programs were largely the result of deep-rooted cultural and ethnic divides between Kurds and Arabs. Stark ethnic divides have resulted in feelings of separation and superiority on the women's rights front, and Lucy Brown and David Romano report in *Women in Post-Saddam Iraq: One Step Forward or Two Steps Back?* that many Arab women refuse to listen to their Kurdish counterparts, viewing them as inferior and revisiting the notion that they are far more experienced in the organization women's movements.[xi] It should be noted however that the divide in practice is not due to relative levels of "modernity" or "progressiveness," and any conclusions drawn from an analysis on this basis would be counter-productive. Moreover, while the tribal social system and gender-integrated guerilla history of the Kurdistan Region might suggest the potential for more social freedoms and political involvement for women, there exist certain gender-oppressive traditions in Kurdistan that have been the target of much international outcry that do not exist among the urban Arab populations of central Iraq. The stress should instead be placed on the existence of fundamentally separate Kurdish and Arab linguistic, political and social systems, and the fact that that these differences have espoused a different set of societal attitudes and interests with respect to the issue. The following discussion will investigate these paradoxical disparities in a legislative framework.

ANALYSIS OF LEGISLATIVE AND CIVIL WOMEN'S RIGHTS EFFORTS

Since the inauguration of an autonomous Kurdistan Region under the authority of the KRG in 1991 and the subsequent drafting of a distinct Kurdistan

Constitution, women in Kurdistan have enjoyed more liberties and legal protection than their counterparts in Baghdad. That is, the KRG has been more generous in granting these progressive rights and security measures in accord with expanding institutional democratization.

In the summer of 1992, a group of Kurdish women presented a petition signed by 30,000 women calling for the KRG to implement reforms on the Personal Status Law and the Iraqi Penal Code; however, the government was effectively paralyzed at the time due to the fratricidal civil war.[xii] Following the relative reestablishment of security, the Patriotic Union of Kurdistan (PUK) was the first to begin the reform process specifically in relation to honor killings, and the Kurdistan Democratic Party (KDP) followed suit by enacting several reforms including Law No. 14 of 2002 which reads: "Crimes against women with the pretext of 'honorable motivation' will not be legally liable for lenient punishment and Articles 128, 130, and 131 of the Iraqi Penal Code will not be implemented."[xiii] Following the U.S. invasion in 2003, there has been a marked increase in the volume and scope of laws pertaining to women enacted by the parliament, which culminated in the ratification of a particularly liberal and inclusive draft constitution in 2009.

According to Dr. Mishkat Al Moumin, an Iraqi Lawyer and founder and CEO of the Women and the Environment Organization (WATEO) that operates in Iraq, the Iraqi Constitution drafted in 2005, while guaranteeing basic human rights to Iraqi women for the first time, has three potential pitfalls that threaten to render it obsolete.[xiv] She defines these shortcomings as vagueness, discrimination and promotion of sectarianism. Vagueness constitutes the wording of the Constitution, including phrases such as "We the people of Iraq…are determined…to… pay attention to women and their rights."[xv] The phrase "pay attention to" does not obligate the government to advance and guarantee women's rights. Contrarily, Article 19 of the Kurdistan draft constitution of 2009 definitively states that "men and women shall be equal before the law." The Constitution includes other provisions relating to specific women's issues, including Article 27, which guarantees the establishment of special homes to protect women who have lost their "family security" for social reasons. The second issue, discrimination, touches upon the issue of Islam as the official religion of the state and the "basic source of legislation" in Article 2, which is problematic not only because there is much dispute by Islamic scholars over the interpretation of doctrine, but likewise because the population of the country consists of Christians, Jews, Mandaeans, as well as Yezidis.[xvi] This issue is avoided in the Kurdistan Constitution, which counterweighs the role of Shari'a by the principles of democracy and the freedoms stipulated in the Constitution and likewise acknowledges the ethnic identities of Kurds, Turkmens, Arabs, Chaldo-Assyrian-Syriacs, Armenians and "others" in Article 5. The last obstacle of promoting sectarianism has plagued Iraqi politics since the drafting of the new

constitution, and it prescribes personal and familial status based on religion and sect.[xvii] This is not the case in the Kurdistan Constitution, which views all ethnic and religious groups equally. It is thus evident that constitutionally, the Iraqi Constitution and Kurdistan Constitution present different attitudes with regard to the issue of women and minorities, and several pitfalls in the Iraqi Constitution have been amended in the Kurdish version.

The Kurdistan Region's Constitution has likewise been more liberal in granting political and social amenities to women. Moreover, while the Iraqi Constitution designates 25 percent of parliamentary seats to women, the Kurdistan Region's constitution calls for a quota of 30 percent. As of January 2011, there were 111 male MPs and 41 women MPs, translating to 36 percent representation by women, which is even more than that guaranteed by the Constitution. Additionally, three women have been appointed to the KRG cabinet out of forty-two ministers. Until recently, the KRG had a Human Rights Minister to monitor human rights, as well as a Women's Affairs Minister. In a move to reduce the number of ministries, these two ministers were removed with the formation of the sixth cabinet in summer 2009. The KRG established the Directorate for Combating Violence against Women within the Ministry of the Interior in 2008. The Ministry of Social Affairs currently runs three shelters for victims of domestic abuse or women threatened with honor crimes.

The Kurdistan National Assembly ratified Law No. 15 and so reformed Article 188 of the Iraqi Personal Status Code in 2008. Moreover, the law was altered in order to legally restrict polygamy.[xviii] A husband may take a second wife only if the first wife agrees, is ill or is infertile. The KRG has likewise been active in promoting awareness related to women's issues in the regions and has designated November 25 as "the day of ending violence against women," and February 6 as "Female Genital Mutilation Awareness Day." This legislation is not only indicative of a government that is willing to confront women's issues directly, but also one that is attempting to reform the problem from its social and psychological groundwork.

There is evidence to believe that these social reforms have indeed been successful thus far, however marginally, in tailoring social attitudes in favor of women. For example, in 2000, before the invasion, it was socially unacceptable for a woman to drive on the motorway.[xix] However, according to the manager of traffic headquarters in Duhok, Ali Salhaddin, over 26,000 women obtained driver's licenses in 2006 and 2007, and Nawzad Hadi, the governor of Erbil, asserts that as of 2011 34,000 women drive motor vehicles in Erbil.[xx]

Women's rights activists, lawyers, government officials and media representatives of the Kurdistan Regional Government gathered on 25 November 2010 for the international day to combat violence against women and for the launch

of research findings to combat honor-based violence in the region.[xxi] The final 150-page action plan "marks an important step" according to the UK Minister to the Middle East Alistair Burt, "and the recommendations offer a roadmap to combating honor-based killing in Iraqi Kurdistan."[xxii] Moreover, despite the 2008 amendment of a law that had justified honor killing to a new one that regards it as "murder," the lack of law enforcement in Kurdistan remains a serious problem as murderers of women have often remained unpunished due to the dominance of tribal solutions in many rural areas.[xxiii] All of those present admitted that honor killing and female genital mutilation were two negative parts of Iraqi Kurdish culture that needed to be uprooted. To conclude the meeting, the KRG announced two projects aimed at improving these problems, including a 16-day campaign to raise awareness of women's rights and KRG- funded academic research on honor killings in Kurdistan to be carried out by two British universities.[xxiv] Thus, it seems that the KRG is actively working to supplant lingering religious influences, such as the writings of Mollah Bayezidi, in forwarding the women's rights agenda.

THE SALIENT ISSUES CONCERNING WOMEN

In fact, throughout the American-led invasion of Iraq, President George W. Bush consistently used women's issues as part of his political agenda to legitimize the invasion.[xxv] Despite the efforts by the KRG and NGOs to improve the political and social rights of women, there still exist a number of issues contributing to gender oppression in Iraqi Kurdistan. The current issues are broad in scope and cannot be categorized by a sweeping statement. On a political level, while groundbreaking advancements have been made on the legislative front as a result of the KRG's commitment to addressing gender issues, political bodies in general suffer from underrepresentation by women as a result of Saddam-era politics and the lack of an infrastructure in place for women's integration. Accordingly, women are often elected on the basis of familial prestige rather than verified or previously demonstrated political capability. On a societal and familial level, pro-women's interests are being averted by traditionalist cultural attitudes, leading to underrepresentation in the work force, and the practices of female genital mutilation (FGM) and honor-based crime (HBC) are persisting realities among certain groups of women in Iraqi Kurdistan.

Perhaps the most apparent symptom of traditional gender oppression in Iraqi Kurdistan today is the shortage of women in the work force. This disparity stems from deep-rooted social precedents of gender roles within the Middle East. According to a report by the Iraqi Family Health Survey in 2006-07, 43.3 percent of women in Iraqi Kurdistan are illiterate, compared to 19.6 percent of men.[xxvi] This

disparity in education leaves many women unprepared and incapable of seeking out careers that would contribute significantly to the family income, which would afford them more power in familial affairs and decision-making. In fact, many women in Iraqi Kurdistan are hardly given a chance to further their education and enhance their skills from a school-going age, for many women are married by their late teenage years and take on the roles of housewives and mothers. According to a World Health Organization report covering 2006-07, over 26 percent of women between the ages of 20-49 years were married before they reached 18, and ten percent of women and girls between 15 and 19 are married.[xxvii]

Women are also visible and well represented in the work of NGOs. There are estimated to be 60 women's organizations run by women. Many are involved in campaigns to combat violence against women (VAW) and attend local and international public forums, conferences and seminars, both as speakers and delegates. Even so, it remains the case that women are alarmingly underrepresented in employment.

