

Throwing Water Over the Tinderbox

An Alternative for Kirkuk

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Abstract

Since the United States' (US) invasion of Iraq in 2003 there has been an intensification of the battle between the rival ethnonationalisms for the control of Kirkuk. Kurds, Arabs and Turkmen are all trying to manoeuvre their ethnic group into positions of power in Kirkuk and as a result the governance has suffered. There has been little in the way of negotiations in order to reach a settlement on the issues that create conflict in Kirkuk. This thesis examines all the issues of conflict and proposes a resolution that deals with them all. The original contribution to the knowledge is the depth of the analysis, which has resulted in a thorough framework that includes all the details necessary to implement it and proposes methods that have not been put forward for Kirkuk before, such as: an international committee, the available cross border institutions, a multi-capital city, the creation of a new province, and making decisions in the council based on a weighted majority of 60% with 40% of two of the main three ethnic groups being in favour. Prior to this thesis, analyses on Kirkuk have been brief, have not addressed all the issues of conflict, and have only given general ideas without following through on them. Additionally this thesis has developed liberal consociational theory with regards to trans-regional self-determination disputes. Therefore, the concepts of cross border institutions, demilitarisation, multi-capital city, special status, international committee and regional power sharing are analysed within this context, thus furthering the consociational theory.

This thesis includes an analysis of the relevant theories on power sharing in order to place Kirkuk within these. It is through this analysis that this thesis proposes a liberal consociational settlement for Kirkuk that addresses all the issues of dispute. In this thesis conflicts are viewed as not existing within a static status quo, but rather as being ever-changing. In acknowledging the ever-changing nature of conflicts, the thesis makes forecasts of socioeconomic changes, as these too impact upon the dynamics and what is effectively possible in any resolution.

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Declaration

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Definitions

al-Ta'mim – The name given to the province of Kirkuk as part of the Arabisation process. It is still the legal name for Kirkuk province to this day.

Anfal – The Anfal Campaign was created by Saddam Hussein and consisted of a series of attacks against the ethnic minorities in northern Iraq, particularly the Kurds, between 1986-89. It resulted in the deaths of thousands and the destruction of many villages and also included the use of chemical weapons.

Article 140 – Article 140 of the Iraqi Constitution calls for the implementation of Article 58 of the Transitional Administrative Law (TAL) by the 31st December 2007. Article 58 calls for the normalisation of the disputed territories of Iraq, followed by a census and then a referendum on the future constitutional status (in Kirkuk's case whether it would join the KRG or not).

Article 23 – Article 23 allowed for a temporary power sharing arrangement in Kirkuk until local elections could be held under a newly formed election law, created specifically for Kirkuk. As part of this article the Article 23 Committee was formed to examine power sharing for Kirkuk, the distribution of power, and the demographic issues that exist in Kirkuk.

Asayesh – Kurdish secret police of which both the KDP and the PUK have their own branches.

Centripetalism – A form of power sharing that creates institutional designs that promote and encourage interaction between the cleavages of the society. The aim is to moderate politics through creating multiethnic parties, thus leading to accommodation between the segments of the society.

Consociation – A form of power sharing that guarantees segments representation – if they so wish – and places different parties together in a coalition government. It uses the very divides present within the society in the management of the conflict through elite cooperation at the centre. The four principles of consociation are: executive power sharing, mutual veto, proportionality and segmental autonomy and they can be implemented to varying levels.

Dijla Operations – The Dijla (Arabic name for the Tigris river) Operations were created by Nouri al-Maliki to command the security operations in the provinces of Diyala, Salahaddin and Kirkuk. It links the Iraqi army's fourth, fifth and 12th divisions and the Kurds and Sunnis contest its existence.

Disputed Territories – The disputed territories of Iraq are those areas that had their borders changed by the previous regime and now involve disputes over the borders. They involve Kirkuk, Diyala, Ninawa, Salahaddin and the KRG.

Peshmerga – Kurdish army controlled and paid by the KRG.

Sahwa – Also known as the Awakening Council or Sons of Iraq, is a Sunni Muslim force set up by the US to give disenfranchised Sunnis an option other than the anti-US groups and is used to maintain security in Sunni-majority areas.

Transitional Administrative Law (TAL) – The TAL was an Interim constitution for Iraq, which was put in place before the creation of a permanent constitution in 2005.

Abbreviations

ANC	African National Congress
AV	Alternative Vote
BBC	British Broadcasting Corporation
BIC	British-Irish Council
BiH	Bosnia and Herzegovina
BLRC	Brčko Law Revision Commission
BP	British Petroleum
CLMC	Combined Loyalist Military Command
DUP	Democratic Unionist Party
EU	European Union
FARC	Revolutionary Armed Forces of Colombia
FBIH	Federation of Bosnia and Herzegovina
FNF	Friedrich Naumann Foundation for Liberty
GFA	Good Friday Agreement
GOI	Government of Iraq
IAF	Iraqi Accord Front
ICG	International Crisis Group
INA	Iraqi National Accord
INDF	Iraqi National Dialogue Front
INL	Iraqi National List
INOC	Iraqi Northern Oil Company
IQD	Iraqi Dinars
IRA	Irish Republican Army
ITF	Iraqi Turkmen Front
KA	Kurdistan Alliance
KBC	Kurdistan Bloc Coalition
KDP	Kurdistan Democratic Party
KIU	Kurdistan Islamic Union
KPG	Kirkuk Provincial Council
KRG	Kurdistan Regional Government
NI	Northern Ireland
NSMC	North South Ministerial Council
PIRA	Provisional Irish Republican Army
PR-Party List	Proportionate Representation – Party List
PR-STV	Proportionate Representation – Single Transferable Vote
PSNI	Police Service of Northern Ireland
PUK	Patriotic Union of Kurdistan
PUP	Progressive Unionist Party
ROI	Republic of Ireland
RS	Republika Srpska
RUC	Royal Ulster Constabulary
SDLP	Social Democratic and Labour Party
SIPA	School of International & Public Affairs
SLA	State of Law
SPR	Sequential Proportionality Rules
TAL	Transitional Administrative Law
TRC	Truth and Reconciliation Committee
UK	United Kingdom

UKUP	United Kingdom Unionist Party
UN	United Nations
UNAMI	United Nations Assistance Mission to Iraq
US	United States
UUP	Ulster Unionist Party

Introduction

Statement of the Problem

Since the United States (US) led invasion of Iraq in 2003 there has been an intensification of the battle between the rival ethnonationalisms for the control of Kirkuk. Due to this fact, many commentators claim that Kirkuk is a 'tinderbox' waiting to explode and that situation is a ticking time bomb.¹ In Kirkuk Kurds, Arabs and Turkmen are all trying to manoeuvre their ethnic group into positions of power, whilst Assyrians are trying to prevent themselves from getting further politically marginalised. Both Turkmen and Assyrians see Kirkuk as a symbol of their position as a relevant ethnicity in Iraq. Whereas Kurds see Kirkuk as their 'Jerusalem' and many would like for it to be the capital of the Kurdish region.² Whilst the control of Kirkuk by Baghdad symbolises Iraqi unity for the Arab population. This demonstrates the large stake that all the factions in Kirkuk have in gaining as much control as possible, and for this reason conflict has emerged over the political control of Kirkuk.

Due to competition between the rival ethnonationalisms in Kirkuk the governance of Kirkuk is suffering as currently all parties within the council are acting independently and spend a significant amount of their time and energy blocking the other parties/ethnic groups. Although power sharing is supposed

¹ See: Singh, Gajendra. 'The Kirkuk Tinderbox.' Asia Times [Online] Available from http://www.atimes.com/atimes/Middle_East/GA22Ak01.html [Accessed 20/09/2013]; Collier, Robert. 'Ethnically Diverse Oil Zone a Tinderbox.' SFGate [Online] Available from

² The most high profile case being when the Patriotic Union of Kurdistan (PUK) leader and President of Iraq, Jalal Talabani, made this claim at a PUK rally in Slemani in 2011. See: Aswat al-Iraq. 'MPs Collecting Signatures to Question Talabani.' *Aswat al-Iraq* [Online] Available from: [http://en.aswatiraq.info/\(S\(lh2vcw3rhk5cym55wj22qpaw\)\)/Default1.aspx?page=article_page&id=141424](http://en.aswatiraq.info/(S(lh2vcw3rhk5cym55wj22qpaw))/Default1.aspx?page=article_page&id=141424) [Accessed 11/10/2012]. Additionally, many of the Kurdish politicians and political analysts interviewed for this thesis made this analogy.

to be implemented in Kirkuk, it has not happened. The issue of the governance of Kirkuk is further aggravated through the interference of both the central government and the Kurdish Regional Government (KRG). Both of these larger entities bring their personal conflict to the realm of Kirkuk and overstep their authority by entering their battle into what should be classified as local governance. The ethnic competition over Kirkuk has prevented the effective governance of the province and the people of Kirkuk have suffered as a result. Thus, despite Kirkuk being one of the richest provinces in Iraq with regards to hydrocarbons it is one of the poorest with regards to services and development. Furthermore, the Kurdish desire for Kirkuk to join the Kurdish region has caused conflict as the majority of Arabs and Turkmen are against it, as in their opinion this would result in complete Kurdish control of Kirkuk.³ The fear of Kurdish control is intensified by the large oil and gas reserves in Kirkuk, as despite the fact that these are controlled by Baghdad, anxiety persists from the other ethnicities and neighbouring countries due to the fact that they believe the Kurds will use these resources to secede from Iraq.⁴ The history of Arabisation and the lack of a valid census have made the issue of resolving the political situation in Kirkuk a difficult one, as the

³ See: Agence France-Presse. 'Turkmen join Arabs to stop Referendum in Kirkuk.' Hurriyet [Online] Available from <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=turkmen-join-arabs-to-stop-referendum-in-kirkuk-2009-08-17> [Accessed 23/04/2010]; Kurdish Globe. 'Kirkuk Provincial Council votes to join Kurdistan Region.' Kurdish Globe [Online] Available from <http://www.kurdishglobe.net/article/7A07DA05F18BE29F0B67DC9707616660/Kirkuk-provincial-council-votes-to-join-Kurdistan-Region.html> [Accessed 23/04/2010]; Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, p. 200.

⁴ See: Su'edi, Abduljabar. 'Kirkuk, a Conflict Point between Baghdad and Erbil.' *Kirkuk Now* [Online] Available from <http://kirkuknow.com/english/index.php/2012/05/kirkuk-a-conflict-point-between-baghdad-and-erbil/> [Accessed 08/11/2013]; Hiltermann, Joost. 'Kirkuk and the Kurds: A Difficult Choice Ahead.' *International Crisis Group* [Online] Available From <http://www.crisisgroup.org/en/regions/middle-east-north-africa/iraq-iran-gulf/iraq/kirkuk-and-the-kurds-a-difficult-choice-ahead.aspx> [Accessed 08/11/2013]; Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 234-236.

presence that each ethnicity claims in Kirkuk can easily be contested. In the RAND Corporations analysis of Kirkuk they claim that:

Tensions among Arabs, Kurds and Turkomen in northern Iraq have the potential to escalate into intercommunal violence that draws Iraq back into civil war, leads the Kurdistan region to secede, and topples Iraq's nascent political structures.⁵

Furthermore, they highlight that the most temperamental of these issues is the legal status of Kirkuk. Therefore in order to manage the conflict in Kirkuk, not only does successful power sharing have to be implemented, but the issues of territorial ownership, ethnic security, and hydrocarbon ownership also have to be addressed. Furthermore an agreement on Kirkuk has to be reached between the KRG and the central government.

According to Karl Cordell and Stefan Wolff ethnic conflict is:

one of the prevailing challenges to international security in our time. Left unchecked, or managed poorly, it threatens the very fabric of the societies in which it occurs, endangers the territorial integrity of existing states, wreaks havoc on their economic development, destabilises entire regions as conflict spills over from one country to another, creates the conditions in which transnational organised crime can flourish, and offers safe havens to terrorist organisations with an agenda far beyond, and often unconnected, to the conflict in question.⁶

This is a worst-case scenario, however, variations of these consequences can be found in all unmanaged ethnic conflicts. For this reason it is imperative to find a solution for the conflict in Kirkuk, because failure to do so will lead to Kirkuk becoming this worst-case scenario and will justify commentators claims that Kirkuk is a tinderbox. Due to the ethnic make-up of Kirkuk, being

⁵ Hanauer, Larry & Laural E. Miller. *Resolving Kirkuk: Lessons Learned from Settlements of Earlier Ethno-Territorial Conflicts*. Santa Monica: Rand Corporation, 2012, p. 1.

⁶ Cordell, Karl & Stefan Wolff. 'The Study of Ethnic Conflict: an Introduction' in Karl Cordell & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011, p. 1.

seen as a 'mini Iraq'⁷, if conflict reached this level it is likely that it would spill over to the rest of Iraq, destabilising the country and possibly the region. Due to the symbolism that Kirkuk holds to the various factions, the lack of a resolution has already begun to affect the governance of Iraq. Kirkuk has become a political issue used as a manifesto for the political campaigns of many parties and has transferred to an issue in the negotiations for the creation of a power sharing government at central level. Through *Wikileaks* it has emerged that many in the US Army believed that all-out conflict was only being avoided by their presence in Kirkuk and that they feared for its future following their withdrawal.⁸ For this reason the resolution of the conflict in Kirkuk is an issue of paramount importance for Iraq, the Kurdish Regional Government (KRG), and the US. It is also of relevance to the Middle East as a whole and to any entity with interests in the region. Both Article 140 of the Iraqi Constitution and Article 23⁹ of the Provincial Elections Law¹⁰, which were created through Iraqi law to deal with the issues in Kirkuk, have so far failed to make any in-roads on the situation in Kirkuk. Thus, leaving Kirkuk in limbo with regards to the resolution of the conflict. Therefore it is the aim of this thesis to develop an alternative to the current situation by putting forward a possible settlement for Kirkuk. In order to reach an agreement that has the highest possibility of all the parties accepting it, it is important that each faction makes compromises, yet still comes out feeling as if they have gained

⁷ See: Abdullah, Muhammed. 'Kirkuk Slides towards the Brink.' *Niqash* [Online] Available from <http://www.niqash.org/articles/?id=2270> [Accessed 11/10/2012]; Kane, Sean. 'Finding Common Ground: Kirkuk as a Special Governorate.' *United States Institute of Peace, Peace Brief*, 31, 2010.

⁸ Gordon, Michael & Andrew Lehren. 'Tensions High Along Kurdish-Arab Line.' *New York Times* [Online] Available from http://www.nytimes.com/2010/10/24/world/middleeast/24kurds.html?_r=0 [Accessed 10/11/2013]

⁹ For more details on Article 140 see Chapter 1.4. and for Article 23 see Chapter 1.5..

¹⁰ Elections Law of the Provincial, Districts, and Sub-Districts Councils (Law 36/2008).

something.¹¹ Hence, if this thesis is to fulfil its aims, any settlement developed must include compromises for all the factions, whilst also maintaining that they make gains on issues of importance to them. Evidently any proposal for resolution in Kirkuk is just that, a proposal and an actual agreement involves negotiations, compromises and concessions from all the parties involved. However, through an academic scrutiny of the possibilities available for resolution and an analysis of the details involved therein, a neutral option that has the potential to gain cross-community support can be brought into the debate.

In a deeply divided society democracy is needed in order to ensure the security of all ethnicities.¹² This is not to say that ethnic conflict cannot be managed successfully by authoritarian regimes, but rather that this is very rare indeed. For the most part the segments of society that are not in power bare witness to one or more of the following actions: subjugation, forced assimilation, displacement, and even genocide. Kirkuk has already witnessed subjugation and displacement under Saddam Hussein and the wider area has witnessed what some have called genocide in the *Anfal* campaigns.¹³ Another option is the dissolution into smaller, ethnically homogeneous, states.¹⁴ However, as Brendan O’Leary has examined, partitions are seldom just in the split; they do damage to the resulting states (O’Leary compares them to the

¹¹ This was made evident through interviews conducted by the author in 2010 with Gerry Adams, Martin McGuinness, William Hay and Lord Alderdice; who were all successfully involved in negotiations in the Northern Ireland conflict.

¹² Sisk, Timothy. *Power Sharing and International Mediation in Ethnic Conflicts*. Washington: United States Institute of Peace, 1996.

¹³ For information on those who claim these actions equate to genocide see: Black, George. *Genocide in Iraq*. New York: Human Rights Watch, 1993. See also, Kelly, Michael. *Ghosts of Halabja: Saddam Hussein and the Kurdish Genocide*. Westport: Praeger Security International, 2008. These are just a couple of the sources that list Saddam’s actions as genocide.

¹⁴ Sisk, Timothy. *Power Sharing and International Mediation in Ethnic Conflicts*. Washington: United States Institute of Peace, 1996, pp. 27-34.

separation of Siamese twins, where at least one is badly lamed), and they lead to violence, both before and after the partition. Apart from these consequences, partition is not an option in Kirkuk due to its size and the concentration of ethnicities overlapping (within the city) making it geographically impossible, as well as the fact that the factions are not looking to separate from Iraq, but are rather concerned with which region they are governed by.¹⁵ Therefore, the most viable option for securing a long-term settlement in Kirkuk is that of democratic governance. However, the traditional majoritarian democracy raises some problems in a deeply divided society. If simple majority rule were to be introduced in Kirkuk, then the Kurds as the majority could sideline the other ethnicities and govern for their own gains, i.e. annexe Kirkuk to the KRG. This would cause conflict, as it would go against the desires of large factions within the other ethnicities. Likewise, if the Turkmen and Arabs were to form an alliance, like they did in the 2010 national election, then they too could possibly edge out the Kurdish list in numbers (depending on Gorran splitting the Kurdish vote) and govern Kirkuk to their own advantage, thus causing conflict with the Kurds.¹⁶ Majority rule in a deeply divided society generally creates minorities who are excluded from the political process and have no hope of changing this. This results in conflict; either through the minority groups seeking power, or the majority suppressing them.¹⁷ This is not to say that democratic majoritarian rule is impossible, India is an example of it in practise in a divided society, however

¹⁵ O'Leary, Brendan. 'Debating Partition: Evaluating the Standard Justification' in Karl Cordell & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011, pp. 140-157.

¹⁶ Gorran is a Kurdish political party that split from the Patriotic Union of Kurdistan (largest Kurdish party in Kirkuk). Due to them splitting the Kurdish vote the Kurds were not the winners in the 2010 national elections in Kirkuk.

¹⁷ Lijphart, Arend. 'Majority rule versus democracy in deeply divided societies.' *Politikon: South African Journal Of Political Studies* 4, no. 2. December 1, 1977: 113-126.

even in India, the most successful example, conflict between the various factions is always at the surface. This leaves the only other democratic option of power sharing. Through power sharing each ethnicity is given the opportunity to be represented within the governance, therefore allowing ethnicities to negotiate on factors they differentiate on, thus avoiding conflict. Power sharing is the most viable form of governance in areas involving ethnic conflict; therefore it will be at the core of the settlement developed in this thesis.¹⁸ In their analysis of the situation in Kirkuk the Rand Corporation stated that in order to settle disputes in ethnically mixed territories there must be negotiations that establish new structures for governance, ones that either promote assimilation or guarantee communal autonomy. As already stated, this thesis does not recommend the promotion of assimilation, where a dominant ethnic group forces others to forgo their identity for that of the dominant one – Kirkuk has witnessed enough of this already. The alternative is communal autonomy, which will be assessed in this thesis through consociational theory.¹⁹

There is a major debate as to whether centripetalist or consociational power sharing is better for regulating ethnic conflict in a deeply divided society.²⁰ Although this thesis is in the consociational camp, it also uses elements of complex power sharing, which allows for the amalgamation of different aspects of the respective power sharing theories. The leading hypothesis developed in this thesis is that the conflict in Kirkuk can be

¹⁸ Sisk, Timothy. *Power Sharing and International Mediation in Ethnic Conflicts*. Washington: United States Institute of Peace, 1996, pp. 27-34.

¹⁹ Hanauer, Larry & Laural E. Miller. *Resolving Kirkuk: Lessons Learned from Settlements of Earlier Ethno-Territorial Conflicts*. Santa Monica: Rand Corporation, 2012, p. 2.

²⁰ For arguments in favor of consociation see the works of McGarry, O'Leary and Lijphart. For arguments in favor of centripetalism see the works of Horowitz and O'Reilly. Also see Chapters 3.2. (consociation) & 3.3. (centripetalism) of this thesis.

regulated through having liberal consociation at the core of the settlement without being constrained within the confines of this theory. In order to prove that liberal consociation should be at the foundation of any settlement, it firstly needs to be demonstrated that the other forms of power sharing are not feasible for this and that rather elements of these theories should be introduced to this liberal consociational foundation. Secondly, the key issues of conflict need to be identified and a thorough understanding of why they have caused conflict needs to be gathered. Finally, a detailed method of the liberal consociational institutional mechanisms that can regulate the major issues of conflict needs to be outlined. Through these three elements it can then be proved that not only can the issues of conflict in Kirkuk be successfully regulated through liberal consociation, but also that this is the most viable method for the resolution of the core issues. The second hypothesis put forward is that the agreement needs to go beyond mere consociational theory to resolve all the issues of conflict. That is, that the agreement should include other options that address the areas of conflict and are not necessarily confined to consociational institutions. This ensures that issues that go beyond the political institutions do not reoccur to reinvigorate the conflict at a later stage. Liberal consociation is flexible with regards to introducing other elements, as long as consociation remains at the centre. In order to defend this hypothesis this thesis will demonstrate areas in the agreement that resolve conflict and go beyond consociational institutions, yet still allows for consociation to remain at the core. It will be proven that these elements are imperative to ensure the longevity and success of the

agreement, thus emphasising that the agreement needs to go beyond consociation.

Significance of the Study

As already stated, the settlement of the conflict in Kirkuk is of great importance to peace in the region. Furthermore, it has a considerable role to play in the economic capabilities of Iraq, as – despite the damage caused to the Kirkuk oil fields by over-production towards the end of Saddam's reign and its decreased oil production following the war – Kirkuk still has a large proportion of Iraq's proven oil reserves.²¹ It is also a key source of Iraqi natural gas production, making it an extremely crucial mineral-rich area that has the potential to generate a large income for Iraq. This income could help with the reconstruction and development that is necessary following the years of turmoil.²² Yet, despite all this, there is still a lack of literature relating to the Kirkuk conflict. This is partly because, although this is an old conflict, it has intensified and come to the fore since 2003. Furthermore, the dynamics have changed as a result of the ending of the Ba'ath regime. This said, it has reached the stage where there should be more literature pertaining to the Kirkuki conflict. The only academic book concentrating solely on an analysis of the conflict in Kirkuk is *Crisis in Kirkuk* by Liam Anderson and Gareth Stansfield.²³ When this is compared to the hundreds of books written for example in relation to the Northern Irish conflict, it becomes evident just how

²¹ *Iraq*. U.S. Energy Administration [Online] Available from <http://www.eia.doe.gov/cabs/Iraq/Oil.html> [Accessed 21/10/09]

²² Daly, John *Analysis: Kirkuk Elections and Iraqi Oil*. United Press International [Online] Available from http://www.upi.com/Science_News/Resource-Wars/2009/06/02/Analysis-Kirkuk-elections-and-Iraqi-oil/UPI-31501243950233/ [Accessed 07/11/09]

²³ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009.

far behind Kirkuk is in the conflict analysis and resolution field. This is an important area of study as it helps advance the understanding of the conflict as well as developing the path towards resolution. As *Crisis in Kirkuk* is the only academic book on Kirkuk, it is important that this thesis adds to, rather than repeats, the advancements that it has made towards understanding the conflict. *Crisis in Kirkuk* analyses the situation and creates a greater understanding of the conflict in Kirkuk and the positions of the relevant actors. Whereas, the purpose of this thesis is to examine the possible future of Kirkuk by developing a settlement that manages these issues of conflict – it could be said that it is a follow on to Anderson and Stansfield's book.

There are other analyses on the possible future for Kirkuk by both academics and policy makers alike (see Chapter 4), but the issue with these is that they are short in both content and detail. Therefore, although they contribute ideas to the literature on the Kirkuki conflict, they do little to actually develop the knowledge needed to make these relevant when it comes to the practicalities of developing a settlement. This is where this thesis is different, as its aim is to not only develop methods that regulate the issues of conflict, but also to analyse the institutional designs necessary to implement them. Therefore, this thesis will be the first to layout a complete package for Kirkuk were all the elements are linked together. Another core difference that also allows this thesis to link all the elements of the proposed resolution together is the view that conflicts are ever-changing. Thus, this thesis has made socioeconomic predictions on elements that correlate to a proposed

resolution and has taken into account that once an aim is achieved or a compromise is reached the dynamics of the remaining issues at stake change.

The rest of the literature involving Kirkuk is mainly taken up by those who have a stake in the conflict and concentrates on the ethnic ownership of Kirkuk rather than placing Kirkuk within the context of conflict resolution, and thus do little to advance the conflict analysis and resolution field of study relating to Kirkuk.²⁴ Therefore the literature on power sharing takes more prominence in this thesis, as it gives a more thorough analysis on the options of governance available for Kirkuk, and is thus examined in Chapter 3.

This thesis is a practical one; rather than focusing on developing power sharing theory, its aim is to propose a settlement that is feasible for Kirkuk and therefore contributing to the literature on the Kirkuki conflict. However, through this process power sharing theory is developed as many aspects proposed are transferable and as Kirkuk is a conflict involving a trans-region self-determination disputes it develops and extends consociational theory into this sphere. Furthermore, by default this thesis makes a contribution to the centripetalism/consociational debate by favouring one over the other. The overall aim of developing a settlement is to bring forward the academic debate on the future of Kirkuk and to demonstrate methods of resolving issues of conflict that can then be used and further developed by the leading actors in the conflict. The numerous academic works on the conflict in Northern Ireland helped advance the conflict towards a settlement, with the works of John McGarry and Brendan O'Leary making a significant contribution towards consociational theory for conflicts involving self-

²⁴ Evidence of this is seen in the 'Who owns Kirkuk' series in the *Middle East Quarterly* (Winter 2007).

determination disputes. Therefore, it is the aim of this thesis to create a greater understanding of an option that is available to Kirkuk that creates debate and contains facets that at least some of the protagonists agree with and would like to develop themselves. Thus, helping Kirkuk move towards the arena where a wealth of knowledge pertaining to the conflict is developed.