The international community has elevated its attention to the practice of FGM in Iraqi Kurdistan in recent years, and research on this issue has increased in both depth and volume. In a survey by the Ministry of Human Rights in 2009, over 40 percent of women and girls aged 11-24 years are victims of FGM. A study conducted by a German NGO known as WADI (Association for Crisis Assistance and Development Co-operation) found that over 60 percent of the women interviewed in a village south of Sulaimaniyah had undergone the procedure.[xxviii] WADI pegged the percentage in some districts at 70 percent. The women insisted that the practice was mandated by Islam, even though liberal clerics in Sulaimaniyah denounce the practice and declared a fatwa on it in 2001. The practice involves the cutting out of the clitoris of girls aged three to twelve and is usually administered by midwives or female relatives using an unsterilized razor blade. According to Human Rights Watch, FGM is a continuing practice among certain contemporary Kurdish communities because it is linked to Kurdish cultural identity, female subordination and religious imperatives based on the traditional gender role projected onto women. Moreover, the notion that uncircumcised girls are less "pure" than their circumcised counterparts is derived from the social stigma that female sexuality is dangerous and shameful, a stereotype which is encouraged by religious rhetoric. Within the communities where FGM continues to be practiced, the authority of religion and tradition seems to outweigh the influence of NGOs and government-sponsored programs.

Thus, while there has been progress, there is still a long way for improvement. The under-representation of women in political institutions, as well as in other key institutions of society, undermines access to resources and decision-mak-

ing processes with regard to these issues, contributing to continued discrimination and disadvantage.

OBSTACLES FACED BY WOMEN

The social and political obstacles facing women's progress within Kurdistan are endemic social circumstances, mutually unrelated and coexisting in the current societal framework. The first, lack of enthusiasm and interest in reform among women, is largely due to recent historical events that have propagated sentiments of pessimism. A branch of this lack of belief is due in turn to conservative attitudes among women about their rights and capacities. The second, administrative corruption and logistical shortcomings, is not exclusive to Kurdistan but has developed specifically with respect to Kurdish culture and politics. The third and perhaps most outspoken obstacle retarding reform efforts is public outcry instigated by traditionalists and political Islamists in the form of protests, loaded speeches delivered at Friday prayer services and dilatory political harassment.

The women of Kurdistan are perhaps psychologically deterred from progressive reform due to, as the Director of the Kurdistan Women's Union Dr. Vian Selman Haji asserts, a history of suffering and struggle. Saddam Hussein's regime, the Anfal campaigns and the wars of the last few decades have scarred the Kurdish conscience and have left a negative psychology and attitude with the people. Many women in Iraqi Kurdistan today have an immediate family member or acquaintance who disappeared during Saddam Hussein's regime, and the victims' remains are currently being exhumed from the mass graves in southern Iraq. The KRG has not provided an exact statistic for the number of Anfal widows, but current suggestions stand at approximately 50,000.[xxix] A combination of the previous regime's propensity for committing genocide and the very real results of that process have been and continue to be realized among the sisters, mothers and widows of the victims. Dr. Haji argues that while this national sentiment of victimology is both legitimate and culturally engrained, it ultimately serves as a counter-productive force in the awareness of gender-oppressive phenomena and the spreading of new ideas throughout Kurdistan. Moreover, lack of enthusiasm and widespread civil movement by Kurdish women is largely due to looming grief and lack of closure with respect to several historical events that have jeopardized the integrity of women and their families.

The most significant psychological setback which continues to forestall the advancements efforts of Kurdish civil society resides in the popular mindset—that is, the patriarchal traditions and societal outlook—of much of the population. [xxx] Moreover, there exist national feelings of inferiority and helplessness dating

back to the Iran-Iraq War (1980-1988), the sanctions period and now the American occupation. Perhaps Iraqi men feel not only that by restricting freedom they provide protection for women as the "weaker" sex, but also that they provide a sense of security and moral order in a country that has seen little of either in the past few decades.[xxxi] However, complete separation of the patriarchy through legislation has proven to be a difficult task for the government, and according to the Women's Information and Cultural Centre, there are currently an estimated 18,000 girls who were promised in marriage when they were children.[xxxii] The studies also note that marriage is not an individual choice, but rather a collective affair.

The persistence of tribal structures in Kurdistan manifests itself in the komelayati, a structure run by elderly, religious, political and tribal representatives that assumes the responsibility for hearing disputes and passing judgment in order to achieve reconciliation, or solh, between families or groups. In the past, laws had been administered by the tribal elders, rishspî ("white beards"), and the tribal head's words were taken for law.

Critique of women's quietude can be directed towards extant social attitudes that discourage them from forwarding their social and political interests. Moreover, social attitudes regarding the traditional role of Kurdish women have discouraged women's empowerment and involvement in employment and politics, especially in rural areas. Alongside these engrained social attitudes lies the social stigma of seeking help. Moreover, it is not a part of Kurdish culture to approach people with whom you are unfamiliar to profess inner psychological turmoil and discuss family affairs. This stigma is related to the integrity of family in Kurdish culture, especially with regard to preserving honor and high standing in the face of society. Thus women often do not take initiative to seek help for themselves, despite the outreach efforts of NGOs and support from the government. In this manner women in Kurdistan are in a sense double victims, firstly of a patriarchal, male-dominant culture and secondly of a social stigma against seeking help from NGOs and public institutions. This obstacle cannot be surmounted without the reform of these traditional stigmas and attitudes.

Institutional Deficiencies, Bureaucracy and Corruption

The second major obstacle opposing women's progress stems from institutional deficiencies. But, due to the firm commitment of the KRG to a pro-women's rights agenda and the relative political stability in Kurdistan, this issue is mostly limited to the Kirkuk region. A combination of logistical shortcomings, lack of security and administrative corruption plagues the progress of civil society-based NGOs working for gender issues within Kirkuk. Firstly, issues of oil revenues, fed-

eralism and the status of disputed territories often take precedence over the calls for gender-based social reform from civil society. Women's rights NGOs thus suffer from a lack of political and financial attention, which composes an integral shortcoming of the movement.

But beyond the lack of public spotlight, Dr. Asma Amin, the Coordinator of the United Nations Office for Project Services (UNOPS), notes several institutional shortcomings that hinder the influence of foreign-sponsored NGOs. While most NGO operations in Iraq are contracted and funded by international organizations, the individual NGO sites are managed and monitored by Iraqi citizens, most of whom have assumed the position as a supplement to their careers. The effective leadership of many NGOs is resultantly afflicted by inexperience and a fundamental lack of commitment and investment in the project. That is, in the case that local NGO coordinators do have a grasp of the problem and a vision for results, their work can be further trumped by unfamiliarity with the implementation process.

Dr. Amin asserts that the lack of programs for capacity building—that is, instructing coordinators on how to write and deal with projects—exacerbates the situation. Poor leadership has given rise to several other areas of institutional inefficiency—notably, a high degree of corruption, including dealing with friends, nepotism and the use of budgeted for money for non-contracted, entertainment purposes. Contrary to international standards, NGOs often fail to provide a complete update and evaluation of the implementation process, which ultimately leads to a discrepancy between the established goals of the international contractor and the end results as propagated by the on-site NGOs. Sometimes these NGOs use the lack of security in certain regions as an excuse for corrupt implementation, and this phenomenon serves as a major setback for NGOs involved in disseminating information on women's rights because the message fails to reach its target audience.

In Kirkuk, a hotly-contested oil-rich city which remains severely underbudgeted by the central government due to continuing forestallment of an updated census, partisan politics continues to present the most serious obstacle to the growth and development of NGOs there. Dr. Amin asserts that the main problem in Kirkuk is the lack of an established, formal system of political organization between all of the constituent groups in the city. Party loyalties to the KDP and PUK as well as membership to the four local ethnic groups in the absence of an established municipal system detracts from the city's ability to address the salient issues of corruption and efficiency. It likewise discourages new, energetic NGOs and youth groups from assuming active roles in the movement. For example, there is a tendency for Kurdish-run NGOs to work for the benefit of the Kurdish community of Kirkuk upon being granted funding, rather than working for the whole of the city. Another issue is the fact that there are too many NGOs operating in Kirkuk, so

there is often widespread inefficiency in project implementation.

These partisan setbacks to project implementation are in turn the result of contending policies of the two overseeing organizations, the UN and USAID, the US Agency for International Development. Contrary to the policy of USAID, a project proposal will not be approved by the UN if it only benefits one group within Kirkuk. Because the criteria for UN approval are so stringent, the unification of interests of the various constituents of the city is encouraged. Conversely, because USAID does not have these guidelines, the interests of individual groups are being forwarded vis-à-vis the others, which contributes to partisan tensions and long-term inefficiencies. The current system of contracting proposals in the Kirkuk region is thus in dire need of consolidation in order for NGOs to maintain a visible effect over the area. In light of these shortcomings, the KRG has provided stipends and services to active NGOs in Kirkuk because political stability in the KRG-controlled regions has given rise to better monitoring and media coverage of the salient issues.

Conservative Islam and the Elite

The third and perhaps most socially apparent mechanism of opposition to the forwarding of gender issues is the riding influence of political Islamists. Recent advancements in women's issues by the KRG have created a point of dissent around which the predominantly Islamic and traditionalist opposition has gathered.

Some of the more conservative and politically-active members of the Sunni ʿulama in the region have recently grown in favor of oppressing the progressive policies of the KRG. In Sulaimaniyah, a disagreement between the allied Gorran party and the PUK led to a power vacuum in the region which was filled by conservative mullahs and Islamic political parties. Moreover, these groups have capitalized on political confusion in the region and are continuing to secure support by presenting more fundamental and "traditional" political agendas. There are also latent suspicions among politicians that there exists a connection between religious revival in Sulaimaniyah and the influence of proxies of the region's closest neighbor, Iran. While Governor Nawzad Hadi of Erbil asserts that this phenomenon of increasing religiosity is not the case in KDP-controlled Erbil, he points to conservative religious authorities for stirring up recent unrest regarding the wording of a referendum in support of gender equality. Moreover, mullahs have condemned the use of the word "gender" in legislation, claiming that the word refers to the legalization of gay marriage, and these religious figures have consistently used Friday prayer as a platform for voicing their grievances and galvanizing the population in their favor.

Despite the support of liberals, including liberal 'ulama, another confounding force in the advancement of women's rights in Kurdistan may be the adamantly misogynistic elite in the region. For example, the Shi'ite Turkmen Director of the Iraqi Institute for Human Rights in Kirkuk expressed deep concern regarding the new "Western policies" imposed on women and their fundamental disagreement with traditional Islamic doctrine:

"Also they are imposing the example of women's rights to impose Western ideas on us. How can an Iraqi man be a prisoner of the women! Islam has guaranteed many rights for women. They are planting the seeds of conflict between men and women."[xxxiii]

Thus, there seems to exist a pervasively conservative attitude amongst a majority of the intelligentsia in northern Iraq, and according to a recent poll about the equal rights of all Iraqis (e.g., to work, vote, and attend university), 54.3 percent of respondents conceded that the constitution grants too many rights and liberties in this regard.[xxxiv] While radical Wahhabi groups such as Ansar al-Islam suffered major defeats by spring 2003, moderate Islamist groups are still gaining popularity in Iraqi Kurdistan.[xxxv] The Islamic Union of Kurdistan (IUK), for example, has publicly professed a great friendship with the extremely conservative Islamic group of Ali Bapir and defended their position that men have more responsibilities in Qur'anic law and thus women must receive a fraction of the inheritance allotted to men.[xxxvi] It has also been reported that groups like these have offered money to families of women who subject their daughters to female genital mutilation. These "moderate" Islamic groups also often act as a stepping stone for young men on their membership to more hard-line groups and are thus a retarding force in the face of women's progression in society.

In spite of the radical transformation of Kurdish society from largely rural social formations to a predominantly urban and transnational community, the practice of honor killing connects the old with the new and the homeland with the diaspora.[xxxvii] Moreover, in Kurdistan, the culture of honor killing has outlived the demise of feudal-tribal relations. Today's examples of honor killings clearly follow the pattern established by tradition in past centuries, first exposed by the learned Kurdish mullah, Mehmud Bayezidi.[xxxviii] He wrote that Kurds were strongly against killing and did not kill people who were taken prisoner during conflicts like war or robbery, but he continues to proclaim that the killing of women is an entirely separate faculty from the killing of men:

"But of course they do kill men who commit bad deeds. They even kill their own wives, daughters, mothers, and sisters. And to [punish] such bad deeds, women also kill; for instance, mothers strangle their daughters in the night or poison and kill them, and mothers-in-law do it to their daughters-in-law, and sisters to sisters. No chief and no village elder asks why you have killed this [woman]."xxxix

Here, Bayezidi uses the words "bad deeds" to refer to premarital or extramarital sexual intercourse or eloping by women. He argues that a woman is the carrier or embodiment of the honor of her husband, and through him, that of the family and the whole community. He wrote about honor killing as a component of "Kurdish customs and manners," and argued that there is inherently no tolerance for the loss of honor.[xl]

ANALYSIS OF POTENTIAL SOLUTIONS

Modernization is now introducing economic, social and cultural changes, both negative and positive, to Iraqi Kurdistan, and initiatives to change harmful cultural practices are part of this effort, to which research is currently being committed. Several such research initiatives have been financed and supported by the KRG and have proved to be fruitful in providing understanding on the nature and basis of social problems. These research reports are crucial not only for providing the KRG with data and analysis of extant issues within its domain, but likewise for broadening the knowledge base of the international community on the depth and pertinence of such issues.

While the situation for women in Iraqi Kurdistan is improving with the support of the KRG and both international and domestic NGOs, the desired long-term social changes will come after decades of implementation and adaption. Legislation and quotas are, however, expedited solutions and provide a downstream approach to solving the underlying societal issues. More governmental attention should be directed towards preventive solutions, which include education and capacity-building initiatives, in order to bring about social change from the components of society itself.

The most fundamental sector of social change is with the youth, and the education system provides a crucial mechanism whereby new social attitudes can be diffused to this population. Schools are important channels for distributing information and educating young people about gender issues. Public education campaigns would be expected to extend to the general public and to include factual information about the issues. In the instance of honor killings, these programs should include information about what honor killings are, common motives for these crimes, illustrations of how to identify girls and women who may be at risk and discussions of the concept of culture and the role it plays in honor-based violence.xli Dr. Vian Haji, Director of the Kurdistan Women's Union, asserts that the old system of education broadcasts tribal and traditional attitudes to children, as evidenced by picture books with images of mothers and daughters playing submissive roles at the benefit of the fathers and sons. She also notes the prevalence of

weapon references within elementary school books and stressed that the first step to reforming oppressive social attitudes is the eradication of gender segregation and violence portrayed to children.[xlii] Education is one project that Dr. Haji's organization is undertaking, and they were successful in campaigning for the minimum level of compulsory education to change from sixth grade to ninth grade. This is a two-pronged solution in that increased education better engrains progressive attitudes towards women among male students and simultaneously provides rural women with more education on average, thus expanding their capacities as contributors to society. Dr. Haji's group is likewise working on educating clerics on the origins and consequences of female genital mutilation by sending them delegations of doctors, lawyers and psychologists equipped with necessary information.

Alongside the education of youth and clerics, efforts must be dedicated to capacity building among Kurdish women of all ages as to broaden their capabilities and exercising of power in society. Moreover, President Masoud Barzani concedes that there exist a number of social problems within Iraqi Kurdistan and that the key to solving these issues is educating people on how to exercise their democratic freedoms.[xliii] Civil society must understand how to interpret and make use of the democratic and progressive legislation brought about by the KRG in order to reap the benefits of such a system.

Bayan Sami Abdul Rahman, the KRG's High Representative to the United Kingdom and Chairman of the Kurdistan Development Corporation, believes that a portion of these capacity-building efforts needs to be directed towards integrating women into politics. Undoubtedly, increased representation of women in politics will lead to a more accurate representation of their interests within Kurdistan. However, confidence is a major issue with women's progress in this respect. Providing for and nurturing prospective female politicians with leadership-building opportunities via social programs such as public speaking initiatives can build the skills necessary for active political participation. Had this policy been forwarded earlier within the government of Kurdistan, women may have had the means available to reach political position on their own, rendering the parliamentary and political parties' quotas obsolete. However, the current state of affairs with respect to this issue involves the existence of quotas, but implementing these capacity-building initiatives can still encourage women to reach their political goals and eliminate the need for quotas in the long-run.

The obstacles for NGOs in forwarding the women's rights agenda are institutional inefficiencies, some of which are the result of security and political problems in Iraq, and others of which stem from small-scale sectarian rivalries and incompetence in administration. The latter is more readily rectifiable and should not prevent the forwarding of the women's agenda. To begin addressing these weak-

nesses, the Ministry of Women's Affairs must coordinate the efforts of all women's NGOs to develop a unified set of demands and must seek the support of U.N. agencies as opposed to USAID, for reasons discussed above.

In the long term, efforts must be made to limit and control the influence of *shari'a* in determining socially acceptable legislation. In order for legislation on women's rights to remain the product of political deliberation rather than a method of perpetuating engrained religious and social values, there needs to be a greater separation between religion and the state. The efforts of the KRG with respect to women's rights are laudable by international standards and should not be undermined by anti-government movements and religious naysayers.

In conclusion, the current women's rights situation in Iraqi Kurdistan is a result of the uniqueness of the Kurdish people and their history, the government's liberal outlook on issues that would normally fall under the jurisdiction of Islam and thus the region's penchant for modernization. While some of the modernizing programs are undoubtedly linked with the desire to appear favorably on the world stage, especially with the Western countries, the people of Kurdistan are experiencing of a wave of liberalism as a result of the American presence in Iraq. Moreover, this has created a political infrastructure in Iraqi Kurdistan wherein more attention is given to salient issues regarding women's rights, and they are thus more capable of reform via legislature. The government has outwardly expressed its interest in modernizing the standards and status of the women of Kurdistan, which has included an increase in women's education and political participation. There are, however, still several fronts that the women's rights movement can continue to make improvements, especially with regards to traditional practices such as female genital mutilation and honor killings that are supported by local religious figures but viewed as repressive by the modern standard for human rights. The prospects for the future are auspicious given the unwavering support of the KRG and NGOs. Iraqi Kurdistan has the potential to serve as a bastion of women's rights within the region and perhaps set an example for the rest of Iraq.