Methodological Approach

In designing an alternative for Kirkuk, this thesis works from the premise that conflicts exist due to the main political actors having incompatible aims and goals. Consequently, strategies must be analysed and developed in order to overcome these incompatibilities and prevent them from leading to violence. In this thesis conflicts are viewed as not existing within a static status quo, but rather as being ever-changing. In acknowledging the ever-changing nature of conflicts, the thesis makes forecasts of socioeconomic changes, as these too impact upon the dynamics and what is effectively possible in any resolution. Furthermore, the notion of an ever-changing context impacts on the development of a resolution, in that each side has aims and once an aim is achieved or a compromise is reached the dynamics of the remaining issues at stake evolve accordingly. Therefore, when working towards a resolution all the strategies are linked together, as the previous steps taken open up new possibilities, whilst halting others. The thesis includes an examination of all the relevant issues of conflict that exist in Kirkuk – from security to governance – and also addresses the role that socioeconomic factors play in the conflict as well as their potential role in opening up new possibilities for

debate. In order to highlight the issues of conflict I conducted a context analysis of all the media and political parties' output, interviewed political actors and politicians in Iraq, and spent one year (09/12-09/13) living in the region in order to gain a thorough understanding of the minute issues of conflict at a local level. This is the main difference between this thesis and the proposals that preceded it; in that it is a proposal for a complete agreement that covers minor and major issues with each aspect linked in order to make more options possible and in order to propose a resolution that won't falter at the first obstacle.

The methodological angle used for this thesis is a three tier approach, which begins by examining relevant local issues on the ground, then moves to examining the applicability of the relevant theoretical literature, before finally deconstructing and exposing weaknesses in previous proposals put forward for Kirkuk. This information is then used in developing a complete proposal where the conflict is viewed as ever-changing and all the aspects of the proposed resolution are linked.

Therefore, a complete resolution with power sharing at its core that solves the major issues revolving around power sharing, as well as other smaller local issues is proposed. Through living in the region and engaging with the political actors and the populace on a day-to-day basis for one year an idea of the local issues that need to be included in a proposal was formed. Although one of the main issues was ethnic competition between the rival ethnonationalism, which was mainly caused by the lack of power sharing, there were also many smaller issues that stemmed from this, such as: security, employment, education, returnees, Kirkuk's constitutional status and

the proportionality of each ethnic groups share of Kirkuk and its bodies. Thus, in the process of the fieldwork conducted for this project it became clear that any agreement needs to go beyond mere power sharing and must include these local facets.

As already highlighted (and discussed in detail in Chapter 3) liberal consociation is a method of power sharing that will allow for all of these issues to be addressed in one package, which is important in order to ensure that conflict does not escalate in Kirkuk. The analysis that liberal consociation is the most suitable theory for the governance of Kirkuk also opens up the developments made in this theory to the prospective proposal for Kirkuk and these developments can thus be worked to fit within the dynamics of the region. Therefore, the proposal must follow the principles of traditional consociation in that there must be executive power sharing, some form of a minority veto, cultural autonomy and proportionality.²⁵ Furthermore, it should include the developments to consociational theory made by O'Leary and McGarry, as they were formed with ethnic conflict in mind. These include: the introduction of exogenous pressure; the addressing of self-determination disputes through bodies such as cross border institutions; addressing the local issues on the ground such as police, return of exiles, educational reform, etc.; finding the correct election system to fit within the dynamics of the conflict; and finally, allocating ministerial portfolios through sequential proportionality rules.²⁶ Additionally the formation of liberal consociation by O'Leary should be utilised; this allows any political identity that wins enough

²⁵ Lijphart, Arend. *Democracy in Plural Societies: A Comparative Exploration*. New Haven: Yale University Press, 1977, pp. 25-52.

²⁶ McGarry, John & Brendan O'Leary. 'Power Shared after the Deaths of Thousands' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, pp. 15-84

votes in the election to choose to join the power sharing coalition and has no ascriptive criteria where group identities are fixed. As a result, the power sharing government can develop with the dynamics of the society.²⁷

Although there have been other examinations of the conflict in Kirkuk (as highlighted in detail in Chapter 4) the main problem is that they do not address all the issues of conflict and the issues that they do address are not examined in enough detail. Not creating a package that covers all the issues and offers a proposed solution that links these issues in one complete agreement, makes it impossible to end conflict in Kirkuk. As through linking all the facets of the proposal new possibilities become feasible and thus a complete package that can prevent further conflict can be developed. This is the main difference between the proposal put forward in this thesis and those that preceded it and one that is highlighted throughout this thesis. However, the existing proposals do introduce some promising elements that can be used and further developed in order to successfully address the issues of conflict in Kirkuk.

For example, [1] the creation of a special status for Kirkuk is put forward by Anderson & Stansfield, UNAMI, and Wolff.²⁸ However, of particular interest for this thesis is the proposal for a special status for the city alone,

²⁷ O'Leary, Brendan. 'Debating Consociational Politics: Normative and Explanatory Arguments' in S. Noel (ed.) *From Powersharing to Democracy*. Montreal: McGill-Queen's University Press, 2005, pp. 15-16.

²⁸ See: Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 185-203; Wolff, Stefan. 'Governing (in) Kirkuk: resolving the status of a disputed territory in post-American Iraq.' *International Affairs* 86, no. 6, November 2010, pp. 1361-1379; UNAMI. 'Possible Options for the Future Administrative Status of Kirkuk Within the Iraqi Federation' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]

which is put forward separately by O'Leary and Romano.²⁹ [2] Allowing non-Kurdish majority areas the option not to join the KRG.³⁰ [3] Creating cross-border institutions/links between Kirkuk, the KRG and Baghdad.³¹ [4] And finally, the introduction of liberal consociational power sharing.³² Through examining the weaknesses in these areas that are deemed as feasible for Kirkuk they can be developed further to fit the dynamics of the conflict and the overall proposal.

However, it is not just the feasible aspects put forward by these analysts that are important, the unfeasible facets also add value as they allow for them to be discounted and through the analysis of their unfeasibility other aspects are developed. The key proposal that is put forward by the majority of the analysts that is emphasized throughout this thesis as being unfeasible is the prospect of power sharing based on the divisor of 32/32/32/4, which gives Kurds, Arabs and Turkmens all 32% of the positions in the council, whilst the Christians are awarded 4%. By analysing this as unfeasible other options that have a reasonable chance of success can be developed.

Although the analysis of the relevant theoretical literature and previous proposals put forward was relatively straightforward, the understanding of the issues of conflict, the areas of importance to each ethnicity, as well as the possible compromises that each ethnic group was willing to make, involved

²⁹ See: Romano, David 'The Future of Kirkuk', *Ethnopolitics* Volume 6, Issue 2, 2007, pp. 265 – 283; O'Leary, Brendan. *How to Get Out of Iraq with Integrity*. Philadelphia: University of Pennsylvania Press, 2009, pp. 141-160.

³⁰ See: Romano, David 'The Future of Kirkuk', *Ethnopolitics* Volume 6, Issue 2, 2007, pp. 265 – 283; O'Leary, Brendan. *How to Get Out of Iraq with Integrity*. Philadelphia: University of Pennsylvania Press, 2009, pp. 141-160.

³¹ See: UNAMI. 'Possible Options for the Future Administrative Status of Kirkuk Within the Iraqi Federation' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]; SIPA. *Kirkuk: Reaching a Comprehensive Settlement for a Disputed Province*. New York: Columbia University, 2011.

³² See: O'Leary, Brendan. *How to Get Out of Iraq with Integrity*. Philadelphia: University of Pennsylvania Press, 2009, pp. 141-160.

various methods of approach. This was initially done through discourse analysis; through an examination of speeches, interviews and party policies an understanding of these three areas was developed. In order to make the best use of the time available for fieldwork, the majority of this discourse analysis was done prior to conducting the fieldwork. This was done by compiling a database relating to the development of conflict in Kirkuk. This database was used in the background section and in analysing the issues of conflict, which was then used to create an outline for an agreement. Although this database includes major events following the 2003 invasion, its primary focus is on the period during which this thesis was written (2010-2013). This not only helps in the logistics of compiling it, but also allows one to concentrate on the current issues involved. The compiling of the database largely consisted of an analysis of the media output relating to the issues of conflict and the politicians' stance on them. Apart from analysing interviews and statements from the Iraqi political elites, this also included monitoring the political party-linked media channels' outputs. The analysis also extended to the documents and statements released by the political parties themselves. Once the data was compiled it was then analysed in order to establish the key areas of conflict, the compromises that each political party may be willing to make, and the areas that must be fulfilled in order for each specific political party to sign any agreement. The difficulty behind using media and published political discourse is that politicians often have an underlying strategy behind their discourse. A careful examination of this discourse allowed for a better understanding of the undisclosed motives. Inevitably this initial discourse analysis did not uncover all the aims and objectives of the protagonists,

however it was used to create an initial outline for an agreement that could then be further tested during fieldwork. The whole idea behind this thesis is to propose a viable agreement that takes into consideration the local circumstances and the often-conflicting interests of all the ethnic groups involved. Therefore, despite the possible inaccuracies from the initial discourse analysis on the true stance of the political actors, due to the nature of politics, the analysis does play a very important role as it allows for the creation of an outline that can then be developed further after closer interaction with the protagonists. The methodology used is based on that of process tracing, where the process is traced through the compiling of a database, which is then used in order to create hypotheses. In this study the compiling of a database of the events is analysed in order to create the outline of a potential agreement. In process tracing, elite interviews are used to seek out inaccuracies and further test the hypothesis and in this study interviews are used to test inaccuracies in what is believed to be relevant to the issues of conflict, check the feasibility of possible compromises and to test the hypothesis of the individual details of the agreement. Thus allowing for these to be adjusted in order to create a plan for a final agreement.³³

This closer interaction with the protagonists involved dividing each ethnicity into two groups – politicians/elites and grassroots/wider populace. This was done in order to create an understanding of the politicians' aims and their acceptance of the various possibilities for an agreement, as well as creating an understanding of their support and whether their support base shares the same aims. In order to gain an understanding of the aims of each

³³ Tansey, Oisín. 'Process Tracing and Elite Interviewing: A Case for Non-probability Sampling.' *Political Science and Politics* Vol. 40, no. 4, 2007, pp. 765-772.

ethnic group a representative sample of the leading political parties within these groups was created. This then helped to create an understanding of the goals and likely compromises of the factions within each ethnicity, which was then analysed for the purposes of creating an agreement that is the most likely to be accepted. Open-ended interviews were chosen for the elites as they allow one 'to get at the contextual nuance of response and to probe beneath the surface of a response to the reasoning and premises that underlie it.'³⁴ This allowed for the interviews to be used to gauge the actors' perception of the various options available, which in turn was used to adjust the agreement outline towards a proposed settlement. Due to the security situation in Kirkuk it was not possible to gain access to as many of the protagonists as was desirable. Therefore, interviews conducted by large groups such as the International Crisis Group (ICG) and UNAMI, who have the resources security to administer interviews on a much wider scale, were also used. However, interviews were still carried out with many political actors and these were still important as they related directly to the proposed settlement. Therefore, despite the fragile security situation, it was still very important to undertake interviews in Kirkuk.

At the time of the fieldwork for this thesis the tensions over the Dijla Operations were at the highest levels.³⁵ This drastically affected the research as many politicians did not want the responsibility of security for meetings and as politicians were continuously being targeted, this was a realistic danger. Therefore, it was an uphill battle to persuade politicians to conduct meetings

³⁴ Aberbach, Joel & Bert A. Rockman. 'Conducting and Coding Elite Interviews.' *Political Science and Politics* Vol. 35, No. 4, 2002, pp. 673-676.

³⁵ See Chapter 1.7. for a detailed account of the Dijla Operations.

and particularly facilitate meetings with the populace, which thus had an affect on the scale of the research. The author initially planned to conduct a small survey with the elites in order to highlight the areas of importance, the issues associated with conflict and the possible compromises, and furthermore, where the ethnic groups converge on these factors. This, unfortunately, had to be abandoned due to the security situation, as it was not possible to gain access to a broad enough sample of interviewees to make this survey accurate.³⁶ Furthermore, in order to understand the support that the populace has for the ideologies of their political parties, as well as determining what aspects are important to the people, it was initially planned to use both quantitative and qualitative methods with regards to the grassroots. On the quantitative side of the research a survey was to be conducted in order to understand the political support each ethnic group has for their representatives. This survey would have been largely based on the work of John Fraser in measuring political legitimacy, but was abandoned due to the lack of access to the populace in Kirkuk.³⁷ Even if these surveys were possible, they would have played a secondary role to interviews, as the problem with conducting surveys is that you cannot push the boundaries of people's perceptions and thus create an understanding of their overall opinion on the various options available for Kirkuk. Unfortunately these interviews were limited to elites, as it was not feasible to interact with the populace in Kirkuk and therefore the qualitative research with the grassroots in Kirkuk also had to be abandoned, although interviews were conducted with people

³⁶ The survey created for this purpose borrowed from the work of Colin Irwin. See Appendix I.

³⁷ See Appendix II.

from Kirkuk who were living in the KRG.³⁸

As already mentioned the security situation in Kirkuk limits the research options available. This needs to be taken into consideration when compiling, as well as analysing, the data – as the security situation has a direct affect on the information available. The fact that the KRG was used as a base, rather than Kirkuk, means that any subjects for interviews, political or otherwise, were effectively controlled by the KRG, thus altering the information available. Furthermore, one can be seen as biased in favour of the KRG, due to the fact that KRG officials will inevitably play a large role in facilitating the research. In order to counteract this fact, research on the background information of prospective interviewees was conducted in order to understand their relationship with the KRG and their own ethnic group. This helped to create an understanding of their answers and to prevent misunderstandings, i.e. gathering pro KRG information from all ethnicities only to find that these specific political parties receive funding from the KRG. Another method used to avoid bias in favour of the KRG was to contact and create dialogue with as many organisations as possible prior to beginning fieldwork. This enabled the creation of relationships and an understanding of the project before any meetings were conducted. Despite all this, the fact that the KRG was used as a base made it very difficult to interact with non-Kurdish political parties – particularly Arab parties, as they have no representation in the KRG – again, due to the security situation, it was not possible to meet them without a prior arranged meeting which would have to be facilitated through someone within the KRG. This was counteracted to some extent by interacting and forming

³⁸ For an example of how the interviews would be conducted see Appendix II.

links with their communities within the KRG, however it did not prevent the absence of direct interaction with Arab politicians and therefore this lack had to always be kept in mind when analysing the data.

It has been outlined here how an understanding of the core issues of conflict was formed and how this was used alongside the relevant theories of power sharing and the previous proposals for Kirkuk by other analysts in order to develop a proposed resolution that covers all the relevant areas necessary in order to ease conflict. These three elements used together form the three-tiered methodological approach that was utilised in this thesis.

Structure of the Thesis

This section has been used to contextualise the issue and form hypotheses that will be proved through the remaining chapters.

Chapter 1 gives a historical background of Kirkuk and examines the development of the contemporary conflict and highlights the current political situation in Kirkuk.

This thus allows for Chapter 2 to analyse the issues of conflict, and their relevance to each ethnic group, that need resolving in Kirkuk.

Chapter 3 examines the theories that exist within the wider theory of power sharing in order to gain a theoretical understanding of the methods available for Kirkuk, to discover which theory is the most suitable, and to examine how this theory can be developed within the dynamics of Kirkuk. Furthermore, Chapter 3 gives the theoretical background necessary to understand the faults with the proposals analysed in Chapter 4.

Chapter 4 examines the various proposals put forward for Kirkuk by other analysts in order to highlight what proposals exist within the literature for Kirkuk and what aspects within these are feasible or are rejected outright.

Chapter 5 employs all the information gathered in the previous chapters in order to develop a settlement for Kirkuk. Whereas Chapter 6 examines the laws necessary to implement this and form an actual power sharing structure for the governance of Kirkuk.

Chapter 1: Contextualising Kirkuk within Iraq

1.1. Introduction

It is important to examine the history of Kirkuk, from its ancient past to the contemporary situation, in order to create an understanding of the causes of the conflict. Examining Kirkuk's history helps to create an awareness of the symbolical value that Kirkuk has for the various ethnicities. Whereas, analysing the emergence of conflict between the ethnicities allows for a comprehension of the reasons for animosity between the factions of Kirkuk. However, the most important undertaking is to investigate how these issues have manifested themselves in the contemporary political situation in Kirkuk, thus creating an understanding of the current areas of conflict. Through establishing a background of Kirkuk that focuses on tensions between the ethnicities, it is possible to highlight the main areas of conflict. The purpose of creating an understanding of the core areas of conflict in this chapter is so that they can be analysed in Chapter 2 in order to underline the relevant issues that need to be addressed in a settlement.

1.2. Historical Background

Kirkuk is home to four main ethnicities – Assyrians, Kurds, Turkmen and Arabs – who all lay claim to its ownership. The Assyrians claim that they are descendants of the people who founded the ancient city of Arrapha, thus making them the founders of the city currently known as Kirkuk.³⁹ Although, the Kurds also claim to be descendants of the founders of the city. However,

³⁹ Kramers, J.H. 'Kirkūk.' In P. Bearman, T. Bianquis, C.E. Bosworth, E. van Donzel and W.P. Heinrichs (eds.) *Encyclopedia of Islam, Second Edition*. Brill [Online] Available from http://0-www.brillonline.nl.lib.exeter.ac.uk/subscriber/entry?entry=islam_SIM-4390 [Accessed 30/06/2010]

the Kurds also claim the Medes as their ancestors and they only gained control of Kirkuk from the Assyrians in 615 B.C.⁴⁰ The Arab control of the area came later with the spread of Islam when the Abbasid empire took control of the region.⁴¹ The Arab presence in Kirkuk increased in the 1600's when the Ottoman Sultan, Murad IV, gave the Tikriti tribe (from Syria) villages and land, in the southwest of Kirkuk, as a reward for the help they had given him. More Arabs came to the region in the 1800's, when the Hadidi tribe settled in Kirkuk city.⁴² Whereas a strong Turkmen presence began with the invasion of the Seljuk Empire in 1055 and the Turkmen became military and governing instruments for the proceeding empires. The Turkmen presence was strengthened when Kirkuk came under the control of the Ottoman Empire in 1535, although it is important to note that a very strong 'Kurdish' presence remained.⁴³

At the time of World War I (1914-1918), Kirkuk was a multiethnic community with Assyrians, Kurds, Arabs and Turkmen all able to claim control of the city over some time in its history (in that historical order). Following the collapse of the Ottoman Empire after World War I the British took control of the provinces of Mosul, Baghdad and Basra, changing their agreement with France over French control of Mosul in order to gain control of the regions oil. With the creation of Iraq, which eventually included these three provinces, the Arabs could once again lay claim to Kirkuk – although there was only a minor Arab tribal community in the area. Nevertheless, through installing the loyal

⁴⁰ Abdulla, Mufid. *An Interview with Kamal Mudhir Ahmed*. Dr. Kamal Mudhir Ahmed [Online] Available from http://drkamal.com/articles/mufid_interview.htm [Accessed 01/07/2010]

⁴¹ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 14-17.

⁴² UNAMI. 'Kirkuk Markaz' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]

⁴³ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 14-17.

Hashemite monarchy to rule over Iraq the British were able to assert the control they desired over the regions oil. It was during this period that Arabisation of Kirkuk first begun. The Hashemites gave nomadic Arab tribes grants as well as land to farm surrounding the newly created Haweeja irrigation project. At the same time Arabs, Assyrians and Armenians were brought to Kirkuk in order to work in the oil industry.⁴⁴ This Arabisation process escalated with the formation of the Republic of Iraq, when Kurds were excluded entirely from the oil industry and there was a wholesale shift of the population, with Kurds being expelled from the region and Arabs being enticed with special privileges and bonuses. The policy of Arabisation in Kirkuk changed the demographics of the society, installing an Iraqi-loyal population and thus allowing the Iraqi government to control the mineral exploitation of Kirkuk. The effect this Arabisation had on the society, was to cause issues of conflict that still exist in Kirkuk today.⁴⁵ Another issue that has transferred into the contemporary conflict from this time period is the animosity between the Kurds and Turkmen that was created by the events of the 14th of July 1959 – during the celebrations for the anniversary of the coup that overthrew the Hashemite monarchy in Iraq, Turkmen officials marched through Kirkuk and were attacked leading to 25 fatalities and 140 injured victims, these attacks were blamed on the Kurds.⁴⁶

During his rule Saddam Hussein strengthened the control of Kirkuk by changing the borders – he replaced Kurdish-majority rural areas with Arab

⁴⁴ Yildiz, Kerim. *The Kurds in Iraq: The Past Present and Future*. London: Pluto Press, 2007, pp. 205-206.

⁴⁵ O'Leary, Brendan. 'Power sharing, Pluralist Federation, and Federacy.', in O'Leary, Brendan, John McGarry & Khaled Salih (ed.). *The Future of Kurdistan in Iraq*. Philadelphia: University of Pennsylvania Press, 2005, pp. 85-86.

⁴⁶ Al-Hirmizi, Arshad. *The Turkmen Reality in Iraq*. Istanbul: Kerkük Vakfi, 2005, pp. 109-118.

ones, in a new governorate called *al-Tamim* (nationalisation). Further damage to the non-Arab demographics was done by the *Anfal* campaign – where Ali Hassan al-Majid, who came to be known as Chemical Ali, deployed chemical weapons against the Kurds – which claimed the lives of thousands of Kurds from the Kirkuk region.⁴⁷ Following Operation Desert Storm in 1991, in which the US led coalition forces expelled Iraqi troops from Kuwait, the Kurds took advantage of the chaos and seized Kirkuk, this was however short lived and the Iraqi forces soon regrouped and recaptured Kirkuk. Despite losing Kirkuk, the Kurds did manage to effectively create an autonomous Kurdish region, in the Kurdish provinces of northern Iraq, due to the creation of a no-fly zone north of the thirty-sixth parallel, which was created by the US and UK forces. With the threat this newly created Kurdish region posed on the oil wealth of Kirkuk, Saddam strengthened the process of Arabisation in order to maintain his hold over Kirkuk and as a consequence large numbers of Kurds were expelled.⁴⁸ As a result of this long process of Arabisation, the numbers of Kurds and Turkmen in Kirkuk drastically decreased, whilst at the same time the number of Arabs increased. This has transferred into the conflict today, as Turkmen see themselves as having held the majority in the city, whereas Kurds claim they had the majority in the province and Arabs claim that it is an Iraqi city first and foremost. The result of these competing claims of ownership is that each of the three ethnicities claims that they should control Kirkuk, which effectively causes conflict.

⁴⁷ Talabany, Nouri. *Ethnic Cleansing by the Iraqi regime in the Kirkuk Region*. [Online] Available from <http://www.9neesan.com/docs/doc72.htm> [Accessed 23/11/09]

⁴⁸ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 41-45.

The following maps demonstrate the gerrymandering of Kirkuk as part of the Arabisation process.⁴⁹ In order to analyse these one must understand the geographic structure of Iraq. Iraq is divided into 18 governorates or provinces, with the three governorates of Slemani, Duhok and Erbil forming the current day Kurdish region. Map 1⁵⁰ demonstrates the governorates of Iraq.

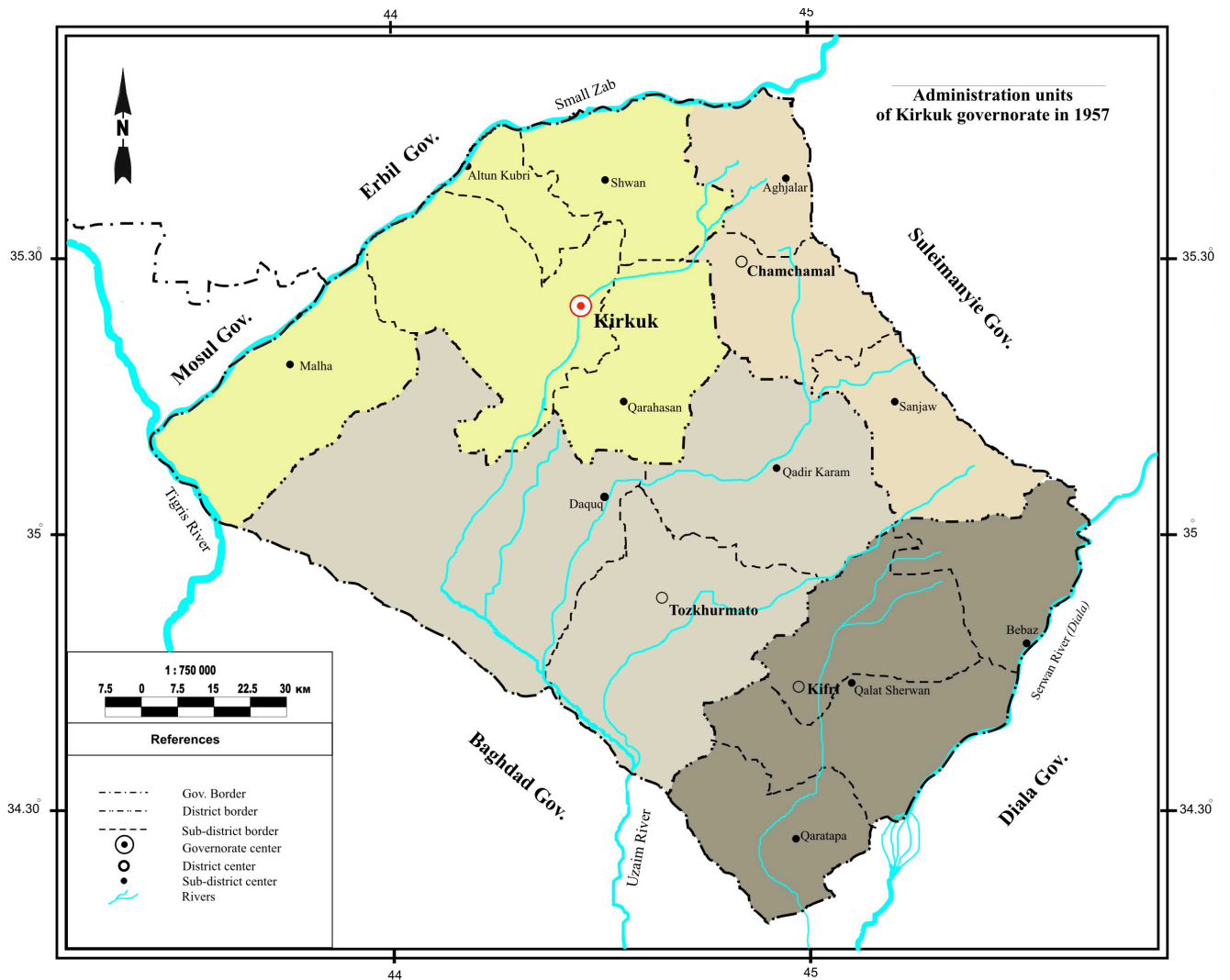


Map 1

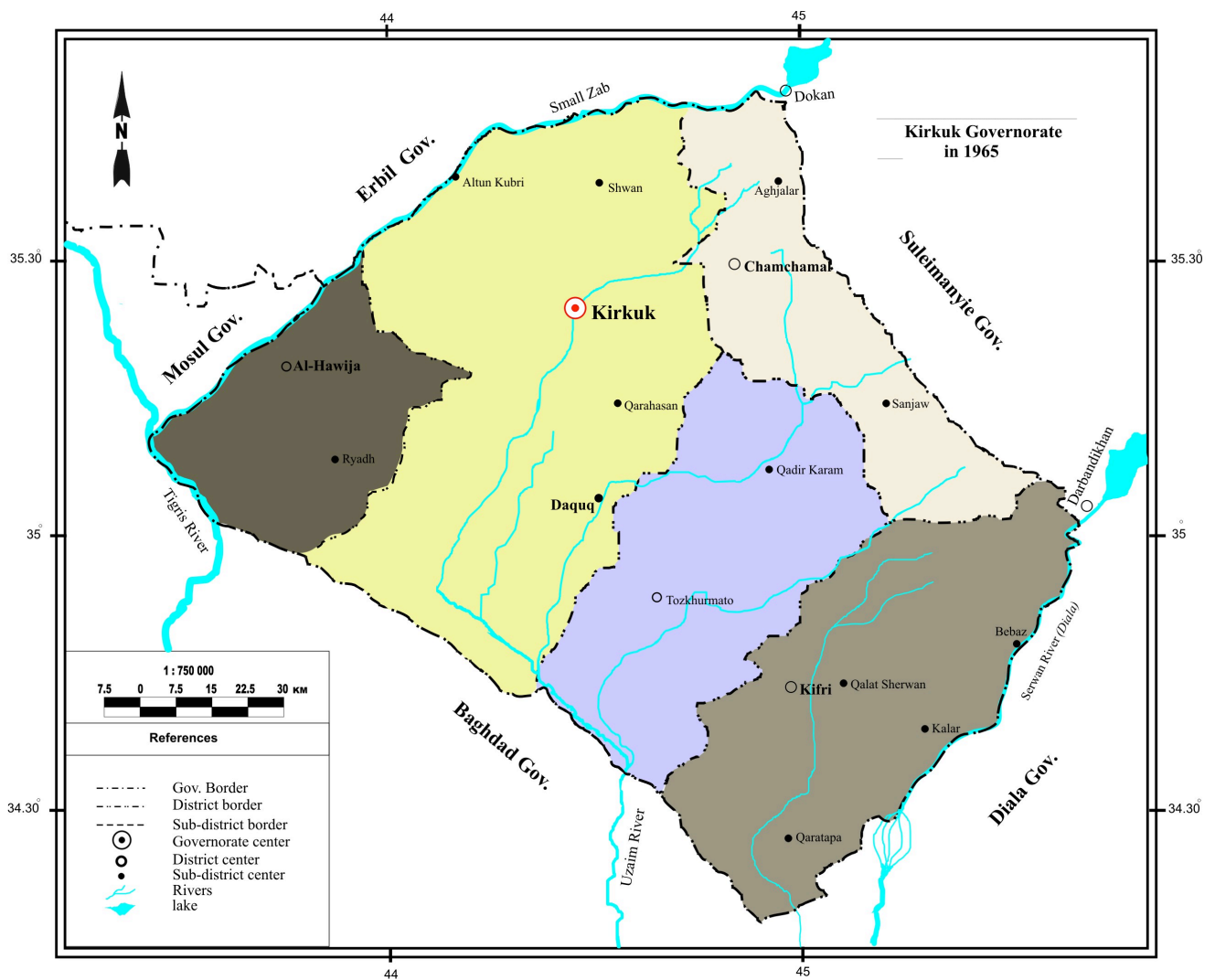
⁴⁹ Original maps taken from report *Atlas of Kirkuk* by the KRG's High Committee for Kurdistan de-Arabization report. These maps have been edited to fit into the framework of this thesis. See: H. Haddad, S. Abdul-Rahman & A. Kirkuky (Eds.) *Atlas of Kirkuk*. High Committee for Kurdistan de-Arabization. Erbil, 2006.