---

[i] Lucy Brown and David Romano. "Women in Post-Saddam Iraq: One Step Forward or Two Steps Back?" *Feminist Formations*. Indiana University Press: Fall 2006. vol. 18, #3, p. 52.
[ii] Ibid, p. 52.
[iii] Ibid, p. 52.
[iv] Ibid, p. 54.
[v] Annia Ciezadlo. "Iraqi Women Raise Voices – For Quotas." *Christian Science Monitor*, 17 Dec, 2003, http://www.csmonitor.com/2003/1217/p01s02-woiq.html.
[vi] Maamoon Alsayid Mohammed. *Combating Physical Violence Against Women in Iraqi Kurdistan: The Contribution of Local Women's Organization*. Center for Peace Studies. University of Tromsø Press: 2009, p. 24.
[vii] Ibid, p. 25.

[viii] Shahrzad Mojab. "Kurdish Women in the Zone of Genocide and Gendercide". *Al-Radia*. Fall 2003. vol. 103, p. 24.
[ix] Ibid, p. 24.
[x] Ibid, p. 25.
[xi] Brown, p. 59.
[xii] Sarah Hossein and Lynn Welchman. *Honor Crimes, Paradigms, and Violence against Women*. Zed Books, 2005, p. 215.
[xiii] Hossein, p. 216.
[xiv] Mishkat Al Moumin. "Constitutional and Legal Rights of Iraq Women." The Middle East Institute: Policy Brief. October 2007, #1, p. 1.
[xv] "Text of the Iraqi Draft Constitution", as cited in Al Moumin, 2.
[xvi] Ibid, 3.
[xvii] Ibid, 4.
[xviii] Ibid, 4.
[xix] Mohammed, p. 26.
[xx] Ibid, p. 26.
[xxi] "Kurdistan Takes Measures Against Gender-Based Violence." Rudaw. 27 Novemer 2010. <http://www.rudaw.net/english/kurds/3318.html>.
[xxii] Ibid.
[xxiii] Ibid.
[xxiv] Ibid.
[xxv] Mojab, p. 24.
[xxvi] Brown, p. 56.
[xxvii] Ibid, p. 57.
[xxviii] Ibid, p. 47.
[xxix] Nazand Begikhani, Aisha Gill, Hague Gill and Kawther Ibraheem. *Final Report: Honor-based Violence (HBV) and Honor-based Killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK*. Begikhani, Gill & Hague, 2010.
[xxx] Brown, p. 53.
[xxxi] Ibid, p. 53.
[xxxii] Ibid, p. 53.
[xxxiii] Ibid, p. 58.
[xxxiv] Ibid, p. 58.
[xxxv] Ibid, p. 58.
[xxxvi] Ibid, p. 58.
[xxxvii] Shahrzad Mojab. "No Safe Haven: Violence Against Women in Iraqi Kurdistan". *Sites of Violence: Gender and Conflict Zones*. University of California Press: 2004, p. 112.
[xxxviii] Mojab, p. 113.
[xxxix] Mela Mehmud Bayezid, as cited in Ibid, p. 112.
[xl] Mojab, p. 113.
[xli] Begikhani et al, p. 136.
[xlii] Vian Selman Haji. In discussion with the author. January 2011.
[xliii] Masoud Barzani. In discussion with the author. January 2011.

Like Sun and Water: How Women Hold the Keys to Kurdistan's Future

by Kathryn Olson '13

A veil does not protect a women's chastity. An education does.
- Jamil Sidqi al-Zahawi, Iraqi poet (1863-1936)

Iraqi Kurdistan is a region overflowing with high expectations. With the 2003 U.S. invasion of Iraq and the subsequent dethroning of Saddam Hussein's brutal regime, the Kurds' largest security threat was eliminated. Since then, Iraq's Kurds have been eager to prove to the world their national potential, and on many fronts they have succeeded. The U.S.–led Operation Provide Comfort, which created a safe haven that protected the Kurds from the wrath of Iraq's central government, was designed to serve Washington's containment strategy in crippling Saddam Hussein's regime, but, to the surprise of many, it had the unintended consequence of being one of the most successful nation-building projects in American history, catapulting Iraq's Kurdish region into de-facto state status.[i] Decades of insurgency against Iraq's central government, the 1988 Anfal genocide, and a "fratricidal" civil war between Kurdistan's two dominant political parties, the Patriotic Union of Kurdistan (PUK) and the Kurdistan Democratic Party (KDP), dealt Iraqi Kurdistan a dilapidated infrastructure, thousands of civilian casualties and a war-weary population. But in the decades after the 2003 invasion, the Kurds created "the other Iraq," a relatively stable and economically prosperous alternative to the sectarian warfare waging in the south. As Iraq became weaker and rife with violence, the Kurds became stronger and attracted international investment. Although some experts claim the impeding U.S. withdrawal from Iraq will be accompanied by ethnic conflict between Iraq's Arabs and the Kurds, a large scale confrontation seems unlikely. Today, it appears that nothing can prevent the Kurds from succeeding in their gargantuan nation-building task. There is one issue, however, that has been left unaddressed and threatens to thwart Iraqi Kurdistan's developmental potential: women.

Since Iraqi Kurdistan gained de facto state status in 1991, Kurdistan became home to a large number of international and local NGOs aimed at advancing women's rights and reducing the number of women targeted in gender crimes. However, the prevalence of gender violence, especially honor killings that seek to "cleanse" a family or tribe's honor by killing a woman, has increased sharply. There

were 22 reported honor-motivated assassinations of women in 1994, but that number jumped to 166 in 1997 and has not shown signs of receding. There were 163 women killed in honor crimes in 2009.[ii] Such statistics are puzzling due to the perceived improvement of the Kurdish region as a whole over the last 20 years. With the threat of Saddam gone, economic investment at an all-time high, and a functioning regional government, shouldn't the status of Kurdish women improve? Why have Kurdish women been the regional "big losers?" The reality is that the safe haven in Kurdistan failed to protect many Kurdish women, especially those residing in rural areas that were most effected by the genocide and wars. Economic, social, cultural and political factors are all at play, but key contributors to the rise in honor killings have been a resurgence of tribalism and a "re-traditionalization" of gender norms following the Anfal genocide in 1988 and Kurdistan's 1994-1997 "fratricidal" civil war. Scars from Kurdistan's bloody history continue to oppress women in the form of a strict patriarchal, honor-obsessed culture, but such wounds are not irreparable. In fact, empowering women is a necessary factor in ensuring Kurdistan's prosperity and regional model for democracy.

WHERE ARE THE WOMEN?

In recent years, there has been a newfound appreciation for the role that women play in breaking the cycle of poverty and stabilizing fragile societies, especially after conflict. Development experts now see women as critical to economic progress, healthy civil society and good governance, particularly in developing countries.[iii] Education and better access to income for women are considered vital grassroots development goals. Empower girls, and you empower a nation. In fact, women's empowerment is considered so essential to alleviating poverty that many experts view it as underpinning all of the 2015 U.N. Millennium Development Goals.[iv] Shrinking gender gaps in literacy levels, political participation, income and access to healthcare in developing countries across Asia, Latin America and Eastern Europe have benefited entire societies by improving living standards, increasing social entrepreneurship and attracting foreign investment.[v]

Although Kurdistan has been praised for its rapid economic growth following decades of oppression, Kurdish women have yet to benefit from better economic and educational opportunities. According to an Iraq-wide survey taken in 2006, 90 percent of Kurdish women between the ages of 15 and 49 years are unemployed.[vi] Low levels of employment may be due to low levels of female literacy and education, particularly in rural areas where many women may drop out to take over housework or are forced into early marriage. Forty-three percent of women in Iraqi Kurdistan, compared to 19.3 percent of men, and only 25.3 percent of girls

aged 17 years attend school, compared to 38.9 percent of boys. Kurdistan's economic success will be severely impeded if half of its population continues to be denied access to education and work opportunities. But besides the negative economic side-effects, and perhaps more importantly, the inability of Kurdish women to attend school and become financially independent, prevents them from having autonomy over decisions that affect them and their children. Without economic and social empowerment, Kurdish women's position in society is based almost solely on her honor, indirectly contributing to high levels of honor-based violence. Educating women, especially in rural areas that show the lowest levels of school attendance, would potentially change the way society views women, placing more value on their minds than on their chastity. If Kurdistan is serious about improving its economic prosperity and status in the region, it cannot afford to ignore its women.

Most Kurdish politicians acknowledge that human rights abuses against women, particularly honor killing, are holding Kurdistan back. The Kurdish political elite, including KRG President Masoud Barzani, Prime Minister Barham Salih and former Prime Minister Nechirvan Barzani, have condemned violence against women as a "backward tradition" and promised to place combating gender violence at the forefront of their political agendas.[vii] Indeed, women's rights legislation has enjoyed relative success in Kurdistan compared to that of its neighbors. A law passed in June 2011 that creates a special criminal court to address domestic violence cases and considers any form of domestic violence a crime received unanimous support in the Kurdistan Parliament, which has more female MPs than most Western nations.[1] Kurdish law equates honor killing with murder and does not allow reduced sentences for criminals charged with honor crimes, unlike the Iraqi central government, which, in its constitution, essentially condones honor killing.[2] However, recent legislative victories have failed to change the culture of honor killing in Kurdistan, as most laws have proven difficult to implement and fail to include a grassroots component.

What makes women's rights laws difficult to implement in Kurdistan are not competing militias attempting to impose Islamic law on populations in bids for control as in southern Iraq, but a deeply rooted patriarchal culture and tribal tendencies brought back to life after the creation of the safe haven. Unlike in southern Iraq, Islamists, while worrisome to some Kurdish lawmakers, play a marginal role

---

[1] Law on Domestic Violence passed by the Kurdish Parliament June 22 2011; also charges offenders with $1-5 million Iraqi Dinars or six months to three years in jail. <http://www.krg.org/articles/detail.asp?lngnr=12&smap=02010200&rnr=73&anr=40524>.

[2] Iraq' s Revolutionary Command Council Order Number 6 of 2001 considers the killing of one's wife or a close female relative (muharam) for honor reasons a mitigating factor under law; also Article 42 of Iraq's 2005 Constitution states that no law shall be passed that conflicts with Islamic Law, leaving many women's rights laws vulnerable to strict interpretation.

in Kurdish politics, which has historically been marked by secularism. However, like southern Iraq and most post-conflict societies, Kurdistan experienced a "re-traditionalization" of gender norms and an increased reliance on identity, or in this case, tribal politics, in the aftermath of the Anfal genocide and especially the 1994-1997 civil war. In this way, Kurdistan mirrors many fragmented, war-torn communities. Honor killings and other forms of gender violence are symptoms of the persistence of tribal justice mechanisms and a culture that values tribal honor more than the life of a woman. A large–scale paradigm shift is needed to root out the "re-traditionalization" of gender norms and restore Kurdish women's livelihood. Investing in women's education is the best way to cement women's rights gains and promote long-term solutions to gender-based violence.

THE HONOR CODE: HONOR-BASED VIOLENCE IN IRAQI KURDISTAN

Honor killing in Iraqi Kurdistan gained the attention of the international media in 2008 when a mob of 2,000 men stoned to death 17–year old Du'a Khalil Aswad for falling in love with a man outside her tribe. Her murder was broadcasted on YouTube and depicts local police passively watching the crime.[viii] For many Kurdish women, falling in love with someone outside their tribe or family is considered haram (shameful) and is clearly a dangerous activity. The KRG responded to this incident by creating the Directorate for Combating Violence against Women within the Ministry of the Interior, tasked with investigating honor crimes and reaching out to at-risk women. Although the directorate has performed its duties, evidence suggests that women still feel unprotected. According to an Iraq-wide survey, only 46.8 percent of Kurdish women feel protected by the police, and 52.9 percent believe violence against women in Kurdistan is increasing, while 63.9 percent believe it is increasing in southern Iraq.[ix] As stated above, approximately 160 honor killings have been reported each year since 1997, with the actual number likely much higher due to lack of reporting and the ability of attackers to disguise killings as suicides. Some researchers claim that since the creation of the safe haven up to 6,000 women have perished as a result of honor crimes.[x]

Such horrific crimes occur due to the persistence of a strict honor code placed on Kurdish women. Defending the honor of a tribe or family is carried out by ensuring that its women are pure or "clean," meaning that they do not engage in "bad deeds" such as extramarital or pre-marital relationships with men.[xi] The application of the honor code extends beyond Kurdish society and is not limited to Islamic cultures, although Islamic rhetoric is often used to justify honor-crimes. The honor code is part of a global phenomenon that propagates norms legitimizing the control of women's behavior by men and places restrictions on women's activi-

ties. A woman can lose her honor for a wide range of activities: adultery, suspected promiscuity, expressing romantic feelings for a man her family does not approve of, appearing too "modern," refusing an arranged marriage or being raped.[xii] As Kurdistan has become more technologically advanced, sending text messages to an unapproved male can also be an offense. Murders for such "crimes" are based on gossip or rumors, and it is the woman who typically is violently punished. Often, the only form of reconciliation that is able to restore lost honor requires the murder or banishment of the woman who is seen to have damaged her community.[xiii] Thus, any activity that is deemed dishonorable is essentially life –threatening. The importance of this honor code is elevated during societal upheaval, especially war.

Honor–based violence includes a wide range of offenses such as physical violence, assaults, killing, coerced suicide or self-immolation, severe restrictions on movement and education, starvation, forced marriage of women, and other forms of coercion and abuse. The most severe form of honor violence is murder and is regarded as widespread by human rights organizations and the United Nations, which in 2002 submitted a report documenting the continuing occurrence of the practice in Bangladesh, Brazil, Britain, Ecuador, Egypt, India, Iran, Iraq, Israel, Italy, Jordan, Pakistan, Morocco, Sweden, Turkey, Uganda and the United States. The United Nations Assistance Mission for Iraq (UNAMI) has characterized honor killings as a serious concern in Iraqi Kurdistan.[xiv]

Unlike domestic violence, honor-based violence occurs within a framework of collective family structures and communities and involves an act aimed at restoring honor to the family or community in a perceived or actual situation when that honor has been threatened. Thus, preserving a community's honor hinges on the control of women's sexual and social behavior. Because this norm carries with it the possibility of violence and even death, it acts as a disciplining mechanism to all women in a society and reinforces control exerted by men over women in all sectors of society.[xv]

The basis for determining which behaviors are considered honorable or dishonorable lies within tribal culture, and the tribe (ashirat) is the basis for social and political unity in Iraqi Kurdistan.[xvi] Power and property descends through a patrilineal system. Endogamy, marriage inside the same extended family, clan and tribe, is central to this socio-political organization. According to a study by Khatu Zin Centre for Social Activities, women are married off at a young age and are often exchanged between families. According to the Women's Information and Cultural Centre, there are currently an estimated 18,000 girls who were promised in marriage when they were children.[xvii] The studies also note that marriage is not an individual choice but rather a collective affair, "arranged and imposed by male members of the group." In this way, the system of endogamy is embodied in

patriarchal structures and is a "form of control through which male domination is upheld, women's segregation enforced and traditional and tribal norms and values preserved."[xviii] In the past, laws were administered by the tribal elders, *rishspî* (white beards), and the tribal head's words were taken for law. A woman who steps outside the bounds her tribe threatens the security of the whole tribe, and must be punished according to tribal law.

Attention has been given to honor killings through the 1979 Convention to Eliminate All Forms of Discrimination against Women (CEDAW) and in 2002 when the United Nations General Assembly adopted a resolution on "working towards the elimination of crimes against women committed in the name of honor." The resolution encourages member states to investigate and punish honor crimes as well as to "raise awareness of the need to prevent and eliminate crimes against women committed in the name of honor, with the aim of changing the attitudes and behavior that allow such crimes to be committed." The United Nations Security Council passed Resolution 1325 in 2000, which addressed the disproportionate impact armed conflict has on women and acknowledged domestic violence, including honor killings, as a byproduct of war.

But Kurdistan is not an independent state, and therefore cannot ratify CEDAW or UNSCR 1325. Although Bagdad is party to CEDAW, when Saddam Hussein signed the treaty in 1986, as with many other international agreements, he had no intention of adhering to it.[xix] Furthermore, when Iraq ratified CEDAW, it entered several reservations with reference to shari'a (Islamic law), namely Article 2 on the abolition of existing laws which discriminate against women, Article 9 on equal rights to nationality, Article 15 on the equality of men and women before the law and Article 16 on equal rights in marriage and family relations.[xx] Similarly, although the central government of Iraq is party to U.N. Resolution 1325, the UN Security Council has failed to include references to women or gender in 87 percent of its resolutions relating to Iraq, suggesting that women are not viewed as an important component of restoring post-invasion Iraq.[xxi] Therefore, Kurdistan appears to be on its own in reducing honor killings and including women in the development process.

CONTINUUM OF VIOLENCE: THEORIES OF POST-CONFLICT GENDER NORMS

War is always brutal, but the scars it leaves in its wake are often overlooked. In every post-conflict society, a continuum of violence transcends the simple diplomatic dichotomy of war and peace, with women bearing the brunt of the burden. Wars in the post-Cold War era are waged in drastically different ways

than they were during the early and mid-twentieth century. Since the 1990s, most wars occur within the boundaries of sovereign states and are marked by high civilian casualties. Civilians were half the casualties in World War II; they were 90 percent in recent conflicts.[xxii] The specter of slaughter of neighbor by neighbor – in the Balkans, Afghanistan, Rwanda, Uganda, Iraq and elsewhere – wreaks havoc on the very fabric of a society.