⁵⁰ Adapted from: Iraq Pictures. *Map of Iraq*. [Online] Available from <http://iraqpictures.org/map-of-iraq/> [Accessed 01/09/2013]

Map 2 shows Kirkuk as it stood in 1957 before any major changes had been made to external or internal borders.

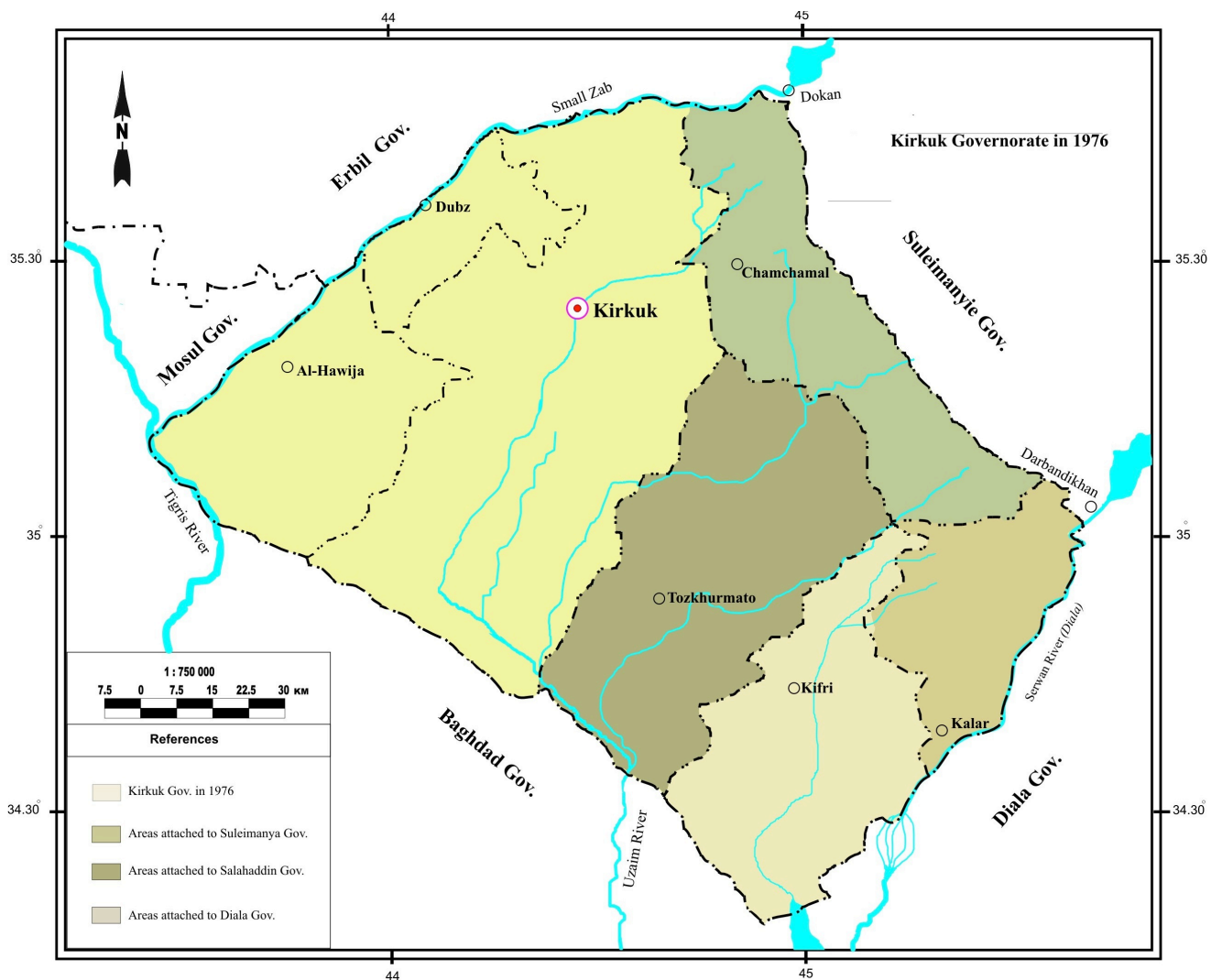


Map 3 shows Kirkuk as it stood in 1965, and displays the first changes to the internal borders. A new district, Al-Hawija, has been created taking territory from the central Kirkuk district and thus creating an Arab dominated district. Another smaller change that was made was that the Daquq sub-district was removed from Tuz Khormato and attached to the central Kirkuk district. Through these changes Kirkuk gained another district moving from four to five districts.



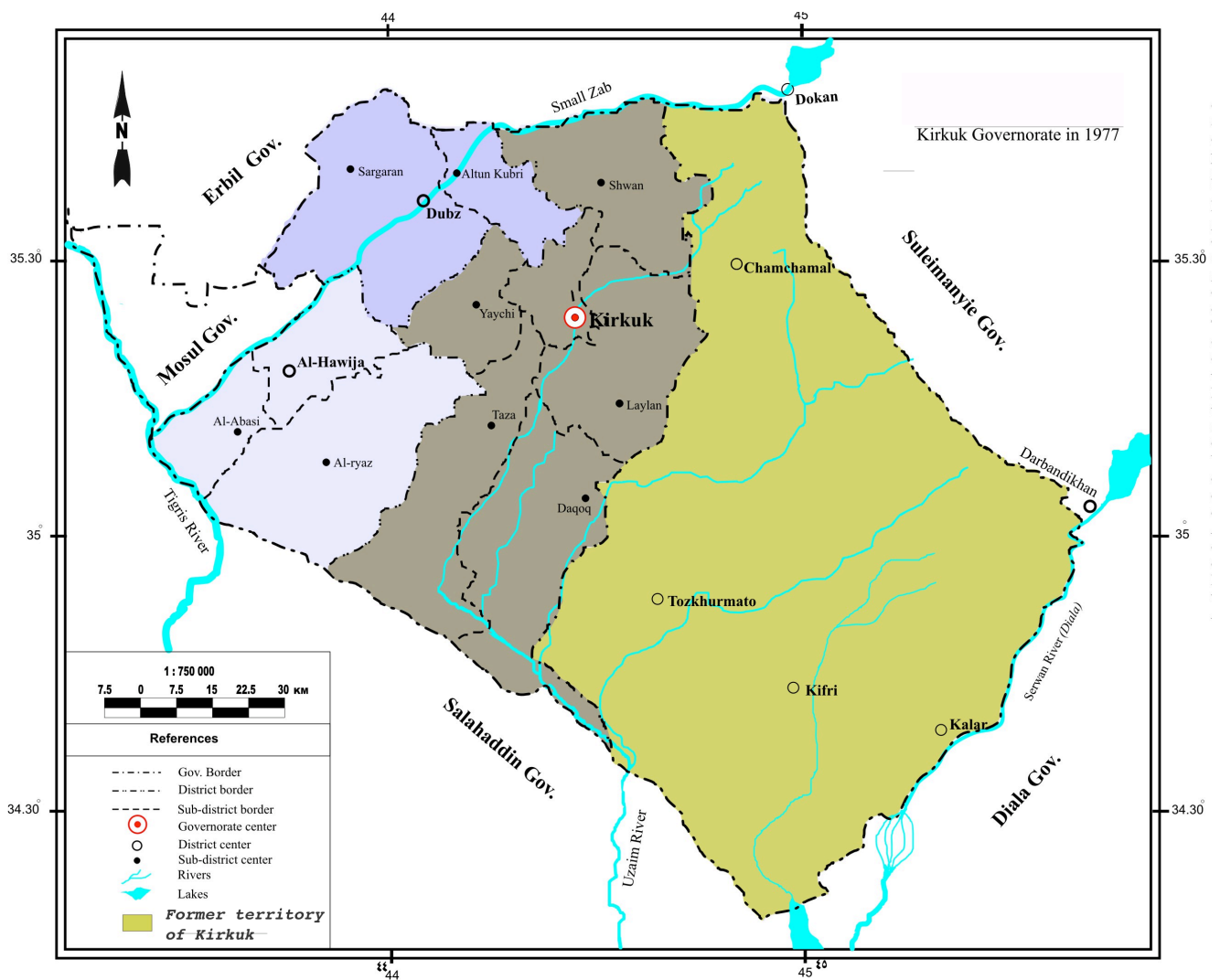
Map 3

Map 4 shows Kirkuk as it stood in 1976, as is evident drastic changes have been made to the external borders. This was the largest geographic change that occurred as part of the Arabisation of Kirkuk where large districts with Kurdish or Turkmen majorities were removed from the Kirkuk Governorate and attached to others. The Chamchamal District and part of the Kalar District were removed from the Kirkuk Governorate and attached to the Slemani Governorate. The Tuz Khormato District was also removed from the Kirkuk Governorate and attached to the Salahaddin Governorate. Finally, the remaining part of the Kalar District and the Kifri District were attached to the Diyala Governorate. Furthermore, in addition to the changing of the external borders, the internal borders were changed too with the creation of a new district called Dubz, taking away territory from the central Kirkuk District. Kirkuk Governorate went from having five districts to just having three and lost over 10,000 sq. km in the process.



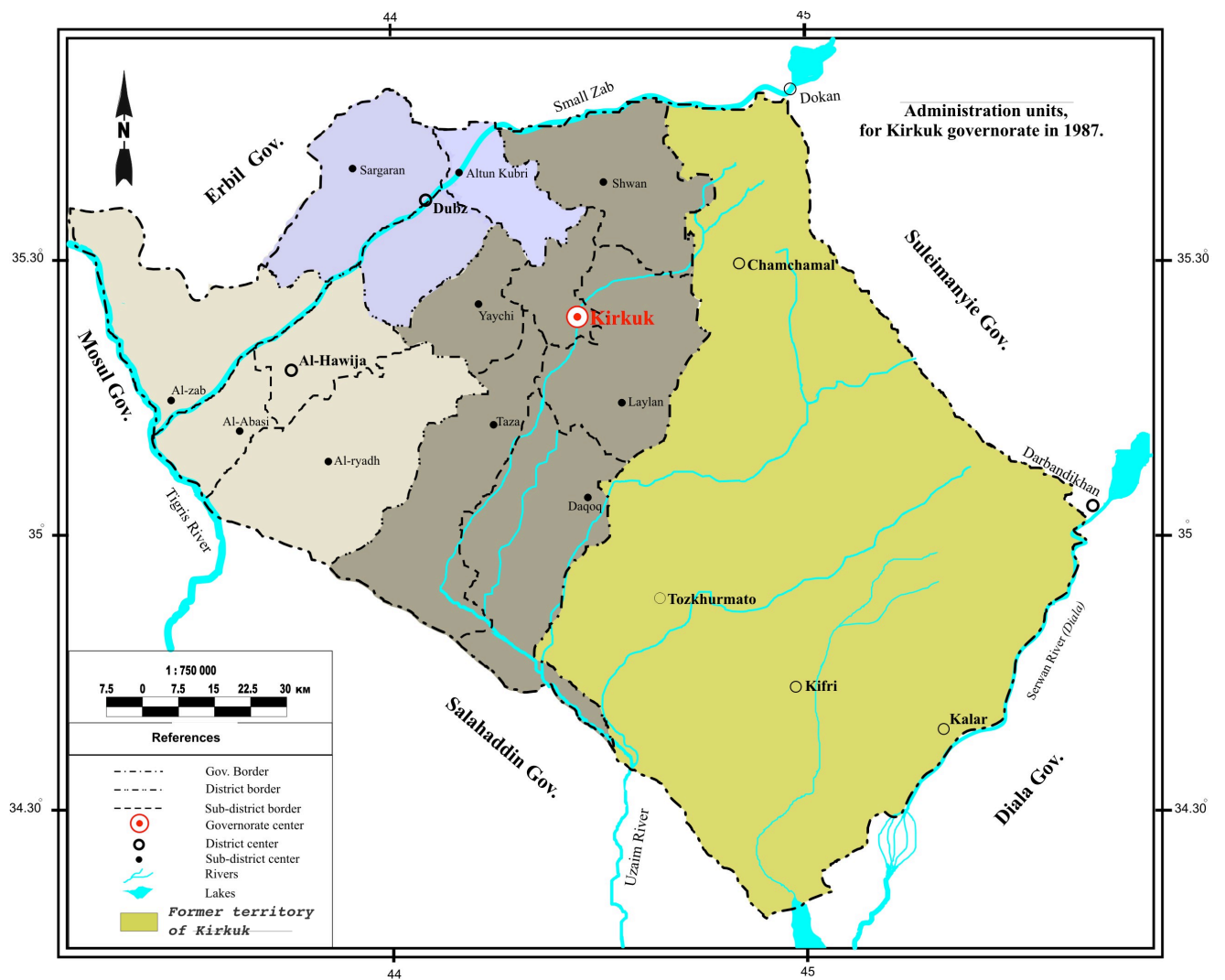
Map 4

Map 5 shows Kirkuk as it stood in 1977 and once again the external borders have been changed. As is evident by the map the district of Dubz has increased in size and the border is no longer created by the Small Zab, but instead extends beyond the river; thus removing Sargaran from the Erbil Governorate and attaching it to the Kirkuk Governorate.



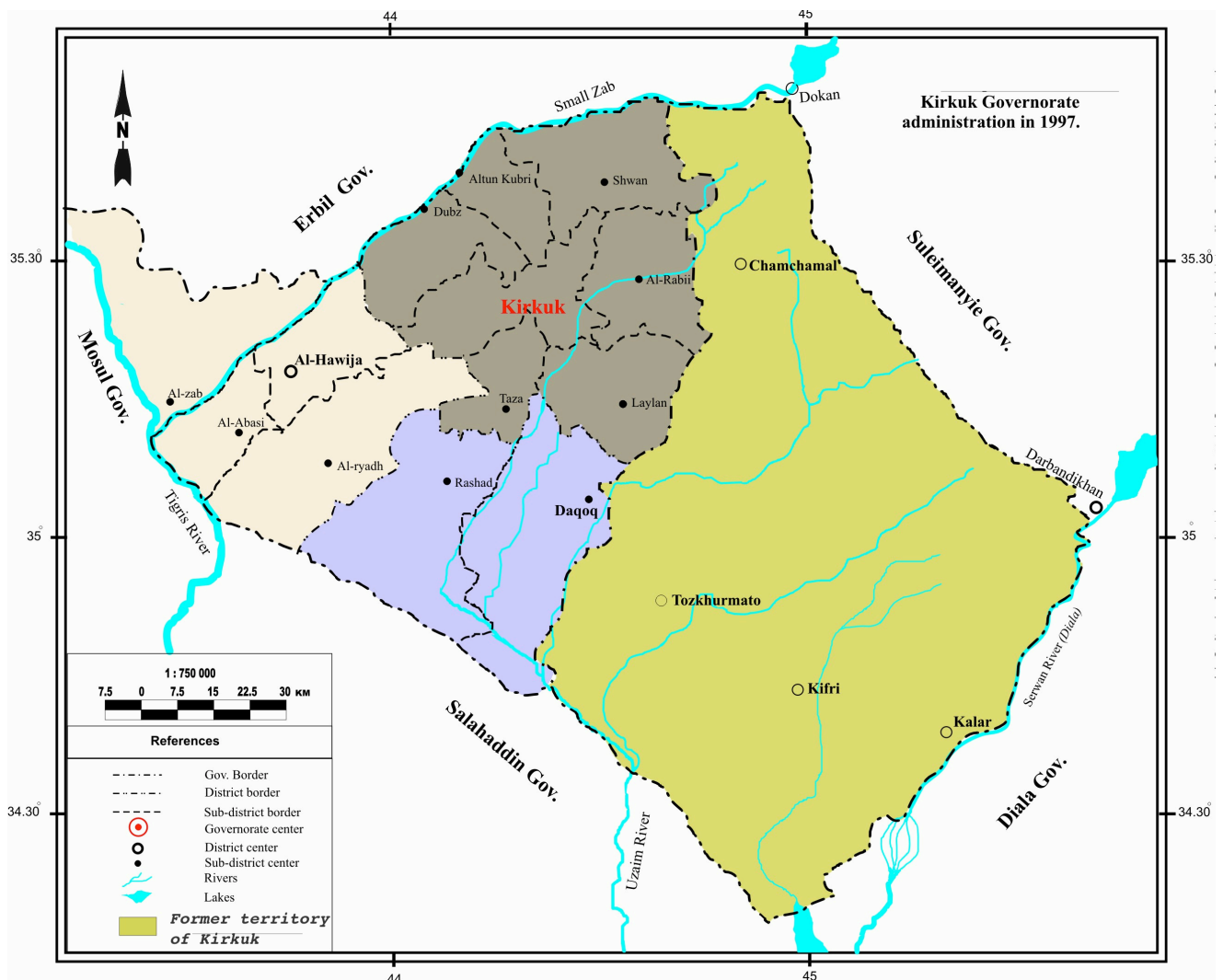
Map 5

Map 6 shows Kirkuk as it stood in 1987 and illustrates how further Arabisation has taken place through increasing the territory of the Arab dominated district of Al-Hawija by detaching the Al-Zab sub-district from the Mosul Governorate and attaching it to the Kirkuk Governorate.



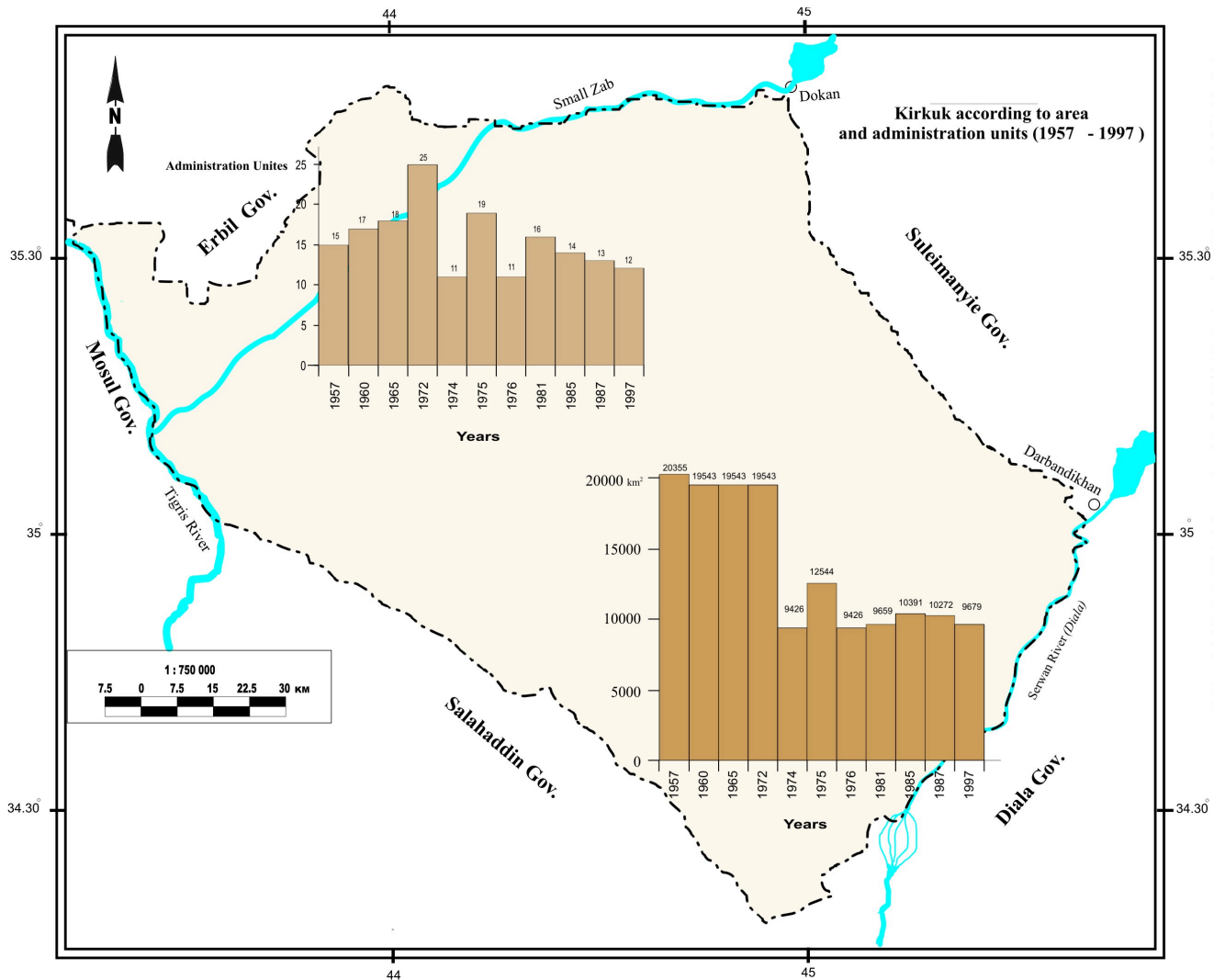
Map 6

Map 7 is of Kirkuk in 1997. This map illustrates how Sargaram has been detached from Dubz and has been reattached to the Erbil Governorate. Furthermore, Dubz has lost its district status and has been reattached to the central Kirkuk District as a sub-district. Internally, the Daquq sub-district and a large part of the Taza sub-district, both previously part of the central Kirkuk District, have been joined together to form the new Daquq District.



Map 7

Map 8 demonstrates the loss of territory and administration units to Kirkuk, from 1957-1997, as part of the gerrymandering process.



Map 8

1.3. Creation of New Iraqi Government

On 20 March 2003 the US and allied forces launched an attack on Saddam Hussein's regime in Iraq. On 1 May 2003 the US declared an end to the war, thus ending Saddam's reign and beginning the US led process of installing a new regime in Iraq.⁵¹ This included the appointment of Paul Bremer as Iraq's civil administrator, charged with supervising the transition to democracy.⁵² On 13 July 2003 the Iraqi Governing Council was created, which consisted of 25 members chosen by the US. An agreement was signed between Coalition Provisional Authority and the Iraqi Governing Council, on 15 November 2003, for a timetable and programme for the drafting of a new constitution followed by elections. The Iraqi Governing Council signed an interim constitution, Transitional Administrative Law (TAL) on 8 March 2004. Following the timetable set out, on 28 June 2004 the Iraqi Governing Council was dissolved and the US handed power over to a newly created Iraqi government with Iyad Allawi as prime minister.⁵³ On 18 August 2004 the Iraqi National Conference selected a one hundred seat national assembly to oversee Iyad Allawi's government until general elections could be held. Elections were held in Iraq on 30 January 2005 and by 7 April Jalal Talabani was elected – to the largely ceremonial position of – president of Iraq. On 15 October 2005 Iraq voted on a referendum for a new constitution and on 15 December 2005 elections were held for a full term government. On 21 January 2006 the Shiite-led United

⁵¹ 'Iraq War'. *Encyclopædia Britannica* [Online] Available from <http://www.britannica.com/EBchecked/topic/870845/Iraq-War/231539/Occupation-and-continued-warfare> [Accessed 15/05/2013]

⁵² Siddique, Haroon & Mark Tran. 'Timeline: Iraq 2003-2010' *Guardian* [Online] Available from <http://www.theguardian.com/politics/2009/jul/30/iraq-timeline-2003-2009> [Accessed 15/05/2013]

⁵³ 'Iraqi Governing Council.' *Global Security* [Online] Available from <http://www.globalsecurity.org/military/world/iraq/igc.htm> [Accessed 25/06/2013]

Iraqi Alliance were announced as winners of the election, but without an absolute majority. On 22 April 2006 the Shiite politician Nouri al-Maliki was appointed as prime minister of Iraq.⁵⁴

1.4. Political Wrangling over Kirkuk

Following Turkey's refusal to allow the coalition forces to use its airspace during the 2nd Gulf War, the Kurds of Iraq were able to become a key ally to the US due to their strategic location. As a result of this, as well as of the stability of the Kurdish region in comparison to the rest of Iraq, the Kurds were able to take advantage of the war and gain a council (established by the US) in Kirkuk more favourable to the Kurds – thus exerting an early influence on the governance of Kirkuk.⁵⁵ Following the invasion of Iraq in 2003 the Kurds were able to begin returning to Kirkuk – some of the realistic estimations suggest that as many as a quarter of a million Kurds have 'returned'⁵⁶ since the outbreak of the war.⁵⁷ Thus the Kurds have managed to reverse the trend of Arabisation and gain a numerical and political advantage in Kirkuk province. This has become an issue of conflict as the Turkmen and Arabs believe that far more Kurds have returned than were ever expelled, thus leading to accusations that Kurdification is now taking place in Kirkuk. The numerical advantage that the Kurds managed to gain, paired with the stability of the Kurdish region meant the Kurds found themselves in a strong position. Furthermore, the Kurds made gains in the Transitional Administrative Law

⁵⁴ 'Timeline: Iraq after Saddam.' BBC News [Online] Available from http://news.bbc.co.uk/2/hi/middle_east/4192189.stm [Accessed 25/06/2013]

⁵⁵ McKiernan, Kevin. *The Kurds: A People in Search of Their Homeland*. New York: St. Martin's Press, 2006, pp. 323-328.