Particularly during civil wars, ethno-nationalist rhetoric has been employed by charismatic leaders and war lords in order to gain political power, pitting entire ethnic, religious or tribal communities against each other. The chilling logic of ethnic cleansing dictates that security can only be achieved once the "enemy community," be it a tribe, religious or ethnic group, is completely eliminated. This method of war has become common in recent conflicts: between Bosnian Muslims, Serbs and Croats in the 1991-1995 breakup of Yugoslavia, between Hutus and Tutsis in the 1994 Rwandan genocide, between Kosovar Albanians and Serbs in 1999, and between Sunni and Shia in Iraq's civil war. In such conflicts, the systematic erasure of "the other" – members of a rival group, and especially its women who carry with them the possibility of producing offspring – becomes central to survival.[xxiii] Thus, it is not surprising that rape has come to be regarded as a "powerful weapon of war" by the UNSC, as communities in conflict zones often construct women as the "iconic representations" of cultural and/or ethnic national identity. Rape is used not only to attack and humiliate the "enemy woman," but also to attack and humiliate the entire "enemy community."[xxiv] The potential of this type of violence may operate to push women back into the home, while women who experience actual violence may be too scared to admit it due to the repercussions for their "reputation," leading to the possible killing by their own male relatives who claim to be protecting family honor. Thus, gender–specific crimes become instruments of destruction in political contests between "imagined communities."

After conflicts cease, communities continue to view women as the "bearers of tradition" or representations of their communities, especially in the context of national liberation movements or the creation of new nation states. Thus, gender roles can become "re-traditionalized" as a result of conflict as men seek to protect the women of their new nation by restricting their rights.[xxv] Research has shown that this process has taken place in many post-war societies, particularly the former Yugoslavia whose post-war years have been characterized by a backlash to pre-communist gender norms along ethnic lines.[xxvi] A similar situation exists today in post-war Iraq. Pre-U.S. invasion, the status of Iraqi women was the envy of many of its neighbors, and these women boasted one of the highest literacy levels in the Middle East. But during the 2006-2007 U.S. surge, Sunni tribes and Shia Islamists became empowered, and today, women are subject to a strict patriarchal

form of control imposed by militants, and many fear the progress of Iraqi women is seriously threatened. Scholar of Peace-building and Development Donna Pankurst elaborates on the backlash to traditional gender roles:

"The ideological rhetoric is often about 'restoring' or 'returning to something associated with the same status quo before the war, even if the change actually undermines women's rights and places women in a situation that is even more disadvantageous than it was in the past. This is often accompanied by imagery of the culturally specific equivalent of the woman as 'beautiful soul,' strongly associating women with cultural notions of 'tradition,' motherhood, and honor."[xxvii]

The ethic of cultural or ethnic purity lingers even after hostilities cease and pinpoints women as clear markers of identity. Purity is a dangerous ethic for women. In conservative societies, men's honor is seen as depending on woman's purity to the degree that women who seek to escape this strict code, or who inadvertently fall or are dragged into it, may be killed by their menfolk with impunity.[xxviii] As the number of offenses deemed dishonorable steadily grows, the number of women killed in an attempt to protect a community's honor steadily increases. Thus, post-conflict women continue to suffer from the persistence of an ideology that uses them as symbols of national community. In the Kurdish context, a traditional backlash that characterized the post-insurgency and post-Saddam years had fatal repercussions for Kurdistan's women.

THE KURDISH CONTEXT: GENOCIDE, CIVIL WAR, SANCTIONS, AND THE AFTERMATH

Iraq's Kurds lived under a brutal counter-insurgency campaign from Iraq's central government for the better part of the 20th century, which peaked with Saddam's genocidal Anfal campaign in 1988. While Iraq's Kurdish population had always been subject to persecution and repression from Baghdad, Iraqi dictator Saddam Hussein became particularly concerned about his "Kurdish problem" with the onset of the Iran-Iraq war in 1980.[xxix] In a bid for survival, some Kurdish armed forces, or *peshmerga*, aligned themselves with Iran in that war, giving Hussein the pretext, motivation and cover to target his Kurdish minority.[xxx] The Iraqi dictator decided that the best way to put an end to the Kurdish rebellion once and for all was to wipe out rural Kurdish life.[xxxi] Beginning in 1987, Ali Hassan al-Majid, then Baghdad's Secretary General of the Northern Bureau of the Ba'ath Party, implemented with bureaucratic precision a policy of forced relocation, mass executions, gassing and bombing that would claim 4,500 or 90 percent of villages in rural Kurdistan and 182,000 Kurds, most of whom were unarmed and many of whom were women and children.[xxxii] While the genocidal Iraqi offensive, known as

the Anfal campaign, was billed as a counterinsurgency mission, Iraqi forces under the control of Al-Majid targeted not only armed Kurdish rebels but every civilian residing in so-called "prohibited zones," or areas the central government deemed strategically valuable, near the Iranian border.[xxxiii] Kurds were targeted not because they posed a military threat to the regime, but simply because they were Kurds.

Although the Anfal campaign peaked in brutality during the late eighties, beginning in 1975, Iraqis established a six to 12 mile-wide "prohibited zone" along the border with Iran, destroyed every village in that zone and relocated Kurdish inhabitants to *mujamma'at*, large army controlled collective settlements, or to southern Iraq.[xxxiv] According to the Ba'ath Party newspaper *Al-Thawra* ("The Revolution"), 28,000 families (as many as 200,000 people) were deported from prohibited zones during the summer of 1978 alone.[xxxv] Kurds claim more than half a million were forcibly relocated to the south. In 1982, prohibited areas were expanded inward and resettlement policies intensified. Because Iraq sought to move all the Kurds it could not control, any Kurd residing in rural areas was a target. In 1983, Hussein famously rounded up 8,000 Kurdish men and boys from the Barzani tribe, whose members helped Iranians secure the Iraqi border town Haj Omran, and loaded them onto buses heading south where nearly all were executed and thrown into mass graves. The women, known as the Barzani widows, still remain desperate to learn the fates of their men.[xxxvi]

In May 1987 Iraq became the first country ever to attack its own citizens with chemical weapons.[xxxvii] In the absence of U.S. condemnation of chemical weapons use by the Iraqis during the Iran war, Hussein felt emboldened to use them against his primary internal threat, the Kurds. The regime's continuous chemical attacks on Kurdish villages caught the international spotlight with the gassing of Halabja on 16 March 1988. Known as the "Kurdish Hiroshima," the Iraqi border town underwent three days of attacks from mustard gas and the nerve gases sarin, tabun and VX, immediately killing more than 5,000 Kurds and sending the rest of Halabja's population fleeing to the Iranian border.[xxxviii] Although Halabja was the most deadly single gas attack, it was one of at least forty chemical assaults ordered by al-Majid, earning him the nickname "Chemical Ali." Surviving Kurds fled attacks, only to be rounded up in holding pens where many died of starvation and disease or were simply deported in mass executions. Al-Majid's forces looted and firebombed villages to the point where they were uninhabitable, wreaking havoc on Kurdistan's rural infrastructure.[xxxix] Thus, in the zones that Hussein deemed strategically valuable, Kurdish life became extinct.

Previously, Baghdad had justified its campaign of destruction against the Kurds as necessary in its bloody war with Iran, but al-Majid's final offensive of the Anfal campaign came five days after an armistice ending that war. Beginning 25

August 1988, he used aircraft, fixed-wing helicopters, tanks and tens of thousands of Iraqi troops to attack the remaining Kurdish villages and sent 65,000 survivors flooding into Turkey.xl All the while, Iraq's central government continued to claim that their actions were justified.[xli] Iraq's Defense Minister, General Adnan Khairallah argued that, "They all wear the Kurdish costume, and so you can't distinguish between one who carries a weapon and one who does not." Baghdad acted out of the belief that the collective could be punished for individual acts of rebellion, and Kurdistan's rural population paid the price.

Hiding under the pretext of imperfect information that could prove extensive chemical weapons use by Saddam against the Kurds, the U.S. government neither punished Iraq for past use of chemical weapons nor threatened punishment for future use.[xlii] The American perspective was marred by its vision of Hussein as an ally against Iran, leading one State Department official to write, "Human rights and chemical weapons use aside, in many respects our political and economic interests run parallel to those of Iraq."[xliii] It was not until the spring of 1991, when a failed Kurdish uprising against Baghdad following Operation Desert Storm led to a mass exodus of 1.5 million Kurds to Turkey and Iran, that the U.S. and its allies took measures to protect the Kurds by passing UN Resolution 688 that established a safe haven for Kurds north of the 36th parallel. By that time, nearly half of Kurdistan's population had become refugees.[xliv]

Although Operation Provide Comfort protected Kurds residing above the 36th parallel from al-Majid's wrath and allowed Kurds to govern themselves for the first time in over 50 years, Iraqi Kurdistan would suffer from a double economic embargo, imposed by both Baghdad and the international community, and a civil war between rival Kurdish factions for the next decade. In the wake of the Gulf War, the international community imposed what was perhaps the harshest sanctions regime in history on the state of Iraq, banning all goods and products from entering or leaving Iraq, except oil, medicine and, "in humanitarian circumstances," food aid.[xlv] The UN sanctions, which included the Kurdish safe zone, resulted in over one million civilian deaths, half of which were said to be children, from starvation and disease. Unable to maintain physical control of the Kurdish region, Saddam used starvation as a weapon of war and imposed an additional economic blockade on the north, depriving the Kurdish economy of fuel, raw material and manufactured goods and cutting all funding for government employees, who made up half the workforce at the time. The poorest population, many of them widows or elderly, made up 60 percent of the total population in northern Iraq and was completely dependent on rations given to them through the UN's Oil-for-Food Program.[xlvi] The UN program destroyed existing markets and created a culture of dependency, making the majority of the population extremely vulnerable to eco-

nomic changes and seriously undermining agricultural development. According to the *Washington Post*, economic devastation became so dire that disenfranchised Kurds attempted to forcibly take control of foodstuffs on multiple occasions.[xlvii] Such widespread hardship increased poverty and economic inequality, damaged Kurdistan's health system, decreased public education, and humiliated the Kurdish population at a time when the region was struggling to recover from genocide. Deteriorating economic conditions were considered a key factor in sparking a three–year civil war between the rival political parties the PUK and KDP, which brought a return of tribe-like politics to Iraqi Kurdistan.