⁵⁶ The validity of these Kurds' Kirkuki origin is questioned by both Arabs and Turkmen, who insist that the majority of these Kurds are originally not from Kirkuk and have been paid by the KRG to settle there.

⁵⁷ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, p. 221.

(TAL); Article 58 of the TAL sanctioned a process of normalisation, followed by a census and then a referendum on the status of the disputed territories. This largely favoured the Kurds in Kirkuk, as it was deemed that Article 58 would lead to them gaining control of Kirkuk. Another factor in the Kurds' ascendance was the fact that according to the TAL two-thirds of three or more governorates were able to reject proposals, thus giving the Kurds a large bargaining tool by effectively giving them a veto right in the creation of the permanent constitution.⁵⁸ Although positive for the Kurds this went against the other ethnicities in Kirkuk who wanted an immediate census in Kirkuk (prior to normalisation), before the Kurds could alter the numbers.

By the time of the January 2005 election the Kurds had not managed to implement Article 58 of the TAL, but had managed to gain the right to vote in Kirkuk for the 'returnee' Kurds. The Kirkuk Brotherhood List, which consisted mainly of the Kurdish parties, succeeded in gaining just under 60% of the votes in the January election – thus giving them a majority of the seats on the council of Kirkuk. The Front of Iraqi Turkmens and the Iraqi Republican Assembly only secured eight and five seats respectively, in comparison to the twenty-six of the Kurdish dominated list. At a national level the Kurds also found themselves in a good position, with their list winning seventy-five seats – over a quarter of the total number of seats in the Iraqi parliament, and the Kurds managed to gain majority control in five of the eighteen governorates. As a result they managed to get Jalal Talabani elected as president of Iraq. The position the Kurds found themselves in nationally gave them significant power to influence the creation of the permanent constitution, which in turn

⁵⁸ Due to the fact that the Kurds control the three governorates of Erbil, Slemani and Duhok.

gave them power to deal with the Kirkuk issue. This allowed the Kurds to introduce the idea of federalism into the constitution, giving them a Kurdish region, and to introduce Article 140, which gave a deadline for the implementation of Article 58 of the TAL of the 31st December 2007. Following the elections in January 2005 no agreement was reached between the ethnicities of Kirkuk for a power sharing arrangement and the Kurds went ahead in forming a government by themselves, however, many of the governing decisions were still coming from Baghdad and cooperation between the ethnicities in the Kirkuk council was virtually non-existent. In the national election in December 2005 the Kurds' percentage of the Kirkuki votes decreased to just over 53%, due largely to the participation of the Sunni Arabs who had boycotted the previous election. On a national level Talabani remained as president and the Kurds' support for Nuri al-Maliki as prime minister gained them a written guarantee for the implementation of Article 140 and resulted in the creation of the Article 140 Committee. The duty of this committee was to fulfil the article by its deadline, but progress was slow and by November 2007 only 1000 of the 36000 normalisation claims for compensation had been processed – leaving them failing at the first step of normalisation with the deadline drawing near. As a result of this the deadline was extended at the proposal of United Nations (UN) special envoy to Iraq, Stefan De Mistura, and was approved by the federal supreme court, rather than voted for by parliamentary vote, where it would have clearly failed due to the lack of support from non-Kurds – thus putting into question the continued legitimacy of Article 140.⁵⁹

⁵⁹ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 113-163.

1.5. Leading up to the 2010 Elections

With Article 140 seemingly dead in the water, the problem over the future status of Kirkuk and its governance still persisted and there was no plan, agreed upon by all the factions, to deal with the issue. In Kirkuk itself, the various ethnonationalisms occupied themselves with the task of proving the legitimacy of their ownership of Kirkuk and manoeuvring their ethnicity into a better position, rather than establishing a government and governing the region for the best of the population. For example, both Arabs and Turkmen avoided council meetings refusing to participate in what they saw as a Kurdish dominated council.⁶⁰ The political process was continually slowed down and undermined by these actions. Kirkuk did not participate in the January 2009 provincial elections due to the political situation there. Article 23, part of the Provincial Elections Law relating directly to Kirkuk, had been set up to deal with this issue. The purpose of this article was to allow for a temporary power sharing arrangement in Kirkuk until local elections could be held under a newly formed election law, created specifically for Kirkuk. As part of this article the Article 23 Committee was formed, which consisted of two Kurds, two Arabs, two Turkmen and one Assyrian. The duties of the committee included examining power sharing for Kirkuk, the distribution of power, and the demographic issues that exist in Kirkuk. It was their duty to report back on these issues to the Iraqi parliament so that they could then create a new

⁶⁰ Kart, Emine. 'Turkmens boycott city council meetings in Kirkuk.' *Today's Zamaan*. [Online] Available from <http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=119522> [Accessed 02/12/09]

election law for Kirkuk.⁶¹ UNAMI became heavily involved with the Article 23 Committee and as part of this organised a trip to Northern Ireland for the members of the committee in order to learn about the Northern Irish successes on some of these very issues.⁶² Deadlines for the Article 23 Committee's report on Kirkuk came and went and the committee began to be viewed as a charade, rather than a research group that could provide any resolutions to the issues in Kirkuk⁶³. Evidently the Article 23 Committee faded into the distance and none of their recommendations were used for the creation of a new electoral law for Kirkuk.⁶⁴ Thus, with no agreement reached on a new electoral law the Turkmen threatened to boycott the census that would determine a list of eligible voters for a referendum on Kirkuk's future until the question of the influx of Kurds was addressed.⁶⁵ When it came to forming the electoral law needed for the 2010 election, Kurdish lawmakers threatened to abstain from a vote to decide the voter-registration to use for a Kirkuk election,⁶⁶ attempting to negotiate instead.⁶⁷ When an agreement was reached it was not desirable to all parties and was not a permanent deal – although the new electoral rolls were to be used, they were subject to

⁶¹ al-Khalidi, Daa. 'Kirkuk Awaits Election Law.' *Niqash* [Online] Available from <http://www.niqash.org/content.php?contentTypeID=75&id=2404&lang=0> [Accessed 13/07/2010]

⁶² United Nations. *Report of the Secretary-General pursuant to paragraph 6 of resolution 1830 (2008)*, 30 July 2009. UN [Online] Available from http://www.uniraq.org/FileLib/misc/SG_Report_S_2009_393_EN.pdf [Accessed 05/12/09]

⁶³ In conversations between the author and political actors/analysts in Kirkuk and the KRG it became evident that none of them viewed the Article 23 Committee with much regard.

⁶⁴ Serwer, Daniel & Sam Parker. *Maliki's Iraq between Two Elections*. May 2009. United States Institute of Peace [Online] Available from <http://www.usip.org/files/resources/Maliki's%20Iraq%20between%20Two%20Elections.pdf> [Accessed 10/12/09]

⁶⁵ Williams, Timothy. 'Turkmens in Contested Oil-Rich Province Vow to Boycott Iraq's National Census.' *New York Times* [Online] Available from: <http://www.nytimes.com/2009/07/24/world/middleeast/24turkmen.html> [Accessed 25/11/09]

⁶⁶ The Kurds wanted to use the current electoral rolls where they were a clear majority, whereas Arabs and Turkmen wanted to use the electoral rolls from prior to the Kurdish influx.

⁶⁷ Chon, Gina. 'Kurds Plan to Boycott Iraqi Vote on Kirkuk.' *Wall Street Journal* [Online] Available from <http://online.wsj.com/article/SB125674507884913421.html> [Accessed 25/11/09]

investigation and the results could be modified.⁶⁸ A new electoral law was finally agreed with national elections planned for March 2010, but this did not settle the issue of Kirkuk, which was still placed under a year-long review.⁶⁹ The 2010 National elections saw a large proportion of the Arab and Turkmen political parties align themselves together against the Kurds (and their desire to annexe Kirkuk to the KRG), in the Iraqiya list.⁷⁰ This detracted from the Kurds' political dominance in Kirkuk, with the Kurdish Alliance and Iraqiya each winning six seats in the national elections.⁷¹ Although the Arabs and Turkmen formed an alliance, this is not to say that conflict between the two does not exist, as the purpose of this alliance was solely to prevent Kirkuk joining the KRG. There still remain issues of conflict between Arabs and Turkmen relating to political power in Kirkuk and the reversal of Arabisation, which was responsible for the decline of the Turkmen population in Kirkuk. This was seen in February 2011 when clashes erupted between these two factions due to problems over land tenure in the Bashir village of southern Kirkuk. In these clashes three members of the Awakening Council⁷² were killed while three other Arabs and four Turkmen were wounded.⁷³ The 2010

⁶⁸ Latif, Nizar and Phil Sands. 'Kirkuk Election Compromise Fails to End Arguments over City's Future.' *The National* [Online] Available from <http://www.thenational.ae/apps/pbcs.dll/article?AID=/20091115/FOREIGN/711149868/1002> [Accessed 25/11/09]

⁶⁹ Aljazeera News. 'Iraq MPs resolve poll law dispute.' *Aljazeera* [Online] Available from <http://english.aljazeera.net/news/middleeast/2009/12/200912619150643428.html> [Accessed 07/12/09]

⁷⁰ Lawrence, Quil. 'Poll Results in Kirkuk may Spur Census.' *National Public Radio* [Online] Available from <http://www.npr.org/templates/story/story.php?storyId=125318805> [Accessed 27/03/2010]

⁷¹ Visser, Reidar. 'The Uncertified Election Results: Allawi Comes Out on Top.' *Historiae.org* [Online] Available from <http://www.historiae.org/uncertified.asp> [Accessed 27/04/2010]

⁷² Also known as the Sahwa or Sons of Iraq. The Awakening Council is a Sunni Muslim force set up by the US to give disenfranchised Sunnis an option other than the anti-US groups and is used to maintain security in Sunni-majority areas.

⁷³ Zangana, Jamshid. 'Arab-Turkman skirmish over land in Kirkuk left three killed, seven wounded.' *AKnews* [Online] Available from <http://aknews.com/en/aknews/3/217454/> [Accessed 11/02/2011]

election results led to the battle over the future of Kirkuk becoming embroiled in the task of forming a government in Iraq, with the Kurds seeking guarantees over the future before joining any alliance and other parties in Kirkuk threatening to withdraw if a government was formed as a result of a deal made on Kirkuk.

The long awaited national census was planned for October 24, 2010. This caused problems, as despite the fact that elections had been held in March a government had still not been formed by the time the census was supposed to take place. The instability created due to the lack of a government, paired with the threat of the census led to an increase in ethnic tensions in Kirkuk. These ethnic tensions were highly evident in the political arena, with numerous accusations being directed at opposing ethnicities. One such accusation came from the speaker of the Kurdistan Parliament, Kamal Kirkuki, who claimed that 8520 new Arab families had settled in Kirkuk since the 2003-US-led invasion of Iraq, thus in his opinion continuing the Arabisation of Kirkuk. This charge was carried forth by the Kurdish newspaper *Rudaw*, who claimed that by October 2010, 14000 Arab families had been compensated to move back to their original area, yet had remained in Kirkuk. Kirkuk's Kurdish Governor at the time, Abdurrahman Mustafa, received criticism from other Kurdish officials for not evicting these Arab families, however Mustafa claimed that it was not within his power to do so and should instead be implemented by Kirkuk's Governorate Council and the Immigration Office. These accusations created tension between the Kurds and the Arabs, as well as amongst the various Kurdish officials themselves.⁷⁴

⁷⁴ Mahmoud, Nawzad. 'Kurds Say New Wave of Arabization Has Begun.' *Rudaw* [Online] Available from <http://www.rudaw.net/english/kurds/3243.html> [Accessed 25/10/2010]

Tensions were further increased when Kurdish security forces in Kirkuk claimed that large numbers of the incoming Arab settlers had links to terrorists. Brig. Gen. Sarhad Qadir, a high-ranking police official in Kirkuk, went further saying that the insurgents had connections with the officials inside the city. He claimed that he had to send his forces to a jewellery robbery, despite it happening 100m from a police station. He also questioned how the three cars of heavily armed men involved in this robbery made it through the checkpoints and into the city.⁷⁵ As result of these increasing tensions between the factions during this period of uncertainty, Kirkuk saw an increase in violence; including many kidnappings, assassinations and bombings.⁷⁶ Although there has steadily been a yearly decrease in violence over the entire of Iraq, and 2010 was no different, beginning in March there was a drastic increase in violence that continued until the census was postponed and a government was formed. During this time period Kirkuk was Iraq's fifth deadliest province. The unrest was clearly demonstrated through the direction of the violence, with security and political entities increasingly becoming targets. Therefore, although violence had continued to decrease in Kirkuk as a whole, the period from March to October, 2010 saw an increase in violence in comparison to rest of the year.⁷⁷ This increase in violence created a fear that tensions could increase and reach the stage of all-out ethnic

⁷⁵ Mahmoud, Nawzad. 'Kurd-Arab Tensions Are Running Higher After Recent Incidents in Kirkuk.' *Rudaw* [Online] Available from <http://www.rudaw.net/english/news/iraq/3269.html> [Accessed 04/11/2010]

⁷⁶ 'Head of KPC: Political scheme behind recent attack in Kirkuk.' *PUK Media* [Online] Available from http://www.pukmedia.com/english/index.php?option=com_content&view=article&id=5570:head-of-kpc-political-scheme-behind-recent-attack-in-kirkuk-&catid=29:kurdistan-region&Itemid=385 [Accessed 10/11/2010]

⁷⁷ Cordesman, Anthony. *Iraq: Patterns of Violence, Casualty Trends and Emerging Security Threats*. CSIS: Washington, 2011.

conflict, especially with the impending withdrawal of US troops.⁷⁸ Thus this period of uncertainty, and more importantly the issues that created this uncertainty has demonstrated the precarious nature of the political situation in Kirkuk and by extension the importance of resolving these issues before another period such as this emerges and possibly passes the threshold this time into all-out ethnic conflict.

Although, as part of Article 140, a census for Kirkuk was supposed to be carried out by the end of 2007, continual delays and two postponements led to an eventual date being set for the census of October 24, 2010. Due to a fear that this census would lead to Kurdish control of Kirkuk, Turkmen and Arabs threatened to boycott it, whereas the Kurds insisted that it must go ahead. The Iraqi Turkmen Front⁷⁹ stated that the census should not go ahead until the formation of a new government and the application of Article 23, relating to the distribution of administration positions, were completed.⁸⁰ On 4 October, the census was postponed until December 5, 2010. This was just another deferral to a census that was originally planned for 2007. According to the Deputy Planning Minister of Iraq, Mehdi al-Alak, the census was postponed in order to conclude some unresolved negotiations – mainly the control of land around the provinces of Kirkuk and Nineveh.⁸¹ As part of the discussions about the census, Ali Baban, Baghdad's Planning Minister, suggested the possibility of removing the question of ethnicity from the

⁷⁸ Gordon, Michael and Andrew Lehran. 'Tensions High Along Kurdish-Arab Line' *New York Times* [Online] Available from http://www.nytimes.com/2010/10/24/world/middleeast/24kurds.html?_r=1&ref=michael_r_gordon [Accessed 25/10/2010]

⁷⁹ Coalition of the majority of Turkmen parties in Iraq.

⁸⁰ Taha, Yaseen. 'Incensed over the Census.' *Niqash* [Online] Available from <http://www.niqash.org/content.php?contentTypeID=75&id=2752&lang=0> [Accessed 18/10/2010]

⁸¹ AFP. 'Iraq Postpones Nationwide Census Again.' *Kurd Net* [Online] Available from <http://www.ekurd.net/mismas/articles/misc2010/10/kirkuk629.htm> [Accessed 18/10/2010]

census. In response to this, Osman al-Senaïdi, Planning Minister for the KRG, said that if the question of ethnicity were removed from the census the KRG would not participate.⁸² However, the ethnicity question aside, the Federal Supreme Court ruled that the national census has no relationship to Article 140 and that Article 140 called for a separate census for the disputed territories, whereas this is a census for the whole of Iraq.⁸³ In late November, just a couple of weeks prior to when the census was supposed to take place, a committee was formed, which consisted of representatives from the disputed territories, to discuss the issues. This placed doubts as to whether the census would actually take place on December 5.⁸⁴ As was expected, the Council of Ministers postponed the General Census and stated that a new date would be decided in the future.⁸⁵ As the Federal Supreme Court had ruled that this census was not part of Article 140, it begs the question as to why the census was postponed due to issues with the disputed territories. Following the postponement, it was said that the census would go ahead on 20 December 2010, however this date was not released officially. Inevitably, with such a tight time frame, this date was not upheld and a new date for the census was not released.⁸⁶ This delay was partly caused by al-Iraqiya not attending the meetings of the Special Actions Committee, whose objective it

⁸² Riani, Gala. 'Kurds Threaten to Boycott Postponed Iraqi Census of Ethnicity Clause.' *Global Insight* [Online] Available from <http://www.lexisnexis.com/uk/nexis/docview/getDocForCuiReq?lni=5191-1VH1-JCBD-K12T&csi=250053&oc=00240&perma=true> [Accessed 21/10/2010]

⁸³ Visser, Reidar. 'The Kirkuk/Census Ruling of the Federal Supreme Court.' *Iraq and Gulf Analysis* [Online] Available from <http://gulfanalysis.wordpress.com/2010/10/26/the-kirkukcensus-ruling-of-the-federal-supreme-court/> [Accessed 26/10/2010]

⁸⁴ 'Special committees formed to settle issues related to Iraq's General Census.' *Aswat al-Iraq* [Online] Available from <http://en.aswataliraq.info/?p=139112> [Accessed 23/11/2010]

⁸⁵ 'Council of Ministers decides to postpone General Census.' *Aswat al-Iraq* [Online] Available from <http://en.aswataliraq.info/?p=139360> [Accessed 30/11/2010]

⁸⁶ Ahmed, Hevidar. 'Iraqi census to be held on Dec. 20, after four postponements.' *AKnews* [Online] Available from <http://aknews.com/en/aknews/4/200267/> [Accessed 06/12/2010]

was to examine the issues relating to the census in the disputed territories.⁸⁷ As demonstrated, the threat of an impending census contributed to the creation of a period of uncertainty, which helped increase ethnic tensions in Kirkuk. However, the census itself also created ethnic tensions as the Arabs and Turkmen were against it, for fears that it would lead to the eventual annexation of Kirkuk to the KRG, whilst the Kurds continually demanded its implementation as part of Article 140.

1.6. Formation of Government following 2010 elections

The March 2010 national elections saw al-Iraqiya winning just two more seats than the coalition led by Maliki, State of Law, which put the Kurds in a strong position as these two parties were aiming to win power in a coalition government. For this reason the Kurds released a document containing nineteen conditions that would need to be agreed to in order for them to join any coalition. These conditions included the implementation of Article 140.⁸⁸ As a result of this, Arab and Turkmen parties (Arab Political Council and Turkmen blocs) in Kirkuk threatened to cease their support for the al-Iraqiya coalition unless it made its stance on the Kurdish demands clear. They also stated that they would not support any government that was made over a deal regarding Kirkuk.⁸⁹ After weeks of intensive negotiations by all parties

⁸⁷ '1st General Census meeting in Kirkuk with absence of al-Iraqiya.' *Aswat al-Iraq* [Online] Available from <http://en.aswataliraq.info/?p=139732> [Accessed 13/12/2010]

⁸⁸ 'Kurdistan Alliance and Formation of New Iraqi Government.' *Kurdish Region Presidency* [Online] Available from <http://krp.org/eng/articles/display.aspx?gid=1&id=23736> [Accessed 24/10/2010]

⁸⁹ Abdulla, Namu. 'Arabs and Turcomans Speak out Against Kurdish Demands in Kirkuk.' *Rudaw* [Online] Available from <http://www.rudaw.net/english/news/iraq/3226.html> [Accessed 18/10/2010]

under the Barzani Initiative⁹⁰, and several months after the election in March, an agreement was reached on a new joint power sharing government on 11 November 2010. This deal saw Maliki remain as prime minister, Talabani remain as president, Osama al-Nujaifi (al-Iraqiya) elected as speaker of the parliament and also included the creation of a new strategic council to act as a check on the prime minister's power, which would be chaired by Allawi.⁹¹ The Kirkuk question played a central role in the formation of this new government and as part of this deal the KBC and the National coalition signed an agreement stating that Maliki would implement Article 140 in a two-year time period. The Kurds insisted that this be installed as a condition for them joining the coalition, however Maliki had previously signed an agreement with the Kurds to implement Article 140, which was never upheld.⁹²

The new Article 140 Committee instantaneously ran into problems as Narmin Othman, the Deputy Head of the committee, claimed that they had requested 700 billion Iraqi Dinars (IQD) to be allocated for reimbursing the displaced people to move back to their area of origin, but was only allocated two billion IQD for this purpose. She stated that this was a deliberate ploy to postpone the implementation of Article 140 and that she did not expect the article to be fulfilled in the two years that forecasted.⁹³ Therefore, although the Kurds were in a strong position leading up to the formation of the government, it seems that they have found themselves in the same place as before, where

⁹⁰ This was a series of meetings, organised by the KRG President, for all the parties to negotiate towards the creation of a new coalition government.

⁹¹ 'Power sharing deal reached in Iraq.' *Al Jazeera* [Online] Available from <http://english.aljazeera.net/news/middleeast/2010/11/201011119329394717.html> [Accessed 11/11/2010]

⁹² Ali, Saman. 'Maliki signed to implement article 140 in two years.' *AK News* [Online] Available from <http://aknews.com/en/aknews/4/204359/> [Accessed 21/12/2010]

⁹³ Ahmed, Hevidar. 'Neighbors' interference greatest impediment for enforcing article 140, says official.' *AKnews* [Online] Available from <http://aknews.com/en/aknews/4/214014/> [Accessed 28/01/2011]

the completion of Article 140 is promised, but unlikely to happen. This is even more unlikely due to the strength that al-Iraqiya, who oppose Article 140, has in Kirkuk and Baghdad. This reiterates the problem Article 140 poses to Kirkuk; rather than being a solution to ethnic tension, it creates more of an ethnic struggle.

1.7. Tigris Tensions and the Repercussions for Iraqi Politics

In May 2012 Maliki ordered the dissolving of the Diyala Operations Command⁹⁴ and for the creation of the Dijla Operations Command (Tigris Operation), which links the Iraqi army's fourth, fifth and 12th divisions. He claimed it was created to secure the provinces of Diyala, Salahaddin and Kirkuk. Maliki – without the agreement of parliament – appointed a senior member of his own party, Abdul Amir al-Zaidi, as commander of this force, which only further intensified the Kurds and Sunni's fear that he was trying to increase his power over Iraq and form a dictatorship. Abdul Amir al-Zaidi, is seen as very hostile to the implementation of Article 140; has a history of antagonism with the *peshmerga*⁹⁵ and security forces of Kirkuk; and was a high-ranking Shiite member of the military under the Ba'ath regime.⁹⁶ Furthermore, the Kurds claim that he played a role in the Anfal campaign against them in the late 1980s.⁹⁷ Salah Dalo, Head of KDP Kirkuk and Garmiyah Leadership Council states: 'The commander was involved in the

⁹⁴ The military command in charge of security of Diyala province.

⁹⁵ KRG's official army.

⁹⁶ 'Paper Views Kurdish 'Fears' Over Operations Command in Eastern Iraq.' *BBC Worldwide Monitoring* [Online] Available from <http://www.accessmylibrary.com/article-1G1-298383721/paper-views-kurdish-fears.html> [Accessed 17/01/2013]

⁹⁷ This was voiced to the author in an interview conducted with Fatih Muhammed Ameen, Member of KDP's Kirkuk-Garmiyah leadership Council, Kirkuk – 06/06/13 and in: 'Iraq: Kurds, Baghdad Circle Warily Around Kirkuk, Oil and All.' *Energy Compass*. [Online] Available from <http://www.energyintel.com/Pages/ArticleSummary/788382/Iraq--Kurds--Baghdad-Circle-Warily-Around-Kirkuk--Oil-and-All--> [Accessed 16/01/2013]

Anfal campaigns against the Kurds', which strengthens their belief that Maliki is getting ready to take not only Kirkuk, but also Iraq, by force.⁹⁸ In September the Kurdish parties agreed to object to the creation of the Dijla Operation, stating that it was unconstitutional as the constitution stipulates that the security of the disputed territories should be jointly managed by the KRG and Baghdad until Article 140 is implemented. Kirkuk's provincial council also reached an agreement to oppose the Dijla Operation on the same grounds.⁹⁹ The President of Iraq, Jalal Talabani claimed that Maliki had no right to form this operation as 'the emergency is imposed with the approval of the President and the Premier' and he, as president, did not approve it.¹⁰⁰ Whereas Baghdad claimed that it was necessary in order to combat terrorism and thus placed the Dijla Command as overseers of the police and security forces, which are dominated by the Kurds.¹⁰¹ Consequently, the Kurds believe that Maliki is using the army to strengthen his hold over Iraq. Salah Dalo, illustrates this by stating that:

The Iraqi army must be for everyone not just for Maliki – Iraq is returning to a dictatorship. Kirkuk security system belongs to Maliki, not like in other cities where all the agencies belong to the governor and are under his control. Kirkuk cannot be different from the other cities. In Kirkuk, before this, all

⁹⁸ Interview, conducted by the author, with Salah Dalo, Head of KDP Kirkuk and Garmiyān Leadership Council, Kirkuk KDP Head Office, 17/04/2013

⁹⁹ 'Kurdistan Political Blocs Reject Formation of Dejlā Operations Command.' *Aswat al-Iraq* [Online] Available from [http://en.aswataliraq.info/\(S\(dde2p1mmp3ttv3b0t4tgbc45\)\)/Default1.aspx?page=article_page&id=150400&l=1](http://en.aswataliraq.info/(S(dde2p1mmp3ttv3b0t4tgbc45))/Default1.aspx?page=article_page&id=150400&l=1) [Accessed 17/01/2013]

¹⁰⁰ 'Maliki Overrides His Jurisdictions in Kirkuk Case, President Talabani.' *Aswat al-Iraq* [Online] Available from [http://en.aswataliraq.info/\(S\(supkhj55ieefj023xqc1wr55\)\)/Default1.aspx?page=article_page&id=151595&l=1](http://en.aswataliraq.info/(S(supkhj55ieefj023xqc1wr55))/Default1.aspx?page=article_page&id=151595&l=1) [Accessed 16/01/2013]

¹⁰¹ 'Iraq: Kurds, Baghdad Circle Warily Around Kirkuk, Oil and All.' *Energy Compass*. [Online] Available from <http://www.energyintel.com/Pages/ArticleSummary/788382/Iraq--Kurds--Baghdad-Circle-Warily-Around-Kirkuk--Oil-and-All--> [Accessed: 16/01/2013]

nations ran security, even the Christians, but the Arabs want to go back to the time of Saddam where they controlled everything.¹⁰²

As a direct result of the creation of the Dija Operation and the increase in Iraqi forces in Kirkuk, the KRG leadership created a joint command for the Kurdish *peshmerga*, security and police forces in Kirkuk.¹⁰³ Following this, in November 2012 both Kurdish and Iraqi forces amassed in and around Kirkuk, with just 15km separating the two armies. In Kirkuk city, the governor acted to maintain control of the city by setting up checkpoints to prevent the army from entering the city and by ordering the directors of the police not to obey orders from Baghdad. 'We ensured the police did not obey the order that everything would come under military control. The Iraqi army knew if they entered there would be a confrontation.'¹⁰⁴ The military flexing between the two governments has had a direct result on the people of Kirkuk, as with fear of an outbreak of civil war in Kirkuk many foreign businesses suspended their operations in Kirkuk. As seen before, with regards to negotiations on Kirkuk, the actions of the KRG and Baghdad, although taken without consultation with the people of Kirkuk, have greatly affected the Kirkuki population and once again fears of open military confrontation were heightened.¹⁰⁵

With the amassing of both Kurdish and Maliki-controlled troops in Kirkuk, tensions were high and finally erupted in November 2012 when a gun battle

¹⁰² Interview, conducted by the author, with Salah Dalo, Head of KDP Kirkuk and Garmiyan Leadership Council, Kirkuk KDP Head Office, 17/04/2013

¹⁰³ 'Iraqi Kurds to Set up Own Military Command in Disputed Kirkuk - Paper.' *BBC Worldwide Monitoring* [Online] Available from <http://www.accessmylibrary.com/article-1G1-308411917/iraqi-kurds-set-up.html> [Accessed 17/01/2013]

¹⁰⁴ Fordham, Alice. 'Rifts in Kirkuk as Deep as its Oil Wells.' *The National* [Online] Available from <http://www.thenational.ae/news/world/middle-east/rifts-in-kirkuk-are-as-deep-as-its-oil-wells> [Accessed 09/04/2013]

¹⁰⁵ Hynd, Steve 'Iraq Heading for a New Eruption?' *The Agonist* [Online] Available from <http://agonist.org/iraq-heading-for-a-new-eruption/> [Accessed 16/01/2013]

ensued between the Kurdish *peshmerga* and the police. According to the commander of the Dijla Operations, Lt. Gen. al-Zaidi, the police were chasing a smuggler who took refuge in a PUK office and when the police tried to break in those guarding the office fired upon them and as a result one person was killed and several were injured.¹⁰⁶ Following this incident the KRG President, Massoud Barzani, issued a statement ordering *peshmerga* forces 'to exercise restraint in the face of provocations, but also to be in the highest state of readiness to face any aggressive acts.' As a result Baghdad moved more troops into the area and Maliki warned the *peshmerga* not to change positions or to approach the federal forces.¹⁰⁷ The animosity between the KRG and Baghdad continued with numerous negative statements from both sides about the other. In one such statement Qubad Talabani, the KRG Washington representative at the time and son of Jalal Talabani, said: 'Why be part of a country that a) cuts your budget, b) constantly undermines the constitution and c) then attacks you'.¹⁰⁸ Whilst Baghdad highlighted that if Exxon, which had received oil rights from the KRG, drilled for oil in the disputed areas it would be seen as a declaration of war.¹⁰⁹ Additionally, in an interview about the creation of the Dijla operations, Massoud Barzani had the following to say:

¹⁰⁶ Salaheddin, Sinan. 'Iraqi Police Clash with Kurdish Guards, 1 Dead' *Associated Press* [Online] Available from <http://news.yahoo.com/iraqi-police-clash-kurdish-guards-1-dead-172508577.html> [Accessed 16/01/2013]

¹⁰⁷ Junnola, Jill 'Iraq: Kurds, Baghdad Circle Warily Around Kirkuk, Oil and All.' *Energy Compass* [Online] Available from <http://www.energyintel.com/Pages/Login.aspx?fid=art&DocId=788382> [Accessed 16/01/2013]

¹⁰⁸ 'Junior Talabani Says any Attack on Iraqi Kurds Would Justify Independence.' *Today's Zaman* [Online] Available from <http://www.todayzaman.com/news-299076-junior-talabani-says-any-attack-on-iraqi-kurds-would-justify-independence.html> [Accessed 16/01/2013]

¹⁰⁹ Van Heuvelen, Ben. 'In Iraq, Exxon Oil Deal Fosters Talk of Civil War.' *Washington Post* [Online] Available from http://articles.washingtonpost.com/2012-12-18/world/35887389_1_kurdistan-pesh-merga-land-and-oil [Accessed 16/01/2013]

The escalation to begin with started by the Federal Government and from the prime minister's office and actually neither the cabinet or House of Representatives know. Essentially, the formation of the operations commands should be carried out with the approval of the parliament. The whole thing is essentially unconstitutional. Building the army in this way is unconstitutional because now it is not Iraq's army but the army of one person.¹¹⁰

Many of the political actors on the ground in Kirkuk called for the return of US troops in order to ease and monitor the situation. However, when US Vice-President, Joe Biden offered to send troops, Maliki rejected the offer outright.¹¹¹ The situation between the KRG and Baghdad also raised concerns from its neighbours, with Turkey's Prime Minister, Recep Tayyip Erdogan, stating that 'We always had concerns that, God forbid, this [conflict] might turn into a sectarian clash. Now our fears are slowly becoming real'.¹¹² The relationship between the KRG and Turkey has strengthened, whilst the relationship between Turkey and Baghdad has soured; Maliki sees Turkey as pursuing hostile policies in the region and interfering with Iraqi affairs. A major cause of Maliki's discontent was the unauthorised visit to Kirkuk by Turkish Foreign Minister, Ahmet Davutoglu in August 2012, which was facilitated by the KRG.¹¹³ Baghdad also expelled Turkey's state owned oil company from

¹¹⁰ 'Iraq Kurdish President Interviewed on Tigris Operations Command, Al-Maliki Rift.' *BBC Monitoring Middle East* [Online] Available from <http://www.accessmylibrary.com/article-1G1-311147376/iraq-kurdish-president-interviewed.html> [Accessed 16/01/2013]

¹¹¹ 'Iraqi MPs Warn US to Drop Plan for Meddling in Kurdistan Region.' *FARS News Agency* [Online] Available from <http://english.farsnews.com/newstext.php?nn=9107125983> [Accessed 16/01/2013]

¹¹² Albayrak, Aydin. 'Strife-Torn Iraq Risks Heading to Civil War.' *Today's Zaman* [Online] Available from http://www.todayszaman.com/newsDetail_getNewsById.action?newsId=299210 [Accessed 16/01/2013]

¹¹³ Donat, Gözde Nur. 'For Turkey-Iraq Tensions, Look to Maliki Sectarianism.' *Today's Zaman* [Online] Available from http://www.todayszaman.com/newsDetail_getNewsById.action?newsId=300581 [Accessed 16/01/2013]

Iraq and denied landing permission, in Erbil, for Turkey's Energy Minister.¹¹⁴ Still tensions remained high between the KRG and Baghdad and this was exacerbated by Barzani's visit to Kirkuk where he stated that: '[Kurds] are against the war and we do not like war, but if things come to war, then all Kurdish people are ready to fight in order to preserve the Kurdish identity of Kirkuk.'¹¹⁵

The situation in Kirkuk seemed to be improving by December 2012 when Baghdad and the KRG reached a preliminary agreement to let the inhabitants of the disputed areas oversee their own security and thus replace Kurdish and Iraqi forces. The implementation of this is another matter as it would take a great deal of time to realise and would be an extremely difficult task with no actual agreement on the future of the disputed territories in place.¹¹⁶ However, despite this agreement, which was brokered by Talabani and involved the committee created to try and solve the issue, Kurdish forces shot at an Iraqi military helicopter on 12 December 2012, which they claimed was taking pictures of the position of their forces.¹¹⁷ Fears of conflict further increased when Talabani suffered a stroke later in December, as he is seen as the calming force and mediator between Barzani and Maliki.¹¹⁸ With

¹¹⁴ 'Iraq, Kurds, Turks and Oil.' *The Economist* [Online] Available from <http://www.economist.com/news/middle-east-and-africa/21568760-governments-turkey-iraq-and-iraqi-kurdistan-play-dangerous-game> [Accessed 16/01/2013]

¹¹⁵ 'Iraq's Barzani Says Kurds Ready to Fight Over Disputed City.' *Today's Zaman* [Online] Available from <http://www.todayszaman.com/news-300806-iraqs-barzani-says-kurds-ready-to-fight-over-disputed-city.html> [Accessed 16/01/2013]

¹¹⁶ 'Local Forces to Protect Iraq's Disputed Areas.' *Today's Zaman* [Online] Available from <http://www.todayszaman.com/news-300438-local-forces-to-protect-iraqs-disputed-areas.html> [Accessed 16/01/2013]

¹¹⁷ Ditz, Jason. 'Kurdish Troops Fire on Iraqi Military Helicopter as Tensions Soar.' *Antiwar.com* [Online] Available from <http://news.antiwar.com/2012/12/18/kurdish-troops-fire-on-iraqi-military-helicopter-as-tensions-soar/> [Accessed 16/01/2013]

¹¹⁸ Donat, Gözde Nur. 'Talabani's Departure from Iraqi Politics Source of Concern for Ankara.' *Today's Zaman* [Online] Available from http://www.todayszaman.com/newsDetail_getNewsById.action?newsId=301625 [Accessed 16/01/2013]

Talabani in hospital negotiations stopped, however in late December ministers from both sides did attend the meetings of the committee responsible for ending the issue of security in the disputed territories.¹¹⁹ In January the ethnic violence in Kirkuk had increased with a number of attacks on Kurds and Turkmen. A suicide bomber blew himself up outside the offices of Kurdistan Democratic Party in Kirkuk, whilst a car bomb exploded close by killing two people. In Tuz Khurmatu, another car bomb went off at the local headquarters of the Kurdish security forces, killing five people.¹²⁰ Many blamed the increase in violence in Kirkuk on the Dijla Operations, including the Spokesperson for the KDP Asayesh¹²¹, Lieutenant Colonel Azad:

in Kirkuk, after the creation of the Dijla Command Operations all the terrorist activities inside Kirkuk city, bombs, roadside bombs, car bombs, suicide attacks, etc., increased. Not just in Kirkuk, also in Diyala and Tikrit, which also belong to the Dijla Operation Command.¹²²

The sectarian violence in the disputed territories escalated even further when a suicide bomber blew up a tent of Turkmen mourners in Tuz Khurmatu, which was previously part of Kirkuk province, leaving 35 people dead and 117 injured. As the deceased was a civil servant many Turkmen politicians were present at his funeral. Following the incident, Faid Alla, a tribal leader, demanded that there be international forces to secure the Turkmen and their areas.¹²³ In another incident suicide bombers killed at least 16 people, in the beginning of February 2013, outside the police headquarters in Kirkuk when a

¹¹⁹ 'Iraqi, Kurdistan Region Ministers Discuss Military Tensions in Disputed Kirkuk.' *BBC Worldwide Monitoring* [Online] Available from Nexis UK [Accessed 16/01/2013]

¹²⁰ 'UAE Paper Says Iraqi Premier Needs to Restart 'Active Dialogue' for Credibility.' *BBC Worldwide Monitoring*. [Online] Available from Nexis UK [Accessed 04/04/2013]

¹²¹ Kurdish secret police of which both the KDP and the PUK have their own branches.

¹²² Interview, conducted by the author, with Lieutenant Colonel Azad, Spokesperson for the KDP Asayesh, KDP Asayesh headquarters, Kirkuk - 06/06/2013

¹²³ Adnan, Duraid. 'Bombing at a Funeral in Northern Iraq Kills at Least 35.' *New York Times* [Online] Available from http://www.nytimes.com/2013/01/24/world/middleeast/funeral-bombing-in-northern-iraq-kills-at-least-35-mourners.html?_r=0 [Accessed 04/04/2013]

vehicle made to resemble a police car exploded outside the entrance whilst two gunmen dressed as police and wearing suicide vests tried to shoot their way into the building, but were killed before they had the chance. Amongst the many injured was Kirkuk police chief, Sarhan Qader.¹²⁴

Moreover, it is not just the Kurds who are unhappy with Maliki, with the creation of the Dijla operations being part of the wider discontent over Maliki's governance and the lack of power sharing. This discontent led to widespread protests from Sunnis across Iraq, particularly in Anbar, Salahaddin, Nineveh, Diyala and Kirkuk.¹²⁵ Both Kurdish and Sunni politicians boycotted cabinet meetings to show support for the protestors.¹²⁶ Protests continued throughout Iraq with the Sadr movement¹²⁷, the Kurdish parties and Iraqiya making statements against Maliki and what they see as his authoritarian government. Part of this issue is related to the arrest of nine guards, under alleged terrorism charges, belonging to the finance minister, Rafa al-Essawi, who is a leading member of the Iraqiya bloc.¹²⁸ As a result of the ongoing sectarian tensions and the continued protests against the government the Iraqiya bloc persisted with its boycott of cabinet meetings.¹²⁹ At the same time, Kurdistan

¹²⁴ Cockburn, Patrick. 'Suicide Bombing Attack that Kills at Least 16 Show Al-Qa'ida Retains its Influence in Iraq.' *Independent* [Online] Available from <http://www.independent.co.uk/news/world/middle-east/suicide-bombing-attack-that-kills-at-least-16-show-alqaida-retains-its-influence-in-iraq-8478928.html> [Accessed 04/04/2013]

¹²⁵ 'Al-Jazeera reports Iraqi anti-government protests, interviews figures.' *BBC Worldwide Monitoring* [Online] Available from Nexis UK [Accessed 14/01/2013]

¹²⁶ Markey, Patrick and Aseel Kami. 'Iraqi Sunnis, Kurds Boycott Cabinet to Back Protests.' *Reuters* [Online] Available from <http://www.reuters.com/article/2013/01/08/us-iraq-protests-idUSBRE9070C520130108> [Accessed 14/01/2013]

¹²⁷ Although the Sadr Movement are often aligned with Maliki, they like to show him every now and again that he needs them and that they are not his puppets. Their support of protests did not however stop them from taking up ministries once Iraqiya had resigned them.

¹²⁸ Faraj, Salam and Nafia Abduljabbar. 'Thousands of Iraq Sunnis in Angry Anti-Maliki Demos.' *Agence France Presse* [Online] Available from <http://www.google.com/hostednews/afp/article/ALeqM5iC6PH8x0Lg-6C3Nh-anF1J9ziDmA?docId=CNG.9d36224e03ae62477c2afb79750fa44c.41> [Accessed 14/01.2013]

¹²⁹ 'Iraqiya Bloc Ministers Boycott Cabinet Meeting for Consecutive 3 Weeks.' *Aswat al-Iraq* [Online] Available from

Alliance (KA) MP, Mahmoud Othman, claimed that the boycott by Iraqiya MPs resulted in a negative affect on the council and made it unable to resolve the current issues. He thus opined that the UN should act as mediator to the current crisis as Iraq is still under Chapter VII¹³⁰ and under the domination of the Security Council and the United Nations.¹³¹ As the protests against the government continued throughout Iraq in January 2013, many of Kirkuk's Arab MPs put their resignation in the hands of the leaders of Iraqiya calling for the government to meet the demands of the protestors.¹³² The mounting tensions within Iraq in the beginning of 2013 led to sectarian violence between Sunni and Shiites across the country and a very real threat of civil war. Ethnic tensions in Iraq were further exacerbated on 25 January 2013 when Iraqi troops opened fire on Sunni protesters in Falluja killing at least seven civilians and injuring many more. Later the following day two soldiers were killed and one was injured at a checkpoint in an act of retaliation. Following the death of the protestors Jaber al-Jaberi, a member of the Iraqiya bloc, stated that Iraqiya had 'decided to stop all negotiations with the Maliki government' and that they wanted the Shiite bloc to present a new candidate

[http://en.aswataliraq.info/\(S\(c4pdnzepjymanrqwhgo2tl45\)\)/Default1.aspx?page=article_page&id=152236&l=1](http://en.aswataliraq.info/(S(c4pdnzepjymanrqwhgo2tl45))/Default1.aspx?page=article_page&id=152236&l=1) [Accessed 04/04/2013]

¹³⁰ Chapter VII of the UN Charter refers to 'Action with Respect to Threats to the Peace, Breaches of The Peace, and Acts of Aggression'. The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and decide what measures to be employed to give effect to its decisions. See: United Nations. *Charter of the United Nations* [Online] Available from

<http://www.un.org/en/documents/charter/chapter7.shtml> [Accessed 01/02/2013]

¹³¹ 'Mahmoud Othman: UN Mission will Mediate to Solve Political Problems.' *National Iraqi News Agency* [Online] Available from

http://www.ninanews.com/english/News_Details.asp?ar95_VQ=GFKGIL [Accessed 04/04/2013]

¹³² 'Kirkuk's Arab MPs: Our Resignations Within the Hands of the Iraqiya Leaders.' *National Iraqi News Agency* [Online] Available from

http://www.ninanews.com/english/News_Details.asp?ar95_VQ=GGDFED [Accessed 08/04/2013]

for prime minister.¹³³ In light of the escalation of ethnic tension and violence both politically and on the ground, the UN Special Envoy to Iraq, Martin Kobler, called for the Iraqi leadership 'to take all necessary steps that are required to deal with this alarming situation, particularly in Kirkuk, the symbol of peaceful coexistence in Iraq.'¹³⁴ The Iraqiya Minister for Agriculture, Izzedine al-Dawla, resigned from the government following the death of a protestor in Mosul after the security forces yet again opened fire on protestors.¹³⁵ Whilst the Kurds were also making threats against the government with KA member, Adel Berwari, claiming that they could withdraw Kurdish ministers from the government and declare the independence of Kurdistan economically if the federal government continued to refuse to pay the dues of the oil companies operating in the KRG.¹³⁶ This followed the ratifying of the 2013 budget on 7 March 2013, which was done in the absence of those parties that were boycotting the parliament, including the Kurds. As a result of this the Kurdish parties continued to boycott the parliament and as voiced by Berwari, threatened to withdraw completely. Although this would not necessarily lead to the toppling of Maliki's government as members of the Sadrist Movement replaced those Iraqiya politicians who resigned.¹³⁷ In what

¹³³ Adnan, Duran. 'Deadly Turn in Protests Against Iraqi Leadership' *New York Times* [Online] Available from http://www.nytimes.com/2013/01/26/world/middleeast/clashes-turn-deadly-after-iraqi-forces-open-fire-on-protesters.html?_r=0 [Accessed 22/04/2013]

¹³⁴ 'U.N. Calls Iraqi Leaders to Task.' *United Press International* [Online] Available from http://www.upi.com/Top_News/Special/2013/02/04/UN-calls-iraqi-leaders-to-task/UPI-66521359993517/ [Accessed 08/04/2013]

¹³⁵ 'Iraqi Agriculture Minister Resigns to Protest Against Police Violence.' *Xinhua General News Service* [Online] Available from http://www.china.org.cn/world/Off_the_Wire/2013-03/09/content_28180927.htm [Accessed 09/04/2013]

¹³⁶ 'Kurds: Withdraw Ministers and Economic Independence Among the Options.' *National Iraqi News Agency* [Online] Available from http://www.ninanews.com/english/News_Details.asp?ar95_VQ=GGJFGL [Accessed 09/04/2013]

¹³⁷ Barznjy, Hiwa. 'Stay or go? Iraq's Kurdish MPs debate leaving government again.' *Niqash* [Online] Available from <http://www.niqash.org/articles/?id=3196> [Accessed 25/04/2013]

seemed to be a response to the government's handling of the protests Shiites were increasingly targeted by terrorist attacks, with Friday prayers in particular being targeted. On Friday 29 March car bombs hit several Shiite mosques in Baghdad and Kirkuk, with 23 people being killed and dozens being injured.¹³⁸ All the sectarian violence led to March 2013 being a bloody month – even by Iraqi standards – with the violence leading to the death of 229 civilians, whilst 853 were injured.¹³⁹

The sectarian violence only increased prior to the elections and on April 15 there was a coordinated bombing campaign throughout Iraq, with only the far south and the KRG being spared. These attacks resulted in the death of at least 75 and a further 356 were injured. In Kirkuk all neighbourhoods were targeted and 9 people died, whilst 79 were injured.¹⁴⁰ A protestor was killed and several were injured when the army, under the Dijla Command, opened fire on the Sunni protest against Maliki in the Hawija district of Kirkuk.¹⁴¹ On 23 April the army, under the Dijla Command, raided the Hawija protest claiming that they were looking for wanted suspects and clashes between the protestors and the army ensued. In the resulting violence at least 28 people were killed and more than 70 were injured. This act of violence was largely condemned by the Sunni bloc, as well as by the

¹³⁸ Salaheddin, Sinan. 'Bombings Kill 23, Wound Dozens in Iraq.' *Inquirer News* [Online] Available from <http://newsinfo.inquirer.net/381727/bombings-kill-23-wound-dozens-in-iraq> [Accessed 11/04/2013]

¹³⁹ 'Report: 229 Iraqi Civilian Deaths in March.' *United Press International* [Online] Available from http://www.upi.com/Top_News/World-News/2013/04/09/Report-229-Iraqi-civilian-deaths-in-March/UPI-36931365507553/ [Accessed 09/05/2013]

¹⁴⁰ Griffis, Margaret. 'Iraq's Bloody Monday: 75 Killed, 356 Wounded.' *Antiwar.com* [Online] Available from <http://original.antiwar.com/updates/2013/04/15/iraqs-bloody-monday-75-killed-356-wounded/> [Accessed 10/05/2013]

¹⁴¹ 'A Protester Killed by Army in Hawija.' *National Iraqi News Agency* [Online] Available from http://www.ninanews.com/english/News_Details.asp?ar95_VQ=GHGILD [Accessed: 10/05/2013]

Sadrists and the Kurds.¹⁴² With tensions between Sunnis and Shiites already at a high level, the strain created by another incident where protestors were killed left the whole country fearing that Iraq was on the brink of civil war. This fear only intensified with the events following the incident; where 13 gunmen were killed whilst trying to take over government posts, protestors in Fallujah took to the streets shouting for war and later clashed with the security forces. As well as these Sunni retaliations, there seemed to be Shiite reaction too, with many Sunni mosques targeted by snipers and bombs leading to the death of tens of Sunni worshipers.¹⁴³ The handling of the protests in Hawija led to a fresh round of criticisms of Maliki's government by Sunnis, Sadrists and the Kurds.¹⁴⁴ It also resulted in the resignation of three Sunni ministers – with the Minister of Industry and Minerals, Ahmed al-Karbuly; the Minister of Education, Mohammed Tamim; and the Minister of Science, Abdul Karim al-Sumarai, all resigning.¹⁴⁵ This makes the total of five Sunni ministers quitting the government with the Agriculture Minister, Ezzedine al-Dawleh, and the Finance Minister, Rafa al-Essawi, having already quit.¹⁴⁶ After two days of violence relating to the attack of the Hawija protest, 128 people had died and 269 were injured. Part of this surge in violence saw gunmen take complete control of the town of Sulaiman Bek (which is administratively linked to Tuz

¹⁴² Tawfeeq, Mohammed & Saad Abedine. 'Clash at Sunni Protest in Iraq Leaves Dead and Wounded.' *CNN* [Online] Available from <http://edition.cnn.com/2013/04/23/world/meast/iraq-violence> [Accessed 10/05/2013]

¹⁴³ Schreck, Adam. 'Iraq on Edge After Deadly Raid on Protest Camp.' *Associated Press* [Online] Available from <http://news.yahoo.com/iraq-edge-deadly-raid-protest-camp-195825182.html> [Accessed 10/05/2013]

¹⁴⁴ 'Sadrist MP Criticizes the way of Storming Hawija Sit-in Square.' *National Iraqi News Agency* [Online] Available from http://www.ninanews.com/english/News_Details.asp?ar95_VQ=GHHGFJ [Accessed 10/05/2013]

¹⁴⁵ 'Report: Iraqi Sunni Minister Resigns in Protest of Deadly Crackdown.' *Deutsche Presse-Agentur* [Online] Available from Nexis UK [Accessed 10/05/2013]

¹⁴⁶ Ibrahim, Marwan. 'Protest-Related Violence Kills 54 in Iraq.' *Agence France Presse* [Online] Available from http://www.google.com/hostednews/afp/article/ALeqM5hkBXOpfsOg-o_42-50OmRjyf2X_g [Accessed 10/05/2013]

Khurmatu) in Salahaddin Province.¹⁴⁷ After days of controlling the town the gunmen left after mediation with tribal leaders and the governor of Salahaddin.¹⁴⁸ At this point even Maliki seemed willing to admit that Iraq was on the brink of civil war in his address to the nation: 'If (sectarian) conflict erupts, there will be no winner or loser. All will lose, whether in southern or northern or western or eastern Iraq.'¹⁴⁹ However, the unrest did not abate and continued for the third day following the protests. Gunmen seized parts of Mosul on 24 April 2013 and in the resulting battle at least 15 police and 31 militants were killed.¹⁵⁰ In the wake of the troubles the resigning Minister of Science, al-Sumarai, called for the resignation of Maliki: 'One of the solutions is the resignation of the prime minister and for him to leave the government to another who can run it temporarily. Otherwise, the options for Iraq are only dangerous ones.'¹⁵¹ As the violence entered its fourth day, more than 200 people had been killed and it was not helped by clerics such as Sheikh Hamed al-Kubaisi urging each Sunni tribe to give 100 men for the creation of a Sunni army.¹⁵² If one is to believe that Iraq has entered a civil war, the

¹⁴⁷ Dunlop, W.G. 'Gunmen Seize Iraq Town as Violence Kills 128.' *Agence France Presse* [Online] Available from <http://www.google.com/hostednews/afp/article/ALeqM5jjQq6NWJazssNweAfV2-PIYbdaMA?docId=CNG.a3421d66169debccde17d05fb64a9837.3d1> [Accessed 10/05/2013]

¹⁴⁸ 'Army Enters Suleiman Bey Town, Gunmen Withdrew.' *Aswat al-Iraq* [Online] Available from [http://en.aswataliraq.info/\(S\(kpw0quj4hth2bg55mzmmom55\)\)/Default.aspx?page=article_page&c=slideshow&id=153136](http://en.aswataliraq.info/(S(kpw0quj4hth2bg55mzmmom55))/Default.aspx?page=article_page&c=slideshow&id=153136) [Accessed 10/05/2013]

¹⁴⁹ Salaheddin, Sinan. 'Gunmen Seize Sunni Town in Central Iraq.' *Associated Press* [Online] Available from <http://news.yahoo.com/gunmen-seize-sunni-town-central-iraq-115957828.html> [Accessed 10/05/2013]

¹⁵⁰ Al-Salhy, Suadad. 'Nearly 50 Killed as Sectarian Violence Flares in Iraq.' *Reuters* [Online] Available from <http://www.reuters.com/article/2013/04/25/us-iraq-violence-idUSBRE93N11M20130425> [Accessed 10/05/2013]

¹⁵¹ Salaheddin, Sinan. 'Gunmen Seize Sunni Town in Central Iraq.' *Associated Press* [Online] Available from <http://news.yahoo.com/gunmen-seize-sunni-town-central-iraq-115957828.html> [Accessed 10/05/2013]

¹⁵² Dunlop, W.G. 'UN Calls for Restraint in Iraq as over 200 Killed.' *Agence France Presse* [Online] Available from http://www.google.com/hostednews/afp/article/ALeqM5jutral11aRNVGtlVq67vTI27_cARQ?docId=CNG.6b0683343a4881a9d16230606427f06d.531 [Accessed 10/05/2013]

storming of the Hawija protest camp on 23 April 2013 can be seen as the starting point.