SAFE-HAVEN?: HONOR AND THE TRIBAL RULE OF LAW IN POST-WAR KURDISTAN

In the aftermath of the Kurdish civil war and the Anfal campaign, a tribe-like mentality gained newfound importance in Kurdish society as Kurds looked for ways to protect themselves against unpredictable outside forces. "Tribe-like" refers to a pre-modern form of political organization characterized by a harsh, survivalist quality and a strict adherence to certain intense primordial or kin-group forms of allegiance.[xlviii] The bonds of kinship must be honored before all other obligations, and anyone who does not behave in this way must be totally dishonored and punished. Tribal logic dictates that if an outside force violates your tribe in some way, you must not only seek revenge, but punish the violator in a way that signals to all other tribes that you are not to be tampered with. Clearly, this system has dire implications for women, who, in the aftermath of the genocide and civil war, symbolized their family or tribe's honor. When a woman violates her tribe's honor code by appearing impure, she must be punished publicly so as to maintain the group's standing. Although severe tribalism does not currently play as large of a role in Kurdish politics as it did in the immediate aftermath of hostilities, the tribal notion that keeping one's women "pure" is a necessity that has not subsided. Particularly in rural areas of Kurdistan where the KRG has less influence, a stronger adherence to tribal ideology as well as lower levels of female education and unemployment create a harsh environment for women.

This is compounded by the fact that a legacy of war has rendered violent confrontation as the primary mechanism in bringing about family or tribal resolution. Unsurprisingly, this led to a rise in honor related deaths, which make up 60-70 percent of all murder cases of women in Iraqi Kurdistan.[xlix] An anecdote compiled by UNAMI explains:

"Society pressure generates violence against women because if you don't show violence, the community looks at you as a dishonored and disrespected person. I was threatened with

death because I wanted to get a divorce from my husband because I was in love with another man. My family refused this because they thought divorce was a shame to them. Our relatives gathered and decided to kill me. I blame this decision on society because many other families around us use violence as a way to solve problems. My father and husband didn't want to murder me, but our relatives and community tried to force them to do so." –Female, 20, Sulaimaniyah City[l]

The disruption of war has left women more vulnerable to this type of violence. The militarization of Kurdish society also fuels honor-based deaths. According to a recent study linking honor crimes and militarism, more than one million people own firearms in Kurdistan, with a large percentage of them located in rural areas where women are most vulnerable.[li] The report further cited Erbil police as claiming that in 2008, 165 women were shot dead and 12 men and women killed mistakenly by firearms in Erbil alone.[lii] The Erbil Police Director acknowledged that the high number of weapons in Kurdistan is linked to decades of internal war and insurgency against Baghdad.

Perhaps a more subtle effect of tribe-like mentality and a decades-long insurgency is an acute suspicion of the law in Iraqi Kurdistan. Throughout Kurdistan's history, formal legal entities were under control of the Ba'athist government, and prosecution often meant torture, unwarranted imprisonment or simply the disappearance of whomever the Ba'athist leadership suspected of disloyalty. In an attempt to escape the omnipresent glare of Baghdad, and perhaps the only path to survival, Kurds looked to informal, or tribal, justice mechanisms rather than formal legal institutions for reconciliation and justice. Interviews with Kurdish officials have confirmed the persistence of a suspicion of the formal legal system. [lii] Thus, in regards to honor crimes, women continue to suffer from the legacy of Ba'athist rule due to a widespread suspicion of formal legal entities that otherwise would have protected them from honor crime perpetrators.

The persistence of tribal structures in Kurdistan manifests itself in the *komelayeti*, a structure run be elderly, religious, political and tribal representatives that assumes the responsibility for hearing disputes and passing judgment and aims to achieve reconciliation (*solih*) between families or groups.[liv] In areas outside Kurdistan's main cities which were disproportionately affected by genocide and war, the komelayeti wields a stronger influence. The *komelayeti* may use force, including killing a woman at the demand of a powerful group in order to achieve "peaceful" reconciliation. When a woman is perceived to have dishonored her family, *solih* is often achieved by requiring both families to kill their own daughter or son in order to prevent a spiral of bloodshed and revenge from ensuing.[lv] The intervention of the *komelyeti* also serves to ensure that disputes are removed from community gossip, a crucial function in a society where honor killings are often provoked by gossip and rumors. The *komelayeti* can achieve a political solution by

requiring the accused daughter to "die symbolically" by forcing her to flee the community and sever all contact with her family in order to "remove the dirty stain" created by the alleged incident.[lvi] Thus, the *komelayeti* does not achieve justice but rather through power relations imposes socially and politically acceptable solutions. Formal legal entities are viewed with suspicion because, according to an Erbil lawyer, they are perceived as unable to establish justice, prevent public shame, revenge and further bloodshed, instead accusing one side.[lvii] Hence, in many areas in rural Kurdistan, the *komelayeti* are preferred over judicial institutions.

Tribal justice and bodies such as the *komelayeti*, while capable of offering culturally compatible solutions, are often inconsistent with international human rights policy, especially in regards to women, and weakens the formal rule of law. The inherent weakness of these systems fails to achieve justice, especially for women, for several reasons. Power imbalances can lead to resolutions based on forced acceptance rather than consensus; women are largely excluded from the decision–making process because informal justice mechanisms tend to reflect existing social hierarchies; tribal justice can perpetuate the powerlessness of women in order to obtain desired remedies; the de-emphasis of personal responsibility and elevated position of community and family rule are often pursued at the expense of women (for example, a woman who has been raped can be forced to marry her attacker so as to restore honor to her family); tribal justice systems may not be authentic but based on "fabricated traditions" that exploit vulnerable populations; and, perhaps most importantly, extended periods of armed conflict can reinforce power imbalances, affect how informal justice systems are used and damage traditional justice systems that protected women prior to conflict.[lviii] While an informal justice system such as the *komelayeti* may have been effective prior to the outbreak of war or mass atrocities, after hostilities cease, the dynamics of such systems can be drastically altered.

IMPLEMENTING THE LAW

Serious impediments, along with the persistence of tribal law, threaten the legitimacy of the legal system, rendering women vulnerable to the control of patriarchal forces outside the state. This is worsened by the fact that many honor crime cases are unreported. A legacy of division pervading the legal system resulting from the KDP-PUK conflict further prevents such laws from being implemented as an alleged honor crime perpetrator from a KDP –administered zone can flee to a PUK– administered zone in the hopes of evading persecution.lix

A recent study found that police and legal representatives demonstrate reluctance to blame each other for the lack of rigorous investigation and poor judi-

cial practice with the outcome being that a number of alleged murders of women in Iraqi Kurdistan roam free.[lx] The study cites the failure of police to intervene and enforce procedures that would protect women, referring to a case in which a woman made repeated (and unheeded) requests for police protection from her ex-husband and even called the police as her ex-husband entered her house with the intent of murdering her. No immediate action was taken and the woman was killed. The study further acknowledges the failure of criminal and legal bodies to investigate honor crimes, the weakness of monitoring mechanisms and follow-up procedures, the enforcement of honor codes by legal entities through "virginity tests"[3] of women and the absence of a witness protection program. The domination of military power is also cited as eroding the legitimacy of police activities and legal institutions and enforcing silence over the community, as in a case in which a *peshmerga* used his power to protect alleged perpetrators of an honor killing. Additionally, implementation varies widely across regions, leading to an uneven application of the law. For example, between 2000 and 2007 in the Dohuk governorate only 10 people were convicted of honor crimes, and suspects were often let free due to "family connections."[lxi]

Militarism, tribal loyalties and a history of violent confrontation all prevent the Kurdish justice system from functioning properly. "We're still suffering from the past," said Jinan Q. Ali, former minister of women's affairs in the Kurdish regional government. "You can't say the government and police are not doing their job. To transfer a society from a violent one to a peaceful one won't happen suddenly."[lxii] Therefore, the KRG must not only work to strengthen its judicial procedures, but also take measures to root out deep–seated notions of tribal justice so as to ensure that Kurdish women feel protected by their government.

CONCLUSIONS

Clearly, Iraq's Kurdish women face striking obstacles rooted in the patriarchal, tribal culture strengthened as a result of conflict and a conservative backlash in Kurdistan's post-war years. Restrictions placed on rural Kurdish women by the honor code severely impede their ability to educate themselves, participate in the economy and live fulfilling lives. Although recent legislative successes that target honor killing and domestic violence should be commended, passing more laws will mean little to a rural population that does not trust its courts and operates on tribal notions of justice and reconciliation. In the words of one Kurdish activist, "Without changing the way society thinks, changing laws on paper is useless."[lxiii]

[3] In investigating a murder case, local courts still check a deceased woman's virginity so as to prove whether she was guilty of committing adultery or pre-marital sex. Murderers of women who do not pass the virginity test often get shorter sentences because they are seen to have acted with "honorable motivations" in murdering the woman.