With the increase in violence the *peshmerga* moved into positions abandoned by the Iraqi army in Kirkuk with permission of the governor.¹⁵³ Jabbar Yawar, secretary general of the KRG's *peshmerga* Ministry, claimed that this was to fill a vacuum in security around the city. Whilst, Staff General Ali Ghaidan Majeed, the commander of Iraqi ground forces, claimed this was a move to reach the oilfields.¹⁵⁴ The continued violence following the deaths of the Hawija protestors led to April being the deadliest month in Iraq since June 2008, with 712 people being killed and 1633 injured.¹⁵⁵ Iraqiya – who won the most votes in Kirkuk during the 2011 national elections – list member, Hamid al-Mutlaq, criticised the army's actions in the protests and called for them to withdraw from the cities and to return to the borders where they belong.¹⁵⁶ The Turkmen have called for both the army and the *peshmerga* to withdraw from Kirkuk, with the Turkmenli representative, Salar Erbil, calling for the creation of a unit that 'should specialise in terrorism and not be an army' and that should be made up of '32% of each ethnic group, Arabs, Kurds and Turkmen and 4% for the Christians.'¹⁵⁷ In contrast, the Arab Political Council in Kirkuk called for the 12th Division of the Iraqi Army to be involved in the

¹⁵³ As the army left positions in Kirkuk to move to the troubled Sunni areas, the *Peshmerga* moved in to replace them.

¹⁵⁴ Ibrahim, Marwan. 'Move by Kurd Forces Boosts Iraq Tensions.' *Agence France Presse* [Online] Available from <http://www.google.com/hostednews/afp/article/ALeqM5h5V9e2o28f-sy5UQhExTyqWw9Kkg?docId=CNG.88992305e0e230630beea9b5885b236d.4b1> [Accessed 10/05/2013]

¹⁵⁵ 'April Iraq's Deadliest Month In Five Years: UN.' *UN News Centre* [Online] Available from http://www.un.org/apps/news/story.asp?NewsID=44806#.UcRM_z6sgXw [Accessed 10/05/2013]

¹⁵⁶ 'Al-Iraqiyah List MP Decries Performance of Iraqi Army; Roundup.' *BBC Worldwide Monitoring* [Online] Available from Nexis UK [Accessed 08/04/2013]

¹⁵⁷ Interview, conducted by the author, with Salar Erbil in Erbil Turkmenli Party Head Office on 13/02/2013

security of the Kirkuk governorate, as they claim that the recent bombings in Kirkuk were a result of incompetence from the security forces and thus they should rely on professional officers to manage the security in Kirkuk.¹⁵⁸ This idea is contested by the Governor of Kirkuk, Kirkuk's Police Chief, the Asayesh spokesperson and the Commander of the Kurdish forces in Kirkuk. Sherko Fateeh Shwani, the Commander of the *peshmerga* around Kirkuk said that he had ceased to coordinate and share intelligence with the Iraqi army, and that this was probably the reason for increase of terrorism in Kirkuk.¹⁵⁹ The Police Chief, Sarhad Kadir, stated that they 'cooperated with the army's intelligence service in the past. We [the police] exchanged information, and there were joint operations. That's over now.'¹⁶⁰ The Kirkuk Governor stated that they 'ordered all the directors of police not to obey the commands that are issued from Baghdad. So all the cooperation that used to exist when we had combined operations... between the police and the army has stopped completely.'¹⁶¹ The troubles for the army got worse when the Kurdish members of the 16th division refused to follow orders with regards to defending the town of Sulaiman Bek as they did not want to have a negative affect on already strained Kurdish/Arab relations in the disputed territories. As a result of this the Kurdish forces asked to come under the umbrella of the *peshmerga* and although they remained in the disputed area, they ceased to

¹⁵⁸ 'Al-Iraqiyah List MP Decries Performance of Iraqi Army; Roundup.' *BBC Worldwide Monitoring* [Online] Available from Nexis UK [Accessed 08/04/2013]

¹⁵⁹ Fordham, Alice. 'Rifts in Kirkuk as Deep as its Oil Wells.' *The National* [Online] Available from <http://www.thenational.ae/news/world/middle-east/rifts-in-kirkuk-are-as-deep-as-its-oil-wells> Accessed 09/04/2013]

¹⁶⁰ Reuter, Christoph. 'Kirkuk Thrives in Sea of Corruption and Violence.' *Spiegel Online International* [Online] Available from <http://www.spiegel.de/international/world/kirkuk-thrives-despite-corruption-and-sectarian-violence-in-iraq-a-889611.html> [Accessed 09/04/2013]

¹⁶¹ 'Iraq's Kirkuk at Heart of Arab-Kurd Territory Row.' *Global Post* [Online] Available from <http://www.globalpost.com/dispatch/news/afp/130315/iraqs-kirkuk-at-heart-arab-kurd-territory-row> [Accessed 09/04/2013]

take orders from the army and began receiving rations from the Peshmerga Ministry.¹⁶² When the Kurdish forces were asked to leave the province to be replaced by Shiite forces they refused and instead they occupied land in Tuz Khurmatu, which is important to the Kurds as it was previously part of Kirkuk (see Chapter 1.2.).¹⁶³ As a result of the *peshmerga*'s movements the Kurdish security forces witnessed several attacks aimed at them in Kirkuk. On May 7 suicide bombs hit several *peshmerga*-operated checkpoints, as well as the PUK head office. These attacks resulted in the five deaths, whilst 61 people were injured, the majority of whom were *peshmerga*.¹⁶⁴ Whilst on May 15 the Kirkuk police chief's convoy was targeted by a roadside bomb, which was followed by a car bomb and although he escaped two of his guards were killed and nine were injured.¹⁶⁵

As the violence continued in Iraq the attacks became more sectarian in nature with both Sunni and Shiite mosques being increasingly targeted.¹⁶⁶ In Kirkuk a suicide bomber targeted a Shiite mosque that was hosting a funeral from the previous day's violence, although he was prevented from entering,

¹⁶² Ibrahim, Marwan. '1,000 Kurdish soldiers desert Iraq army.' *Agence France Presse* [Online] Available from <http://www.google.com/hostednews/afp/article/ALeqM5i1V5Z1R8-PINA7eJZI-IchQROLqA?docId=CNG.2475056ff909c774b4be9873230af1df.9f1> [Accessed 20/06/2013]

¹⁶³ Van Heuvelen, Ben and Patrick Osgood. 'Half of Iraqi brigade refusing orders.' *Washington Post* [Online] Available from http://www.northjersey.com/news/international/210915401_Amid_rising_ethnic_tension_Kurdish_brigade_soldiers_stop_taking_orders_from_Baghdad.html?page=all [Accessed 20/06/2013]

¹⁶⁴ Griffis, Margaret. 'Iraq: Kurdish Forces Bear Brunt of Attacks That Leave 46 Dead, 92 Wounded.' *Antiwar.com* [Online] Available from <http://original.antiwar.com/updates/2013/05/08/iraq-kurdish-forces-bear-brunt-of-attacks-that-leave-46-killed-92-wounded/> [Accessed 10/05/2013]

¹⁶⁵ 'Iraq Bombings Kill 34 People.' *Al Arabiya* [Online] Available from <http://english.alarabiya.net/en/News/middle-east/2013/05/15/Iraq-bombings-kill-34-people-.html> [Accessed 18/05/2013]

¹⁶⁶ Salaheddin, Sinan. 'Car Bomb, Other Attacks Kill 20 in Iraq.' *Associated Press* [Online] Available from <http://news.yahoo.com/car-bomb-other-attacks-kill-20-iraq-20132433.html> [Accessed 26/05/2013]

four people were killed and 42 were injured.¹⁶⁷ May 17 saw a wave of attacks targeting Sunnis that killed at least 76 people, thus making it the deadliest day for more than eight months. The deadliest attack came as worshipers were leaving the main Sunni mosque in Baqouba where the initial explosion was followed by a second, thus killing the onlookers, causing the death of 41 people and injuring a further 56. Increasingly the situation in Iraq began to resemble a full-blown civil war and Jawad al-Hasnawi, a lawmaker from the Sadrist bloc, claimed that deadlier and darker days were to come.¹⁶⁸ In addition to the rise in attacks on mosques, the assaults also began to increasingly target the security forces. In one attack gunmen broke into the house of an anti-terrorism police captain, Adnan Ibrahim, and killed him and his family in their sleep. Whilst in Anbar, gunmen kidnapped eight policemen who were guarding the main highway linking Iraq to Jordan and Syria.¹⁶⁹ The following day these policemen were found dead on a highway in Anbar.¹⁷⁰ On 20 May the attacks escalated with at least 77 people (and as many as 100) being killed and a further 248 injured. Again, the majority of these attacks were concentrated in and around Baghdad.¹⁷¹ With the violence continuing many more people began voicing their fears that perhaps Iraq had entered a

¹⁶⁷ Salaheddin, Sinan. 'Car Bombs, Shooting in Iraq Leave 21 Dead.' *Associated Press* [Online] Available from <http://news.yahoo.com/car-bombs-shooting-iraq-leave-21-dead-173929318.html> [Accessed 18/05/2013]

¹⁶⁸ 'Bombs Targeting Sunnis Kill at Least 76 in Iraq' *Guardian* [Online] Available from <http://www.guardian.co.uk/world/2013/may/17/bombs-sunnis-iraq> [Accessed 18/05/2013]

¹⁶⁹ 'Gunmen Kill Anti-Terror Policeman and Family as Iraq Violence Continues' *Guardian* [Online] Available from <http://www.guardian.co.uk/world/2013/may/18/iraq-gunmen-policeman-sectarian-violence> [Accessed 19/05/2013]

¹⁷⁰ Tawfeeq, Mohammed & Mark Morgenstein. 'Baghdad, Anbar Province Racked by Violence.' *CNN* [Online] Available from <http://edition.cnn.com/2013/05/19/world/meast/iraq-violence> [Accessed 20/05/2013]

¹⁷¹ 'Iraqi Tribal Leaders Demand Federation.' *Al Jazeera* [Online] Available from <http://www.aljazeera.com/news/middleeast/2013/05/201352071548212347.html> [Accessed 24/05/2013]

civil war.¹⁷² These fears increased as the violence became tit for tat in nature, alternating between attacks on Shiites and attacks on Sunnis, and continued targeting the police and army. On 21 May a suicide bomber attacked an army checkpoint and the blast was followed by gunmen opening fire on the troops – three soldiers were killed and nine were injured in this incident.¹⁷³ On the same day at least 60 people were killed and 132 were injured across Iraq.¹⁷⁴ This comes after 24 police were killed in Anbar and six *Sahwa* were killed and many more injured north of the capital.¹⁷⁵ *Antiwar.com*, a website which lists the deaths in Iraq, has recorded an increasing trend of gunmen attacking police, particularly in Anbar.¹⁷⁶ On 27 May a further 81 people were killed, whilst 246 were injured in violence that targeted mainly Shiites.¹⁷⁷

In response to the increase in terrorist attacks the Governor of Kirkuk implemented a programme to build trenches around the city in order to only allow people to enter through the checkpoints. He also stated that ‘People who are not from Kirkuk or do not have a residence permit will not be allowed to enter the city.’¹⁷⁸ The Arab Political Council in Kirkuk strongly objected to this as they claim the trench is in order to create a defence line for the

¹⁷² These fears were expressed to the author at the time in conversations with academics and political actors in Erbil and Kirkuk.

¹⁷³ ‘Deadly Bombings Continue Across Iraq.’ *Al Jazeera* [Online] Available from <http://www.aljazeera.com/news/middleeast/2013/05/2013521105021468873.html> [Accessed 24/05/2013]

¹⁷⁴ Griffis, Margaret. ‘Sixty Killed, 132 Wounded in Ongoing Iraq Carnage.’ *Antiwar.com* [Online] Available from <http://original.antiwar.com/updates/2013/05/21/sixty-killed-132-wounded-in-ongoing-iraq-carnage/> [Accessed 26/05/2013]

¹⁷⁵ ‘Iraqi Tribal Leaders Demand Federation.’ *Al Jazeera* [Online] Available from <http://www.aljazeera.com/news/middleeast/2013/05/201352071548212347.html> [Accessed 24/05/2013]

¹⁷⁶ Griffis, Margaret. ‘Iraqi Police Targeted as Attacks Claim 44 Lives.’ *Antiwar.com* [Online] Available from <http://original.antiwar.com/updates/2013/05/19/iraqi-police-targeted-as-attacks-claim-44-lives/> [Accessed 26/05/2013]

¹⁷⁷ Griffis, Margaret. ‘Iraq Carnage Leaves 81 Killed, 246 Wounded.’ *Antiwar.com* [Online] Available from <http://original.antiwar.com/updates/2013/05/27/iraq-carnage-leaves-81-killed-246-wounded/> [Accessed 20/06/2013]

¹⁷⁸ ‘Kirkuk to dig trench around city.’ *Anadolu Agency* [Online] Available from <http://www.aa.com.tr/en/rss/184719--kirkuk-to-dig-trench-around-city> [Accessed 26/05/2013]

peshmerga against the south. They also object to the fact that it prevents Arabs from entering the city and see it as a form of ethnic cleansing.¹⁷⁹ In Baghdad's response to the increase in violence the Iraqi cabinet met in late May to discuss ways to curb the unrest for fear that an all-out sectarian conflict could be developing. However, these meetings concentrated on security methods, rather than the issues with the power sharing system, which caused the unrest in the first place. Despite the high numbers of deaths and their sectarian nature of the targets, members of the central government still denied that Iraq was entering a civil war.¹⁸⁰ Although, following another month of violence in May the former Iraqi National Security Adviser, Mowaffak al-Rubaie, did admit that he feared Iraq was heading towards a civil war and a bloody partition. Nevertheless, members of Maliki's government, the US and the UK were still rejecting the fact that Iraq had indeed entered a civil war.¹⁸¹ With the figures of those killed and injured through sectarian violence continuously rising it becomes ever the more difficult to deny that Iraq has entered a state of civil war; as despite April being the deadliest month recorded since June 2008, there were even more deaths in May. According to the UN figures 1045 people were killed in May, whilst 2397 were injured.¹⁸²

¹⁷⁹ 'Arab Political Council Accuses the Government of Kirkuk of Ethnic Cleansing Against the Arab Component.' *National Iraqi News Agency* [Online] Available from http://www.ninanews.com/english/News_Details.asp?ar95_VQ=GIEFEJ [Accessed 20/06/2013]

¹⁸⁰ Dunlop, W.G. 'Violence kills 27 as Iraq cabinet talks security.' *Agence France Presse* [Online] Available from <http://www.google.com/hostednews/afp/article/ALeqM5iqFGspUFgtBRA7tvRTXUOYx7bNSg?docId=CNG.4fd7225a1fea039d4d9f6435239389ed.561> [Accessed 20/06/2013]

¹⁸¹ Cockburn, Patrick. 'Banned in Baghdad: The Cars that are Insurgents' Weapon of Choice.' Independent [Online] Available from <http://www.independent.co.uk/news/world/middle-east/banned-in-baghdad-the-cars-that-are-insurgents-weapon-of-choice-8640169.html> [Accessed 20/06/2013]

¹⁸² '1045 killed, 2397 wounded in May in Iraq, UN.' *Aswat al-Iraq* [Online] Available from [http://en.aswatiraq.info/\(S\(aqnmy155udjyfhq3il4u1k55\)\)/Default1.aspx?page=article_page&id=153479](http://en.aswatiraq.info/(S(aqnmy155udjyfhq3il4u1k55))/Default1.aspx?page=article_page&id=153479) [Accessed 20/06/2013]

Maliki visited the capital of the KRG, Erbil, in June to try to ease the situation, but despite this, the following day, the violence continued as normal with at least 94 people being killed and 289 injured with the majority of the attacks happening in Mosul.¹⁸³ The violence continued with at least 27 people killed on 16 June¹⁸⁴ and a further 43 on 18 June in attacks mainly focused on Shiites.¹⁸⁵ On 20 June the provincial elections went ahead in the two Sunni-majority provinces where they were delayed due to security concerns and although they ended relatively peacefully, there was one incident where a suicide bomber blew himself up in a ballot-counting centre killing four people.¹⁸⁶ On the 23 June 43 people were killed in Iraq,¹⁸⁷ including four people in Kirkuk where three car bombs went off.¹⁸⁸ The ethnic and sectarian nature of the violence was particularly present on 25 June, when a suicide bomber blew himself up in a tent of Shiite Turkmen protestors killing at least 11 and injuring a further 42 - a number of Turkmen leaders were amongst the dead.¹⁸⁹ Whilst, in another attack five Shiite pilgrims were killed on their way to the holy city of Karbala for the annual festival of Shabaniyah.¹⁹⁰ Although

¹⁸³ Griffis, Margaret. 'Another Bloody Monday in Iraq: 94 Killed, 289 Wounded.' *Antiwar.com* [Online] Available from <http://original.antiwar.com/updates/2013/06/10/another-bloody-monday-in-iraq-94-killed-289-wounded/> [Accessed 20/06/2013]

¹⁸⁴ Reuters. 'Iraq Attacks Targeting Shiite Muslims Leave Dozens Dead.' [Online] Available from <http://www.guardian.co.uk/world/2013/jun/16/iraq-attacks-targeting-shiite-muslims> [Accessed 20/06/2013]

¹⁸⁵ Griffis, Margaret. 'Baghdad Rattled by Blasts: 43 Killed Across Iraq.' *Antiwar.com* [Online] Available from <http://original.antiwar.com/updates/2013/06/18/baghdad-rattled-by-blasts-43-killed-across-iraq/> [Accessed 20/06/2013]

¹⁸⁶ Schreck, Adam And Sameer N. Yacoub 'Bomber targets election center after Iraqis vote.' *Associated Press* [Online] Available from <http://bigstory.ap.org/article/iraqis-vote-2-sunni-dominated-provinces> [Accessed 03/07/2013]

¹⁸⁷ Griffis, Margaret. 'Iraq: 43 Killed, including Saddam Executioner.' *Antiwar.com* [Online] Available from <http://original.antiwar.com/updates/2013/06/23/iraq-43-killed-including-saddam-executioner/> [Accessed 03/07/2013]

¹⁸⁸ 'At Least 4 killed in Bomb Attacks in Northern Iraq.' *Xinhua General News Service* [Online] Available from http://news.xinhuanet.com/english/world/2013-06/23/c_132479105.htm [Accessed 03/07/2013]

¹⁸⁹ The protestors were protesting against the lack of security in Tuz Khurmatu and the high level of violence and attacks in the area.

¹⁹⁰ Abdul-Zahra, Qassim. 'Iraq Bombs Kill 23, Including Minority Protesters.' *Associated*

the number of deaths in Iraq did decrease in June, with 761 people being killed the death toll was still higher than in April and has done nothing to alleviate the fears that Iraq has entered a civil war.¹⁹¹ There was no sign of the violence ending in July either, with 42 people being killed¹⁹² on the 1st and 47 on the 2nd.¹⁹³

Concurrently, many question the legitimacy of Maliki's claims that the Dijla Operations was created for security and believe rather that it is part of a political game being played over the disputes between the KRG and Baghdad.¹⁹⁴ This belief is highlighted by Fatih Muhammed Ameen, KDP's Kirkuk-Garmiyan leadership Council:

Dijla was set up to break all the political relations between the parties, especially the Kurds. From the first day the Kurds rejected the Dijla force. When the central government insisted on having this force we were forced to react to this so that there would be no massacre. That is why we were forced to bring the *peshmerga* force in to protect the area.¹⁹⁵

1.8. Hydrocarbon Laws

One of the main disagreements between Baghdad and the KRG is the dispute over hydrocarbon legislation. The central government is not pleased with the KRG signing oil contracts with international companies, such as Exxon Mobil and Chevron, and exporting oil to Turkey independently of the

Press [Online] Available from <http://news.yahoo.com/iraq-bombs-kill-23-including-minority-protesters-174517077.html> [Accessed 03/07/2013]

¹⁹¹ 'June's casualties over 1,500 in Iraq.' *Anadolu Agency* [Online] Available from <http://www.aa.com.tr/en/news/199415--junes-casualties-over-1-500-in-iraq> [Accessed 03/07/2013]

¹⁹² 'Roundup: 42 Killed, 48 Wounded in Separate Attacks in Iraq.' *Xinhua General News Service* [Online] Available from http://www.china.org.cn/world/Off_the_Wire/2013-07/02/content_29289050.htm [Accessed 03/07/2013]

¹⁹³ 'Iraq attacks Against Shiites Kill 47.' *Agence France Presse* [Online] Available from <http://www.haveeru.com.mv/world/49860> [Accessed 03/07/2013]

¹⁹⁴ This was voiced by all the Turkmen and Kurds who were interviewed by the author when questioned on the Dijla operations.

¹⁹⁵ Interview, conducted by the author, Fatih Muhammed Ameen, Member of KDP's Kirkuk-Garmiyan leadership Council and former member of Kurdistan Parliament – Kirkuk, 06/06/13

central government. Whilst the KRG sees the central government negotiating to sign a deal with British Petroleum (BP) to exploit fields in Kirkuk as unconstitutional, as this is part of the disputed territories and needs agreement from all parties. Furthermore, the KRG claim they are owed money to pay the oil companies who were supplying oil to the centrally controlled Ceyhan pipeline. These oil disputes have been ongoing for several years and with the constitution not clear on the matter and neither party willing to concede, the end does not seem near.¹⁹⁶ These oil-related tensions were further agitated in November 2012 when the KRG began sending half the amount of oil they are required to export via the Baghdad-controlled pipeline to Turkey, this was due to the previously mentioned owing of funds (Baghdad announced it would not be issuing a second payment of \$300 million to cover the costs of the oil companies) and also due to the fact that the KRG is displeased with the funds they were to receive in the 2013 budget – where they are expected to import even more oil.¹⁹⁷ By December 2012 the KRG halted their exports to the Ceyhan pipeline altogether¹⁹⁸ and in an attempt to bypass the centrally controlled pipeline Genel Energy, a Turkish-British joint venture, began trucking 20,000 barrels of oil a day to Turkey in January 2013.¹⁹⁹ The lack of a consensus on a new hydrocarbon law has created several issues between the central government and the KRG. The Iraqi Oil Minister, Abdul Kareem Luaibi, stated that the central government

¹⁹⁶ Mazouri, Heliz. 'Iraq's Kurds Reject Baghdad's Kirkuk Oil Deal.' *Rudaw* [Online] Available from <http://www.rudaw.net/english/kurds/5674.html> [Accessed 28/01/2013]

¹⁹⁷ 'KRG Exports Halved Amid Baghdad-Erbil Spat.' *Energy Compass* [Online] Available from <http://www.energyintel.com/Pages/Login.aspx?fid=art&DocId=789399> [Accessed 16/01/2013]

¹⁹⁸ 'Iraq's Shahrstani says Kurdish Oil Export to Turkey "Smuggling" *Today's Zaman* [Online] Available from <http://todayszaman.com/news-311696-iraqs-shahristani-says-kurdish-oil-export-to-turkey-smuggling.html> [Accessed 11/04/2013]

¹⁹⁹ 'Genel Says to Boost N. Iraqi Oil Exports as Tension Brews.' *Today's Zaman* [Online] Available from <http://www.todayszaman.com/news-304454-genel-says-to-boost-n-iraqi-oil-exports-as-tension-brews.html> [Accessed 04/04/2013]

would sue those companies involved in 'trafficking' oil out of the KRG and he also announced that the central government was considering cutting the KRG's 17% share of the budget.²⁰⁰ Whilst the Deputy Prime Minister for Energy Affairs, Hussein al-Shahristani, accused the KRG and oil companies of smuggling oil out of the country.²⁰¹ The KRG was angered by these comments and countered with their objection to the central government negotiating oil contracts with BP in Kirkuk without their involvement. The KRG claim they are exporting oil because they are not receiving their 17% share of the budget, nor are they receiving oil for power generation and export payments for the oil exported through the Ceyhan pipeline, as per the constitution. When questioned on Baghdad's claim that the KRG is smuggling oil, the KRG Foreign Relations Minister, Falah Mustafa, had the following to say:

We will not accept somebody like Shahristani to sit in Baghdad, to impose his will or to determine what we will do. The binding document, the only document that binds us with Iraq, is the constitution; if it's not respected then it does not have any value for us. So therefore Baghdad has to be careful about that, we are committed to Iraq as much as they are committed to the constitution, if they respect the constitution and honour the agreements and the constitution, they are welcome, if not, we have nothing to commit ourselves to.