For this reason, more attention should be given to women's education and economic empowerment, particularly in rural villages and among lower to middle class women. Education and economic empowerment could act as a counter weight to strong tribal and traditional forces that keep women in the home so as to protect her dignity. Over the long term, such an investment would change the way most Kurds view women. Instead of seeing a woman as something to be protected and preserved, Kurds would begin to see women as potential breadwinners who can contribute to building their nation.

Like much of the Middle East today, Iraq's Kurds have many challenges and difficult decisions ahead of them. Before the Arab Spring, Iraqi Kurdistan was seen as a democratic island, an oasis surrounded by authoritarian rulers who relentlessly abused their populations. KRG President Barzani, who won the hearts of many Kurds after successfully leading the Kurdish insurgency against Baghdad, and his government were trusted by most of the Kurdish population. But in the wake of harsh crackdowns on Kurdish protests calling for an end to government corruption and improvements in basic services, allegations have surfaced claiming Barzani and the KRG have lost legitimacy in the eyes of the Kurdish people. Regional demands for better basic services and civil rights have set a new standard for legitimate governments from which Iraqi Kurdistan is not exempt. More economic and educational opportunities are crucial to maintaining the legitimacy of governments in power, and while the stakes are high for everyone, women have the most to gain or lose from new reforms.

What hasn't seemed to have been lost in the Arab Spring though, perhaps even strengthened, is the Kurdish people's overwhelming sense of hope. Harsh actions of the KRG and its security forces aside, ordinary Kurds remain committed to rebuilding their nation after years of war and genocide. Perhaps a positive side effect of Kurdistan's troubling history has been a strong sense of unity and purpose among its people. What is vital for Kurdistan in the coming years is to ensure that new freedoms are extended to women. If Kurdistan truly desires to be a regional model for democracy and economic prosperity, it cannot afford to sideline women's rights, particularly women's education and economic empowerment. Because, given the right opportunities, Kurdish women can be unstoppable.

---

[i] Quil Lawrence. *Invisible Nation: How the Kurds' Quest for Statehood is Shaping Iraq and the Middle East*. New York: Walker Publishing Company, Inc., 2008.
[ii] Shahrzad Mojab. "No Safe Haven: Violence Against Women in Iraqi Kurdistan." Sites of Violence: Gender in Conflict Zones (2004): 109-132.
[iii] Isobel Coleman. *Paradise Beneath Her Feet: How Women are Transforming the Middle East*. New York: Random House, 2010.
[iv] *Ibid*.
[v] *Ibid*.

[vi] 2006/ 2007 Iraqi Family Health Survey (IFHS)
[vii] Masoud Barzani. In discussion with the author. 15 January 2011; Speeches by former PM Nechirvan Barzani and Barham Salih. KRG.org
[viii] "Barbaric Honor Killings Become the Weapon to Subjugate Women." *The Independent*. 28 April 2008. <http://www.independent.co.uk/news/world/middle-east/barbaric-honour-killings-become-the-weapon-to-subjugate-women-in-iraq-816649.html>.
[ix] Iraqi Family Health Survey
[x] "A Killing Set Honor Above Love." *The New York Times*. 20 November 2010. <http://www.nytimes.com/2010/11/21/world/middleeast/21honor.html>.
[xi] Mojab, 2004
[xii] Begikhani. "Honor-Based Violence and Honor-based Killings in Iraqi Kurdistan and in the Kurdish Diaspora in the UK." Kurdish Women's Rights Watch, Center for Gender and Violence Research, University of Bristol, UK 2011
[xiii] *Ibid*.
[xiv] *Ibid*.
[xv] Mojab, 2004
[xvi] Mojab, 2004
[xvii] Nazand Begikhani. "Honor-based Violence among the Kurds." *Honor*. London: Zed Books, Ltd. 2005
[xviii] *Ibid*.
[xix] Human Rights Watch. Background on Women's Status in Iraq Prior to the Fall of the Saddam Hussein Government. 2003. <http://www.hrw.org/legacy/backgrounder/wrd/iraq-women.htm>.
[xx] Refugee Women's Resource Project, Asylum Aid. *Refugee Women and Domestic Violence in Iraqi Kurdistan* September 2002
[xxi] *Ibid*.
[xxii] Pratt, Nicola and Al-Ali, Nadje. *Women and War in the Middle East: Transitional Perspectives*. New York, Zed Books 2009
[xxiii] Ibid.
[xxiv] Ibid.
[xxv] Ibid.
[xxvi] Inger Skjelsbæk. 2009 "Traditions and Transitions: Perceptions of Good Womanhood among 20 Bosnian Focus Group Participants." International Feminist Journal of Politics 11 (3): 392-411.
[xxvii] Al-Ali, Nadje, 2009
[xxviii] Cynthia Cockburn. "The Continuum of Violence: A Gender Perspective on War and Peace." Sites of Violence: Gender and Conflict Zones. University of California Press, LA 2004.
[xxix] Samantha Power. *A Problem from Hell: America in the Age of Genocide*. "Iraq: Human Rights and Chemical Weapons Aside..."
[xxx] *Ibid*.
[xxxi] *Ibid*.
[xxxii] *Ibid*.
[xxxiii] *Ibid*.
[xxxiv] *Ibid*.
[xxxv] *Ibid*.
[xxxvi] *Ibid*.
[xxxvii] *Ibid*.
[xxxviii] *Ibid*.
[xxxix] *Ibid*.
[xl] *Ibid*.
[xli] *Ibid*.
[xlii] *Ibid*.
[xliii] *Ibid*.
[xliv] *Ibid*.
[xlv] Anup Shah. "Effects of Iraq Sanctions." Oct 02, 2005. <http://www.globalissues.org/article/105/effects-of-sanctions>.
[xlvi] *Ibid*.
[xlvii] Carlye Murphy. Economy Tests Kurds' Self-Rule: UN Sanctions Against Iraq, Regional Trade Barriers Trigger Turmoil, Threaten Government Stability. *Washington Post*. 10 May 1994

[xlviii] Thomas Friedman. *From Beirut to Jerusalem*. New York: Anchor Books, Double Day, 1989.
[xlix] Begihkhani, 2011
[l] Refugee Women's Resource Project, Asylum Aid. *Refugee Women and Domestic Violence in Iraqi Kurdistan*. September 2002.
[li] Begikhani, 2011
[lii] Ibid.
[liii] Nawzad Hadi. In discussion with the author. 5 January 2011.
[liv] Begikhani, 2005
[lv] Ibid.
[lvi] Ibid.
[lvii] Ibid.
[lviii] Refugee Women's Resource Project, Asylum Aid. *Refugee Women and Domestic Violence in Iraqi Kurdistan*. September 2002
[lix] Begikhani, 2011
[lx] Ibid.
[lxi] Ibid.
[lxii] "Iraqi Women Fighting for a Voice, Activists Confront Dual Powers of Religion and Tribalism." *The Washington Post*. 7 December 2008.
[lxiii] Hawjin Hama Rashid. "Iraqi Women Fighting for a Voice, Activists Confront Dual Powers of Religion and Tribalism." *The Washington Post*. 7 December 2008.

Photo Essay: Everyday Lives in Kurdistan

Ian MacLellan, Geology '12

Yezidi shrine in Lalish. The region is populated with Kurds, Turkmens, Armenians, Yezidis, Roma, Mandaea and other ethnic groups from across the Middle East all living in the same and nearby cities and villages. Kurdish culture has its roots in ancient societies along the Tigris River and has been suppressed for centuries. Their culture is now a creation and amalgamation of both indigenous and ancient Iranian traditions and a reaction to modern Turkish, Persian and Arab influences.

Portrait of a Yezidi religious leader at the shrine in Lalish.

Tourists pose for a photo by a waterfall at an old resort.

Shoppers pose in front of a large Christmas tree in the Majidi Mall in Erbil. Iraqi Kurdistan went through swift development after the establishment of a no fly-zone in 1991 and then after the toppling of Saddam Hussein. Erbil, Sulaimaniyah, and Dohuk are full of high-rise buildings, tourist attractions, new malls and amusement parks. Despite the rapid construction in Kurdistan's larger cities, the general population still lacks basic services.

New suburban development in the mountains of Iraqi Kurdistan. The community is organized into neighborhoods and has a small amusement park.

View from the suburban development, exposing some of the stratigraphy that traps the hydrocarbons that the Iraqi Kurdistan's economy is based on.

One of the many new buildings being constructed, a common sight in the skylines of all three of Kurdistan's provinces.

A young boy sits by the ancient Erbil citadel, overlooking a crowded city center.

NIMEP

New Initiative for Middle East Peace

c/o Tufts Institute for Global Leadership
96 Packard Avenue • Tufts University • Medford, MA 02155
www.tuftsgloballeadership.org
617.627.3314

Tufts UNIVERSITY | THE INSTITUTE FOR GLOBAL LEADERSHIP