The issue with the production of oil in the KRG is the lack of export opportunities with the KRG currently not having access to the centrally controlled Ceyhan pipeline. By March 2013 Genel was exporting only 20,000 barrels of crude oil a day and 10,000-15,000 barrels of gas condensate, whilst

²⁰⁰ 'KRG Makes Case for More Autonomy in Oil Policy.' *International Oil Daily* [Online] Available from <http://www.energyintel.com/Pages/Login.aspx?fid=art&DocId=795202> [Accessed 04/04/2013]

²⁰¹ 'Iraq's Shahristani says Kurdish Oil Export to Turkey "Smuggling"' *Today's Zaman* [Online] Available from <http://todayszaman.com/news-311696-iraqs-shahristani-says-kurdish-oil-export-to-turkey-smuggling.html> [Accessed 11/04/2013]

the KRG's oil minister, Ashti Hawrami, claims that almost 400,000 barrels of crude oil are produced in the KRG daily.²⁰² He also claims that the KRG has almost completed negotiations with other major oil companies to open up new exploration contracts and that the KRG is ready to export 250,000 barrels of oil a day. Thus making it highly important that the KRG either reaches a deal with the central government in order to allow them the use of the Ceyhan pipeline, or that Turkey goes ahead with its plan to link the KRG directly to the Ceyhan pipeline.²⁰³ Genel Energy announced that the first phase of the KRG's oil export pipeline would begin construction following the negative outcome of the 27 February meeting between Iraqi oil minister, Abdulkarim al-Luaibi, and KRG Natural Resources Minister, Ashti Hawrami, which ended in stalemate.²⁰⁴

At the end of March 2013, the Turkish Prime Minister announced that Turkey was discussing terms with the KRG for an energy agreement that would involve linking the KRG directly to the Ceyhan pipeline.²⁰⁵ In early April around 30,000 tons of Kurdish oil was sold on the international market, marking the first sale of oil trucked from the KRG to Turkey and further incensing the central government who believe that according to the constitution this oil is smuggled. Furthermore, it was also reported that Genel

²⁰² A more realistic amount is 250,000 barrels per day, as quoted by Falah Mustafa in his interview with the author.

²⁰³ 'KRG Pursues More IOCs for Upstream Deals.' *International Oil Daily* [Online] Available from <http://www.energyintel.com/Pages/Login.aspx?fid=art&DocId=796321> [Accessed 04/04/2013]

²⁰⁴ Carlisle, Tamsin. 'Genel Says Kurdish Oil Line Close to Startup.' *Platts Oilgram News* [Online] Available from Nexis UK [Accessed 09/04/2013]

²⁰⁵ 'Government Discussing Terms of Energy Deal With Iraqi Kurds.' *Turkey Sectors and Companies Today* [Online] Available from Nexis UK [Accessed 11/04/2013]

had increased the amount of oil trucked to Turkey to 25,000 barrels a day.²⁰⁶ The Turkish Energy Minister, Taner Yildiz, made it clear in the Turkish parliament that energy deals with the KRG would go ahead – even in the light of threats from Baghdad. He went on to highlight that Turkey dealt with all corners of Iraq, including the KRG.²⁰⁷ In an apparent effort to calm the strain on relations with Baghdad, Yildiz announced that Turkey would be happy to resolve the financial issues between Baghdad and the KRG and that they would be willing to give 17% of the money from oil to the KRG and 83% to the central government.²⁰⁸ Meanwhile, there were strong rumours circling that Genel was planning to convert the current gas pipeline to Dohuk for the use of oil and to extend it by 50km, thus linking it to Turkey where it could either join the Ceyhan pipeline or be trucked to the Mediterranean for further export.²⁰⁹ Additionally, the Kar group agreed with the Nineveh provincial council to supply oil products from its Erbil refinery, with Nineveh paying a processing fee. This move is also disputed by the central government who claim that the provincial government does not have the authority to make such a deal. Nineveh is a Sunni-majority province and is governed by Atheel al-Nujaifi, brother of parliamentary speaker Usama al-Nujaifi, who is a fierce

²⁰⁶ Donati, Jessica & Peg Mackey. 'Iraqi Kurdistan Sells First Crude, Defies Baghdad.' *Reuters* [Online] Available from <http://in.reuters.com/article/2013/04/05/iraq-kurdistan-oil-idINDEE9340CV20130405> [Accessed 11/04/2013]

²⁰⁷ Bozkurt, Abdullah. 'Legal woes for Turkish energy firms in Iraq.' *Today's Zaman* [Online] Available from: <http://www.todayszaman.com/columnist-311802-legal-woes-for-turkish-energy-firms-in-iraq.html> [Accessed: 09/05/2013]

²⁰⁸ 'Iraqi Kurdistan Poised To Pipe Oil To World Via Turkey.' *Reuters* [online] Available from <http://www.reuters.com/article/2013/04/17/iraq-kurdistan-oil-idUSL5N0D310920130417> [Accessed 10/05/2013]

²⁰⁹ 'Turkey, Iraq Warm To New Pipeline As Supply Surges.' *Today's Zaman* [Online] Available from http://www.todayszaman.com/newsDetail_getNewsById.action?newsId=312276 [Accessed 09/05/2013]

opponent of Maliki.²¹⁰ The KRG also passed a new oil bill, which would allow them to import oil independently of Baghdad if the money owed to them by the central government is not paid. It would seem that the KRG has established this law in order to take advantage of their preparations for a new pipeline linking them with Turkey.²¹¹ On 14 May Turkey's Prime Minister announced that the Turkish state-owned oil company, Turkish Petroleum International Company, signed a deal with Exxon to develop hydrocarbons in the KRG. Not only does this have the potential to further sour relations between Baghdad and Ankara, but it also cements Turkey's cooperation in a direct oil pipeline linking the KRG to Turkey.²¹² As a result of the turmoil in Iraq and the disagreement with the Kurds over a new hydrocarbon law, Iraq was forced to reduce its future oil production targets significantly.²¹³ Meanwhile, despite the threats by Baghdad the oil being trucked to Turkey increased to as much as 70,000 barrels a day.²¹⁴ Whilst in June it was reported that the KRG was just weeks away from their oil pipeline (this is an extension to the gas pipeline to Duhok) reaching the border town of Fishkhabour from where it could enter Turkey.²¹⁵ Following these reports the KRG energy minister, Ashti

²¹⁰ Junnola, Jill. 'KRG Readies Oil Pipelines to Turkey's Border.' *International Oil Daily* [Online] Available from Nexis UK [Accessed 10/05/2013]

²¹¹ Bakir, Siddik. 'Kurdistan Passes New Oil Bill.' *Global Insight* [Online] Available from <http://www.ihs.com/products/global-insight/industry-economic-report.aspx?id=1065979016> [Accessed 13/05/2013]

²¹² 'Turkey Announces Significant Energy Deal by Joining Exxonmobil in Iraqi Kurdistan.' *Global Insight* [Online] Available from Nexis UK [Accessed 15/05/2013]

²¹³ Ingram, Jamie. 'Iraq's deputy PM confirms reduced oil production targets.' *Global Insight* [Online] Available from <http://www.ihs.com/products/global-insight/industry-economic-report.aspx?id=1065979820> [Accessed 20/06/2013]

²¹⁴ 'Iraqi Kurdistan pressures Baghdad with Turkey oil pipeline push.' *Reuters* [Online] Available from <http://www.reuters.com/article/2013/07/01/iraq-kurds-pipeline-idUSL5N0F33ZN20130701> [Accessed 02/07/2013]

²¹⁵ Black, Ian. 'Golden Oil of Iraqi Kurdistan Raises Tensions with Baghdad.' *Guardian* [Online] Available from <http://www.guardian.co.uk/world/2013/jun/10/oil-iraqi-kurdistan-baghdad> [Accessed 10/06/2013]

Hawrami, announced that the oil pipeline to Turkey would be completed by the end of September and would initially have the capacity to export 300,000 barrels per day.²¹⁶ Thus, firmly announcing to Baghdad that the KRG are willing to export oil without them and the onus is with Maliki to negotiate. The issue remains, when the pipeline reaches the border, whether it will connect to the Baghdad controlled metering station into Turkey or whether it will connect to Turkey on a different path controlled by the Kurds. It seems that this is going to be a last minute decision that will involve lots of negotiating and manoeuvring between Baghdad, the KRG and to some extent, Turkey. The result of this could determine the future of the region, as if the pipeline enters Turkey without Baghdad's approval secession and, or, civil war may follow. This could have been the reason for Maliki's visit to the KRG in June 2013 and his meetings with Barzani, as he still needs the Kurds; the Sunni protests against the government do not seem to be slowing down and during the provincial elections there was a decrease in votes for both his party and that of the moderate Sunnis. Thus, the Kurds still maintain their role of kingmaker in next year's national elections. Therefore, if the Kurds manage to connect their pipeline to Turkey without Baghdad having a role in this they will no longer have to rely on Baghdad for their 17% of the budget and will be free to manoeuvre as they please, thus leading to Maliki no longer being able to exert what little pressure he currently is able to.²¹⁷ As Falah Mustafa, KRG Foreign Relations Minister, highlights, the Kurds are tired of waiting for Baghdad:

²¹⁶ Reuters. 'Iraqi Kurds Say New Oil Pipeline to Turkey to Start Soon.' *Today's Zaman* [Online] Available from <http://www.todayszaman.com/news-318694-iraqi-kurds-say-new-oil-pipeline-to-turkey-to-start-soon.html> [Accessed 03/07/2013]

²¹⁷ 'Iraqi PM's visit to Erbil raises hopes for renewed oil deal with Kurdistan.' *Global Insight* [Online] Available from Nexis UK [Accessed 20/06/2013]

we cannot beg from Baghdad for a budget that everyday they threaten us for this and that thing... So therefore, for us we have to be very open and honest with each other and we will continue talking to Baghdad to say that this does not work we have to find a proper way of solving these issues, whether we will be satisfied with federalism and implement it or whether we go to another stage – we have to make up our mind.²¹⁸

The hydrocarbon related issues are key in the disputes between the KRG and Maliki, but this is also part of the wider problem of Maliki's grab for power and the lack of power sharing which has led to the Sunni's discontent.

1.9 Political Situation in Iraq

The sectarian violence and thus the sectarian split of Iraq is being caused by the Sunni and Kurds' fear that Maliki is attempting a grab for power and to break up the other parties in order to return Iraq to a dictatorship, as highlighted by KDP Kirkuk-Garmiyan leadership Council member, Fatih Muhammed Ameen:

this plan for breaking up all the parties and the community came from the central government of Iraq this was pre-planned... this Shiite military is for Maliki. It is not an actual Iraqi military; this military has been used for purposes other than for the Iraqi people.²¹⁹

This began with the trial of (Sunni) Vice President of Iraq, Tariq al-Hashimi, who fled first to the KRG and then to Turkey and who was sentenced to death in his absence.²²⁰ The Sunnis were further incensed by the arrest of the bodyguards of Sunni Finance Minister, Rafie al-Issawi, also on terrorism charges. This resulted in protests by Sunnis who saw this as Maliki trying to take charge of the government and become another dictator. Whilst the Kurds

²¹⁸ Interview conducted by the author with Falah Mustafa, KRG Foreign Relations Minister, in Erbil, Iraq - 01/06/2013

²¹⁹ Interview, conducted by the author, Fatih Muhammed Ameen, Member of KDP's Kirkuk-Garmiyan leadership Council and former member of Kurdistan Parliament – Kirkuk, 06/06/13

²²⁰ Tariq al-Hashimi was charged with orchestrating terror attacks on officials and security forces and running 'death squads'. See: 'Iraq VP Tariq al-Hashemi rejects guilty verdict.' *BBC* [Online] Available from <http://www.bbc.co.uk/news/world-middle-east-19540960> [Accessed 22/07/2013]

were angered when Maliki sent his troops to Kirkuk, as very few believe that the purpose of these troops are to fight terrorism and rather believe that Maliki is preparing to take control of Iraq by force. Salah Dalo, Head of KDP Kirkuk and Garmiyan leadership council, questions the legitimacy of Maliki's statement that the Dijla operation is to fight terrorism in Kirkuk.

It [the Dijla Command] involves three divisions; the 4th from Tikrit and Salahaddin, the 5th from Diyala and the 12th from Kirkuk. Tikrit and Diyala have more terrorist activities than Kirkuk, so why bring command to Kirkuk city? Is it because of the issues between the KRG and Baghdad? All the security belongs to the governor and should be under his command and we think there can only be one meaning for taking away control and this is so that Kirkuk will belong to a military authority.²²¹

Thus demonstrating that both the Kurds and Sunnis fear that Maliki is gathering power and getting ready to take Iraq by force. The KRG Foreign Relations Minister has also questioned Maliki's actions:

the Iraqi army today is not in a very good shape, but the logic of the use of military to sort out political difference internally this is unconstitutional and this is not allowed and we will not accept it. If this becomes the pattern what is the difference between this and the former regime.²²²

However, despite these objections, a vote of no confidence in Maliki cannot be called as this needs presidential approval and Talabani is in hospital following a stroke, the Sunni Vice President, Tariq al-Hashimi, is in exile and the remaining Vice President is a Shiite aligned to Maliki. Meanwhile, despite the formation of a coalition government containing all the ethnicities and sects, Maliki has formed a Shiite grand alliance and the Sunnis have formed their own coalition and the Kurds have their own parliament in the KRG, thus

²²¹ Interview, conducted by the author, with Salah Dalo in Kirkuk KDP Head Office on 17/04/2013

²²² Interview conducted by the author with Falah Mustafa, KRG Foreign Relations Minister, in Erbil, Iraq - 01/06/2013

splitting Iraq along ethnic/sectarian divides. Furthermore, as well as being Prime Minister, Maliki is also simultaneously Minister of Defence and Minister of Interior.²²³ The issues in governance are caused by the Iraqi consociational power sharing model, as forming alliances after elections and breaking alliances during parliament, without facing consequences, should not be possible. The use of corporate consociational methods in Iraq have put and kept Maliki in power and have prevented the political process from operating. As will be discussed in Chapter 2.2., the issues in governance can be rectified by adjusting the consociational system to a more liberal method that will ensure cooperation and will not halt the political process. Furthermore, this would prevent the situation of having a president who is incapable of conducting his duties, as under liberal consociation if he was not replaced by his own party the party next on the list would replace him.

As a result of the sectarian divide in Iraq, which has been caused by the failure of the political system, Al-Qaeda is once again becoming a presence in Iraq and there has also been an increase in Shiite militias.²²⁴ Many Sunnis and Kurds believe that Maliki is forcing those who oppose him out of office with terrorism and corruption charges as he did with the chairman of the election commission, the head of the central bank, the Vice President and the Finance Minister, through his guards. Whereas, those who support Maliki, like the former trade minister, who is thought to have embezzled millions, come through trials unscathed – the outcome of the trial was that the

²²³ Gorzewsk, Andreas. 'Iraq's Election Campaigns Marked by Attacks.' *Deutsche Welle World* [Online] Available from <http://www.dw.de/iraqs-election-campaigns-marked-by-attacks/a-16757361> [Accessed 10/05/2013]

²²⁴ Kagan, Kimberly & Frederick Kagan. 'Iraq's descent.' *The Washington Post* [Online] Available from <http://www.pressdisplay.com/pressdisplay/viewer.aspx> [Accessed 08/04/2013]

investigating judge was dismissed from his position.²²⁵ Furthermore, Maliki postponed the Provincial elections on 20 April in the majority-Sunni western provinces of Anbar and Nineveh, when they were supposed to be held throughout Iraq except for the KRG and Kirkuk. This is despite the protests of Sunni politicians and the Sadrists. This is seen as a further move for power by Maliki; as his party is unlikely to win many seats there, it gives him time to further split the Sunni vote, it is a popular move amongst Shiites, and he can also use this as a tact to point at the Sunni regions as troublesome.²²⁶ Further evidence that the election was postponed for these reasons is provided by the fact that the Independent High Electoral Commission had stated that all provinces, excluding the three Kurdish provinces and Kirkuk, were ready for the April 20 elections.²²⁷

Maliki has returned Iraq to sectarianism and very few Kurds, Sunni's or Turkmen have faith in him as prime minister; they fear Iraq is returning towards a dictatorship and that since the US forces have left he has been amalgamating power. As Salah Dalo puts it: 'We voted for Maliki, but he lied we think he is going to be a dictator again, like Saddam.'²²⁸ The fears that Maliki is trying to return Iraq to a dictatorship are heightened by his calls for early national elections and his statement that a majority government should be formed. Many believe – such as, Iraq's Sunni speaker of parliament Osama Al-Nujaifi – that the power he wields in state organisations could be

²²⁵ Reuter, Christoph. 'Kirkuk Thrives in Sea of Corruption and Violence.' *Spiegel Online International* [Online] Available from <http://www.spiegel.de/international/world/kirkuk-thrives-despite-corruption-and-sectarian-violence-in-iraq-a-889611.html> [Accessed 09/04/2013]

²²⁶ Ingram, Jamie. 'Election 2013: Iraq Postpones Provincial Polls in Two Restive Regions.' *Global Insight* [Online] Available from Nexis UK [Accessed 09/04/2013]

²²⁷ 'Violence Clouds Iraqi Political System.' *United Press International* [Online] Available from http://www.upi.com/Top_News/Special/2013/04/08/Violence-clouds-Iraqi-political-system/UPI-83131365425752/ [Accessed 11/04/2013]

²²⁸ Interview, conducted by the author, with Salah Dalo in Kirkuk KDP Head Office on 17/04/2013

used to ensure victory and thus break the power sharing government, leaving the other sects and ethnic groups without a say.²²⁹ However, at the beginning of May 2013 Kurdish politicians did return to the Iraqi parliament ending their boycott. This follows meetings between Nechirvan Barzani and Maliki in which it was agreed to form a committee to resolve the outstanding issues - including changing the 2013 budget - and that another committee would be created to write a new oil and gas law.²³⁰ This meeting demonstrates a change in tactics by Maliki, as he now needs allies against the Sunni threat. This is demonstrated by the fact that despite the call from the Interior Ministry for the *peshmerga* forces to withdraw from the disputed territories, he remained relatively quiet and thus theories of a deal with the KRG began to emerge. This would make sense on Maliki's part as he is overstretched trying to deal with the Sunni insurgency and could do without the worry of what may happen with the security in Kirkuk. Although with the Kurdish ambitions for the areas, he is playing a risky game. One MP that believes a deal may have been reached between Maliki and the Kurds is Yassin al-Obeidi from Iraqiya who has publicly voiced this along with his concern over the silence of the federal government about the *peshmerga*'s movements.²³¹ Maliki needs allies, and possibly military assistance, at the moment, as he faces a Sunni threat and it would not be the first time he has got the Kurds to back him and then

²²⁹ Nasrawi, Salah. 'Early Elections in Iraq?' *Al-Ahram Weekly* [Online] Available from <http://weekly.ahram.org.eg/News/2173/19/Early-elections-in-Iraq-.aspx> [Accessed 09/05/2013]

²³⁰ 'Iraqi Kurd Ministers, MPs to End Boycotts.' *Agence France Presse* [Online] Available from <http://www.google.com/hostednews/afp/article/ALeqM5hIEvGf19w7iB5a4XaLSgi3SGpGaQ?dclid=CNG.7e1f34f0dfefe4b11b7d8d5381f8ddd5.271> [Accessed 10/05/2013]

²³¹ 'MP Criticizes the Silence of the Federal Government About *Peshmerga*'s Interventions in Kirkuk.' *National Iraqi News Agency* [Online] Available from http://www.ninanews.com/english/News_Details.asp?ar95_VQ=GIFHGK [Accessed 20/06/2013]

renege on his promises.²³² Therefore, only time will tell whether these issues will be resolved, or once again the Kurds will find that Maliki has used them in order to make gains. However, with the Iraqiya boycott of the parliament, Maliki is unchallenged and regardless of his promises, the Kurds are better off fighting the issues in parliament. Along with the Sunni threat, another reason Maliki may have reached out to the Kurds was the April provincial election results.²³³ Although Maliki's State of Law coalition did win the most seats, they failed to win an outright majority in any province; Maliki's own party, Dawa, saw a vote decrease; and finally State of Law only won the most seats in seven of the 12 provinces participating, with them expected to win almost no votes in the remaining six provinces. Thus, Maliki is not in the position he thought he was in with regards to creating a majority government in the next national election in 2014, which therefore means he needs allies for a coalition.²³⁴

The political process in Iraq is falling apart and yet there is still no president. Talabani had been in hospital in Germany for several months, but the PUK seem reluctant to nominate a new president. The Public Prosecution Office released a statement demanding the speaker of the Council of Representatives take legal measures to fill the presidency through implementing Article 72 of the Iraqi constitution, which has a cap on the time for the vacancy of the post. However, the head of the Legal Committee at the Iraqi Council of Representatives, Khalid Shwani (who is also a high level PUK

²³² In both of the last two national elections Maliki managed to get the Kurds to join his coalition with promises that he never fulfilled.

²³³ It is important to note that voter turn out was extremely low at 51% and many Sunni politicians claimed that their voters did not have access to voting polls.

²³⁴ 'KRG and Iraqi Government Reach Tentative Agreement over Oil Issues.' *Oil Review* [Online] Available from <http://www.oilreviewmiddleeast.com/industry/iraq-kurdistan-region-of-iraq-reach-a-tentative-deal-on-payment-to-oil-firms> [Accessed 10/05/2013]

official), claimed that the Public Prosecution did not have the authority to make this demand. Thus, further demonstrating the PUK's reluctance to replace Talabani.²³⁵ With rumours going around the KRG that Talabani is dead, but the PUK are covering it up because they are in disarray, the reasons for him not being replaced begin to be questioned.²³⁶ A lot of this is to do with a power struggle within the party with separate factions forming. Furthermore, both Hero Talabani²³⁷ and Barham Salih²³⁸ have visited Iran to have meetings with the Iranian leadership and it has been reported that this is to get Iranian backing for the replacement for Talabani. This is further complicated by the fact that the current power sharing deal stipulates that the president should be a Kurd and the PUK and KDP also have a deal in place that the President of Iraq will be from the PUK and the President of the KRG from the KDP.²³⁹ The fact that is left up to the PUK to select a new president was emphasised by Fatah Mustapha when asked about replacing Talabani: 'unless his family comes forward, or his party comes forward, as far as the people of Kurdistan we respect the will of his family and his party.'²⁴⁰ This highlights yet another failure in having a system that allows deals and coalition to be formed after the elections.

²³⁵ 'Push to Replace Ailing Iraqi President Gathers Momentum.' *BBC Worldwide Monitoring* [Online] Available from <http://www.accessmylibrary.com/article-1G1-329873937/push-replace-ailing-iraqi.html> [Accessed 15/05/2013]

²³⁶ In countless conversations between the author and political scientists, journalists and politicians in Erbil and Kirkuk an overwhelming majority of them believed that Talabani was dead, but that the PUK were covering it up because the party was in trouble and they feared there would be further fractures if his death were to be announced.

²³⁷ Jalal Talabani's wife and highly respected member of the PUK.

²³⁸ High ranking PUK member and former Prime Minister of the KRG.

²³⁹ Nasrawi, Salah. 'Does Iraq need a president?' *Al-Ahram Weekly* [Online] Available from <http://weekly.ahram.org.eg/News/2786/19/Does-Iraq-need-a-president-.aspx> [Accessed 20/06/2013]

²⁴⁰ Interview conducted by the author with Falah Mustafa, KRG Foreign Relations Minister, in Erbil, Iraq - 01/06/2013

With the increase in the sectarian violence and the discontent from the Sunni's to Maliki's government, many Sunnis – the majority of the protestors included – have begun to call for a Sunni region similar to the KRG, this is possible within the constitution, but would separate Iraq along sectarian/ethnic lines and could lead to the eventual breakup of Iraq.²⁴¹ Indeed many of the Kurdish politicians and academics favour such a position as it could pave the way for future Kurdish independence.²⁴² With Iraq seemingly on the brink of a civil war Maliki blamed senior security staff and on 21 May announced a change in the security personal, with some senior members losing their job. This comes despite the fact that Maliki is Minister for Defence, thus in reality is in charge of the army. So instead of replacing himself and actually having a specific Minister of Defence, Maliki has laid the blame upon others.²⁴³ Following the continued violence Maliki made a rare visit to the KRG in early June for further discussions with the Kurds over the ongoing issues. He also held a cabinet meeting in Erbil. Despite this, no agreement was reached with the Kurds over the disputed territories, budget or the hydrocarbon law.²⁴⁴ Following the election results of the 20 June elections, surprisingly a Kurdish-led coalition won the most seats in Nineveh, whilst the Sunni Mutahidoun bloc won the most seats in Anbar, although neither had enough seats to form a majority. This falls in to Maliki's hands as

²⁴¹ 'Iraqi tribal leaders demand federation.' *Al Jazeera* [Online] Available from <http://www.aljazeera.com/news/middleeast/2013/05/201352071548212347.html> [Accessed 24/05/2013]

²⁴² In conversations between the author and political actors as well as academics in Erbil, many of them highlighted this as a reason for them to back a Sunni region.

²⁴³ Karim, Ammar. 'Iraq PM Orders Security Shakeup as Unrest Kills 21.' *Agence France Presse* [Online] Available from <http://www.google.com/hostednews/afp/article/ALeqM5gVbUsjjQbc1y34yDvQZ7siRpdwZg?docId=CNG.9488966c05ff245fac3631e907cb8a68.d1> [Accessed 26/05/2013]

²⁴⁴ Salaheddin, Sinan. 'Iraqi PM Visits Kurdish North, Hoping to Mend Ties.' *Associated Press* [Online] Available from <http://news.yahoo.com/iraqi-pm-visits-kurdish-north-hoping-mend-ties-170906701.html> [Accessed 20/06/2013]

he has managed to split the Sunni vote by forming alliances – the political bloc of Loyalty to Nineveh, which he backed, managed to win four seats in Nineveh.²⁴⁵ Thus, further making the next national elections an important decider on the future of Iraq.

To summarise the current political situation, Iraq is currently without a president; it has a vice president who in exile who has been sentenced to death; a host of Iraqiya ministers have resigned, despite their bloc having won the most seats in the election; there are boycotts of parliament by both Kurds and Iraqiya, whilst Maliki's party is also battling fellow Shiites the Sadrists; Maliki is trying to take control of more power and is currently Prime Minister, Minister of Defence and Minister of Interior; the *peshmerga* and the Iraqi army are currently both trying to assert their dominance in Kirkuk; the Kurds are making oil deals that Baghdad doesn't approve of, whilst Baghdad is making oil deals that the Kurds don't approve of; and finally ethnic and sectarian violence is happening across the country at the highest level since 2008. Thus, leaving no available analysis other than that Iraq is in a serious crisis and with three months of extreme sectarian and ethnic violence it is hard to deny that Iraq has indeed entered a civil war. Although this is continuously denied by the politicians; when this question was posed to the spokesperson for the Asayesh in Kirkuk, from his experiences with security, he seemed certain Iraq had entered a civil war: 'There is a civil war on the ground, but they haven't declared it, but they are killing everybody, they are killing by car

²⁴⁵ 'Kurdish Political Bloc Wins Polls in Iraqi Northern Province.' *Xinhua General News Service* [Online] Available from http://news.xinhuanet.com/english/world/2013-06/27/c_132492726.htm [Accessed 03/07/2013]

bombs, by guns, they are killing everybody and there is a civil war on the ground.²⁴⁶

1.10. Conclusion

Through an examination of the history of Kirkuk, it becomes evident that all the ethnicities in Kirkuk have exerted control over the region in some period over the course of its history. Consequently, conflict has emerged as they all claim to be the true owners of Kirkuk. For Kurds, Turkmen and Assyrians, Kirkuk has become a symbol of their position within the region, whereas for Arabs, Kirkuk – as part of Iraq – is a symbol for the unity of Iraq. The process of Arabisation is one of the greatest causes of conflict in Kirkuk, as most of the tensions stem from the repercussions of this process. Not only have the actions of Arabisation caused animosity between the ethnicities in Kirkuk, but it also altered the demographics, thus causing countless issues of conflict in relation to the current demographic structure of Kirkuk. These include: the amount of returnee Kurds, the number of Arabs that should return to their original region, the degree of power and positions each ethnic group should be granted (including the level of power the Turkmen feel they should wield within the city), and the geographic specifics of Kirkuk (including its boundaries and whether it should be part of the KRG).

The strong position the Kurds found themselves in following the invasion of Iraq in 2003 allowed them to begin reversing the process of Arabisation without the agreement of the other ethnicities. This has accentuated the areas of conflict mentioned above and has created an

²⁴⁶ Interview, conducted by the author, with Lieutenant Colonel Azad, Spokesperson for the KDP Asayesh, KDP Asayesh headquarters, Kirkuk - 06/06/2013

alliance between a large proportion of the Turkmen and Arab parties who see the Kurds as attempting to disproportionately reverse Arabisation in their favour – with the amount of returnee Kurds and the creation of Article 140 being of particular issue. This has resulted in the contemporary political situation where Turkmen and Arabs are trying to block the gains made by the Kurds, whilst the Kurds are trying to follow through on them. The consequence of this is a political stalemate that affects the overall governance of Kirkuk and has resulted in ethnic tension at grassroots level. This has culminated in the various ethnicities continually trying to undermine each other, which has made all areas that need agreement on a potential issue of conflict. Thus preventing Kirkuk from moving forward and all but halting the joint governance of the region, which reiterates the fact that the Kurds, Arabs and Turkmen in Kirkuk need to reach a political agreement over the future of Kirkuk in order to avoid conflict²⁴⁷ – enforcing an option on the other ethnicities does nothing to alleviate, or indeed avoid the insurgence of, violence.

The situation in Kirkuk has not been helped by the precarious position that Iraq as a whole finds itself in. The battle between Kurds and the central government and between Sunnis and Shiites makes the task of solving the issue of Kirkuk all the more difficult. Moreover, the de facto civil war that has been created due to the issues at central level have spilt over to Kirkuk and increased the already strained tensions. In the next chapter the particular issues of conflict will be analysed in order to further understand the conflict.

²⁴⁷ The Assyrians' numbers are so small that they have little control over the future of Kirkuk; however, it would be beneficial to have them involved in reaching any agreement as it is important to include all parties.

Chapter 2: Issues of Conflict

2.1. Introduction

The issues of conflict in Kirkuk are vast and vary greatly, and have therefore resulted in the current position, which can best be described as a stalemate. Many of the issues of conflict that exist in Kirkuk prevent the implementation of a settlement, whilst others prevent the interaction between ethnic groups that is necessary for joint governance. Some of these issues additionally prevent dialogue and therefore need to be solved in order for talks on a settlement to begin, whilst others must be resolved within a settlement. Furthermore, there are matters – like the formation of the Iraqi government – that are not directly related to Kirkuk, but affect the political situation in Kirkuk and the bargaining powers of Iraqi politicians. The previous chapter analysed the emergence of the conflict in question. The purpose of this chapter is to use this knowledge to highlight the key issues of conflict in Kirkuk and analyse them in order to create a greater understanding of their dynamics, which can then be used and developed to create a proposed settlement in Chapters 5 and 6. Therefore this chapter is important in creating a solid base for the ensuing chapters on the methods to deal with the issues of conflict.

2.2. Formation of Iraqi Government

Although not directly related to the settlement of the Kirkuk conflict, the instability caused by not forming a national government, following the 2010 national elections, in a timely manner has had an affect on the situation in Kirkuk, as highlighted in Chapter 1.6.. Firstly, this instability creates an atmosphere compliant towards the intensification of conflict and secondly, the

uncertainty created magnifies the issues of conflict. Furthermore, if Kirkuk is to have a consociational government, it needs a strong consociational role model at central level – not one that fails at the first obstacle, namely formation. For these reasons it is imperative that the delay in the formation of the government that followed the March 2010 elections is never repeated. Even when the government was eventually formed on 21 December 2010, it was not complete, with several of the ministries not decided.²⁴⁸ The current system for electing a government is not clear and can be/was manipulated, as is illustrated by Falah Mustafa:

the point is former Prime Minister Allawi won the results. They came with manoeuvring and interpreting to say that the law says the biggest bloc, it doesn't say the winning list, it does not necessarily have to be before the elections, it can be after the elections, all these sorts of things, so that they would have a Prime Minister from the Shiite camp. Otherwise we said that let's give a chance to the winning list. There is a procedure, 30 days to be given an opportunity to form a government, if that list was not able to form a government, then it goes to the second list. This would have been a much easier way, but unfortunately, they have done all these things in order for it to be given to the Shiites.²⁴⁹

Therefore, in order to minimise the consequences this political instability can have on Kirkuk, and indeed the rest of Iraq, a new process for deciding the government following the elections must be introduced and implemented. Not deciding a government promptly is bound to create repercussions that will resonate throughout Iraq, not to mention intensifying ethnic tensions in what is already a fragile environment.

As it is imperative to Kirkuk that there is a strong consociational model at central level, the prospective methods to resolve Iraqi government formation will be analysed. Preventing the delay in Iraq's government

²⁴⁸ Visser, Reidar. 'Parliament Approves the Second Maliki Government.' *Historiae* [Online] Available from <http://historiae.org/Maliki-second.asp> [Accessed 21/02/2011]

²⁴⁹ Interview conducted by the author with Falah Mustafa, KRG Foreign Relations Minister, in Erbil, Iraq - 01/06/2013

formation is a relatively easy process and can be done by allocating ministerial portfolios through sequential proportionality rules (SPR). This would result in a broader coalition (in terms of parties that are not politically linked), as every party that chooses to join the government can, providing they have enough seats. In order to introduce this process, the current government would have to decide to implement it. Seeing as a coalition government consisting of all the major parties was eventually formed, implementing SPR is the next logical step. SPR would be a fairer process for dividing the portfolios and would not take nine months to complete, as it did following the 2010 national elections. One of the significant factors that SPR would prevent is the forming of coalitions after the elections. Therefore, through this process Maliki would not have become prime minister, as his party did not win the most votes. Another concern with the current system is that the negotiations to form the government led to the creation of yet more ministries in an already ministry-laden parliament. For this reason, rather than the 2010 cabinet, the one chosen in 2006 will be used as a benchmark (although even this was unnecessarily large) when analysing the use of SPR in allocating the ministerial portfolios in Iraq. The cabinet in 2006 consisted of forty ministers, including the prime minister and his deputies and not including the president and his deputies.²⁵⁰ This figure will be used to analyse the affects that the two leading SPR methods, d'Hondt and Sainte-Laguë, would have on the formation of the government following the 2010 elections. For this analysis the prime minister and his deputies will be chosen through SPR, although this could easily be changed so that they are allocated separately to

²⁵⁰ 'Who's who in Iraq's new cabinet.' *BBC* [Online] Available from <http://news.bbc.co.uk/1/hi/5000750.stm> [Accessed 24/02/2011]

the parties with the three highest seats, as done in Northern Ireland. Graph A demonstrates the results using d'Hondt.²⁵¹ Under this system al-Iraqiya would elect the prime minister and State of law (SLA) and National Iraqi Alliance

Droop quota	Try quota	Check	Total	al-Iraqiya	State of Law	INA	KA	Gorran
7.93	7.1	0 Seats	325	91	89	70	43	8
		Quotas	45.77	12.82	12.54	9.86	6.06	1.13
		40 Portfolios	40	12	12	9	6	1
		0 % seats	100.00	28.00	27.38	21.54	13.23	2.46
	Indices	0 % portfolios	100.00	30.00	30.00	22.50	15.00	2.50
LSq	3.41	(s-v)sq	23.23	4.00	6.84	0.92	3.13	0.00
Eff Nv	4.57	(seats)sq	0.22	0.08	0.07	0.05	0.02	0.00
Eff Ns	3.94	(portfolios)sq	0.25	0.09	0.09	0.05	0.02	0.00

(INA) would each elect a deputy. This coalition would involve five parties, including the KA²⁵² and Gorran.

In this system al-Iraqiya and SLA would each have 30% of the portfolios in the cabinet, but al-Iraqiya would elect the prime minister. This system would prevent the current situation where SLA and INA were able to form a coalition after the election, which thus prevented al-Iraqiya from electing the prime minister.

Hare quota	Try quota	Check	Total	al-Iraqiya	State of Law	INA	KA	Gorran	Tawafuq	KIU	Unity of Iraq
8.13	8	0 Seats	325	91	89	70	43	8	6	4	4
		Quotas	40.63	11.38	11.13	8.75	5.38	1.00	0.75	0.50	0.50
		40 Portfolios	40	11	11	9	5	1	1	1	1
		0 % seats	100.00	28.00	27.38	21.54	13.23	2.46	1.85	1.23	1.23
	Indices	0 % portfolios	100.00	27.50	27.50	22.50	12.50	2.50	2.50	2.50	2.50
LSq	1.91	(s-v)sq	7.27	0.25	0.01	0.92	0.53	0.00	0.43	1.61	1.61
Eff Nv	4.57	(seats)sq	0.22	0.08	0.07	0.05	0.02	0.00	0.00	0.00	0.00
Eff Ns	4.55	(portfolios)sq	0.22	0.08	0.08	0.05	0.02	0.00	0.00	0.00	0.00

²⁵¹ This graph is calculated using the DHS�Calc.xls developed by Michael Gallagher and is available from

http://www.tcd.ie/Political_Science/staff/michael_gallagher/EISystems/index.php

For more information on SPR systems, see Appendix V.

²⁵² Alliance of the main Kurdish parties, not including Gorran.

Graph B demonstrates the formation of the cabinet using Sainte-Laguë. Although by using Sainte-Laguë the allocation of the prime minister and his deputies remain the same, al-Iraqiya and SLA each see their percentage of the portfolios decrease to 27.5%. This also sees the addition of three extra parties to the coalition, with one portfolio each. Due to the high amount of positions within the cabinet in Iraq, a party with as little as 1.23% of the total seats could win a portfolio within the cabinet using Sainte-Laguë. For this reason Sainte-Laguë is not suitable for Iraq as it would result in minor parties gaining too much power and would create a coalition too large to operate successfully. Therefore, if Iraq is to prevent the situation created following the last two elections – where it took months to form a government – by distributing cabinet portfolios through SPR, d'Hondt is the system most suitable to the dynamics within the Iraqi context. By using d'Hondt the cabinet would be chosen within days and as a consequence negotiations involving important issues would not be able to take place before the government was formed. Furthermore, this would also prevent the creation of more cabinet portfolios and it would not allow parties that do not have the highest number of seats to elect the prime minister. Thus, this process would result in more stability within the political system and would prevent decisions being made on the basis of trying to gain power. Therefore, the Iraqi political system would benefit greatly from introducing the d'Hondt model for the allocation of the cabinet portfolios and the lack of a government would no longer be a factor in creating uncertainty. Another key benefit of SPR is that a party cannot threaten to leave a coalition in order to disrupt the government, as if they do they would merely be replaced by the next party in line.

This is not to say that d'Hondt does not have its own problems and that its installation will prevent other issues from arising. It does have its own issues, but the question is whether these are greater than the issues that exist without it. One such issue of the d'Hondt model is in the selection of ministries, where parties are not selecting them entirely on their first preference, but rather as part of a strategy to limit what ministries will be available to the other parties. This includes not selecting first choice ministries due to knowledge that this will not be selected by the party who has the next choice; not selecting ministries because of knowledge that a favourable party (usually one from the same ethnic group) will select this ministry next; and finally selecting a ministry purely to prevent it from going to another party (even when a more prestigious ministry is available). All of these issues arose in this process in NI and it could be said that there was a 'playground attitude' to the selecting of ministries, rather than selections based on serving the greater good of NI society.²⁵³ There have also been many complaints that in Northern Ireland this system has resulted in ministerial fiefdoms. By running d'Hondt immediately after the elections without deciding on government policies ministers can run their ministries as they see fit without any coherence towards an overall government strategy.²⁵⁴ In a speech delivered by Tom Elliot of the Ulster Unionist Party (UUP)²⁵⁵, he attacked this very issue:

²⁵³ O'Leary, Brendan, Bernard Grofman and Jørgen Elklit. 'Divisor Methods for Sequential Portfolio Allocation in Multi-Party Executive Bodies: Evidence from Northern Ireland and Denmark' *American Journal of Political Science*, Vol. 49, No. 1, 2005, pp. 198-211.

²⁵⁴ Neale, Mark. 'Why this education mess should teach us a lesson.' *Belfast Telegraph* [Online] Available from <http://www.belfasttelegraph.co.uk/opinion/news-analysis/why-this-education-mess-should-teach-us-a-lesson-15132182.html> [Accessed 10/11/2011]

²⁵⁵ Currently the second largest Unionist party in NI.

After the 2007 Election, the parties ran D'Hondt, divided up the government departments, and then agreed a Programme for Government that wasn't worth the paper it was written on. Because once a party has a Department, its Minister is really accountable only to his or her Party, not to the Executive... It introduces the temptation to play party political interests ahead of the needs of the country.²⁵⁶

It has been suggested by analysts and politicians (particularly the UUP) that for this reason the ministerial portfolios should not be chosen through a pure d'Hondt system, and that rather negotiations on the government's strategies should be made before deciding the ministers so that the ministers can be elected to implement these strategies – rather than creating their own ministerial fiefdoms.²⁵⁷ Again this idea was put forward in the same speech by the UUP leader:

But next time – this May – lets switch things around, and agree the Programme for Government before we run d'Hondt. That way, all the parties agree what needs to be done first. We begin by sorting out the likes of education, RPA and the Maze/Long Kesh before we start wasting money disagreeing! Then we appoint the Ministers to make it happen. We agree how much we have to spend as a government, and how we want to spend it, as a government – then run d'Hondt, to form a government to make it happen.²⁵⁸

The difference between the situation in NI and Iraq is that politics has become fairly stable in NI, thus allowing for the possibility of the introduction of negotiations prior to the establishment of ministerial portfolios. Although it still remains to be seen as to whether NI has evolved to the position where this would be a feasible action. The bottom line is that in Iraq it took nine months

²⁵⁶ Elliot, Tom. 'Tom Elliott keynote speech on 16 Feb 2011' *Podomatic* [Online] Available from http://alaninbelfast.podomatic.com/entry/2011-02-16T05_26_15-08_00 [Accessed 10/11/2011]

²⁵⁷ Neale, Mark. 'Why this education mess should teach us a lesson.' *Belfast Telegraph* [Online] Available from <http://www.belfasttelegraph.co.uk/opinion/news-analysis/why-this-education-mess-should-teach-us-a-lesson-15132182.html> [Accessed 10/11/2011]

²⁵⁸ Elliot, Tom. 'Tom Elliott keynote speech on 16 Feb 2011' *Podomatic* [Online] Available from http://alaninbelfast.podomatic.com/entry/2011-02-16T05_26_15-08_00 [Accessed 10/11/2011]

to appoint a government, therefore the country is not ready for negotiations prior to installing d'Hondt and any ministerial fiefdoms that are created through d'Hondt are a better option to not having ministries created all together. Therefore, although issues do arise through using this model to select ministerial portfolios, these issues have a lesser affect on the governance than the option of not using d'Hondt at all. It has been demonstrated here that implementing d'Hondt would be the next logical step for consociational governance in Iraq. Nevertheless, this does not necessarily mean that it will be implemented. It was the responsibility of the US to leave Iraq with a functioning and fair system for governance before they withdrew. It can be argued that they could have installed d'Hondt before their withdrawal and thus prevented the issues of forming a government. Unfortunately, this did not happen and it may be too late now; as previously illustrated Maliki has been actively amalgamating power and he is unlikely to install a system that limits his party's chance of retaining the position of prime minister. Furthermore, Maliki has hinted recently (see Chapter 1.9.) that he would like to return Iraq to a majoritarian government, which makes it less likely that he will sanction a process that effectively institutionalises power sharing.

2.3. Article 140

As previously discussed in Chapter 1.4., the Kurds were able to introduce Article 140 into the Iraqi constitution due to the relative instability in the rest of Iraq in comparison to the Kurdish region. This instability led to the Kurds being far more organised than the other parties involved in the negotiations on the constitution and as a result of this they were able to hire numerous

outside constitutional advisors, which their success can partially be attributed to.²⁵⁹ The deal to include Article 140 in the constitution was made at a national level and involved trade-offs with other parties for items they deemed as important, it also included little involvement from the Sunni community, who make up a large proportion of Kirkuk. It seems that either many of the parties involved did not fully comprehend the significance of Article 140, or that they always knew that they would be able to prevent it from being implemented. Regardless of which of these scenarios it was, it is significant that the future of Kirkuk was decided at a national level and not by the people of Kirkuk. A direct result of this is that Article 140 went against the desire of a large proportion of Kirkuk's population, who, if given a choice, would have never used its inclusion as a bartering tool for other gains. Article 140 has created conflict, as it is deemed to favour the Kurds by large proportions of the Arab and Turkmen population. The fact that its implementation has been continuously delayed and that it has passed its initial deadline has created further conflict in Kirkuk – as it has resulted in uncertainty over Kirkuk's future. This uncertainty has allowed issues of conflict to escalate, which has led to the current situation of there being no resolution within sight.

Article 140 deals with the normalisation (returnees to and from Kirkuk) of Kirkuk, which is paired with a census to validate the actual numbers, and followed by a referendum on Kirkuk's future constitutional status. Thus, to some extent it deals with the future governance, as this would be altered depending on the demographics and constitutional status. These are major issues in the Kirkuk conflict and to have a process developed to deal with

²⁵⁹ Brendan O'Leary – who is one of the foremost experts on consociational constitution design and whose work is analysed in Chapter 3.2. – was one of the consultants hired by the KRG.

them that is contested by so many can do little to ease conflict. Furthermore, Article 140 is not a blueprint for a conflict-regulating process, but rather for a conflict-creating process and if the issues in Kirkuk are managed through Article 140 the existing tensions will only intensify. Any settlement created to ease conflict must involve compromises by all factions, yet, still manage to ensure that these same factions make gains. The majority of Turkmen and Arabs feel as if they will have to make plenty of compromises through Article 140 without gaining anything, therefore this piece of legislation can never successfully regulate conflict in Kirkuk. In the 2010 National Elections in Iraq, al-Iraqiya campaigned in Kirkuk using a nationalist manifesto, which included voicing opposition to Kirkuk joining the KRG. This was used to gain political parties to their alliance as well as to gain votes in Kirkuk. Table 1 demonstrates that this tactic was successful, with al-Iraqiya gaining the most votes in Kirkuk.

Total Votes in Kirkuk:	557037
al-Iraqiya Votes in Kirkuk:	211336
KA Votes in Kirkuk:	206542

Table 1

In these Elections both the KA and al-Iraqiya won six seats in Kirkuk, with a further seat being granted to the Rafidayn list, through the Minority Reserved

Seats process.²⁶⁰ As seen in Chart 1, al-Iraqiya won only one per cent more votes than the KA.²⁶¹

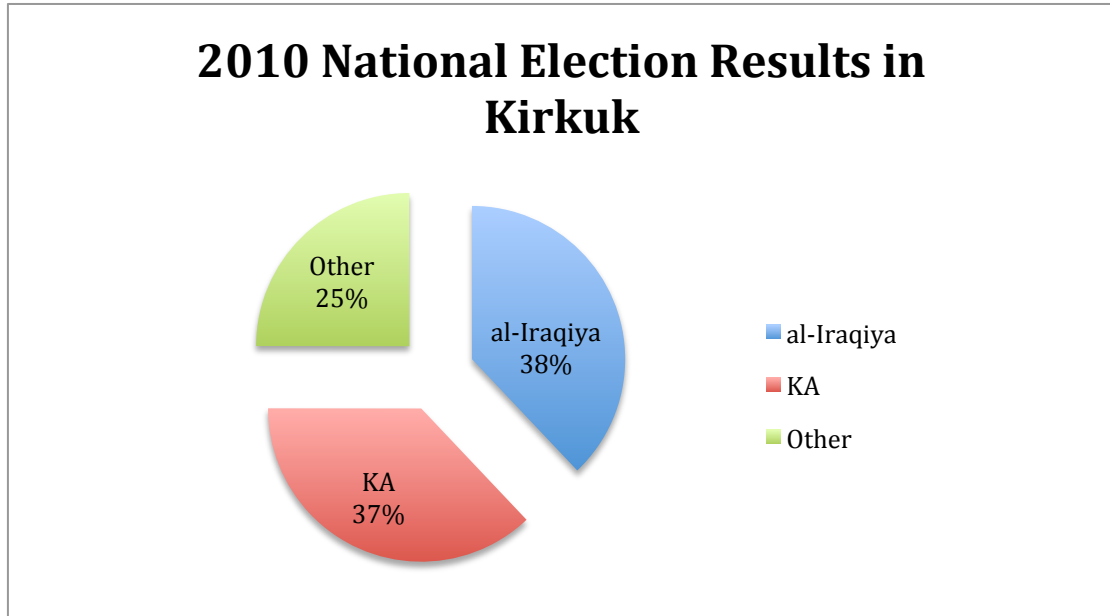


Chart 1

Although the Kurdish vote was not as unified, as in previous national elections, with parties such as Gorran not forming part of the alliance, this graph still demonstrates that 38% of the voters voted for a party with a manifesto that goes against Article 140. The Kurds would have had the majority if they were unified, however there were also other parties who were against Article 140 that were not part of al-Iraqiya. When you add all the Kurdish lists together and all the Arab/Turkmen lists together, the Kurds only won 13,000 more votes.²⁶² What all this clearly substantiates is that the proportion of Kirkuk's population against Article 140 is extremely high.

²⁶⁰ There were eight seats reserved for minorities in 2010 National Elections. Of the eight seats reserved for minorities five are for the Christian community and the remaining three are divided between Shabaks, Sabeen Mandeans and Yezidis.

²⁶¹ Independent High Electoral Commission. 'Kirkuk' *IHEC* [Online] Available from <http://www.ihec-iq.com/ftpar/karkuk.pdf> [Accessed 20/02/2011]

²⁶² International Crisis Group. 'Iraq and the Kurds: Confronting Withdrawal Fears.' *Middle East Report No. 103* – 28 March 2011, p.11.

Therefore, this legislation cannot be used effectively to regulate conflict in Kirkuk.

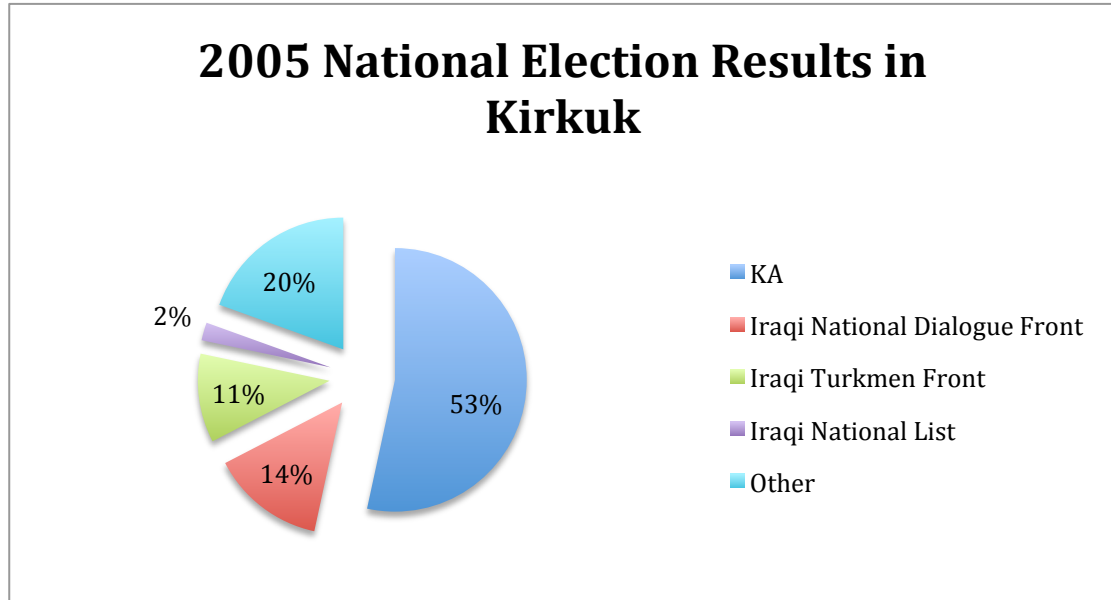


Chart 2

Chart 2 shows the results of the 2005 National Elections in Kirkuk and focuses on the KA and the three parties in Kirkuk that formed part of the al-Iraqiya Alliance. This demonstrates that prior to forming an alliance against the Kurds (and their desire to annex Kirkuk to the KRG) the combined total of these three parties was only 27% and the KA managed to dominate the elections in Kirkuk with 53% of the votes. When this is compared to the 2010 election where al-Iraqiya has the highest percentage of the votes in Kirkuk and an increase of 11% on these parties' previous performance, it becomes clear just how important the opposition to Article 140 is to a significant number of Kirkuki residents.²⁶³ For this reason Article 140 must be replaced with an agreement that has the backing of all the major parties in Kirkuk – and by extension of the Kirkuki population. Such an agreement must include

²⁶³ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, p. 141.

options to deal with the normalisation (including an acceptance of the demographics by all ethnicities), and the status of Kirkuk as well as including details on Kirkuk's governance, as this would be affected by the status it receives. Article 140 has been a significant factor in the political stalemate in Kirkuk, with numerous boycotts and threats of boycotts attributed directly to it. It was therefore also a factor in the creation of the period of uncertainty following the 2010 elections that saw an increase of ethnic tensions in Kirkuk. Many of the scholars who have analysed the future of Kirkuk, as detailed in Chapter 4, have argued that it would be unfair to the Kurds for Article 140 not to be implemented, as it is part of the Iraqi Constitution. Seen in this light, it cannot be argued against that it would be unfair if it were not to be implemented. However, as has been illustrated, its creation was unjust to the non-Kurdish factions of Kirkuk and therefore one can also argue that it would be unfair if it were to be implemented. More importantly, it is reasonable to predict that it would lead to an increase in violence rather than a decrease; therefore its implementation should be avoided. One of the main obstacles to this is the importance that the Kurds have placed on Article 140 and their denial of the legitimacy of the past deadline. This is illustrated by Falah Mustafa:

This is the most important article in the constitution, because we want to know our boundaries; if you buy a house, when you go to the registration office you want to know how much land you have, you can't have a house without them telling you and saying that later on we will decide later on, Kirkuk is like this. So, therefore whether it's a federation, a confederation, independence, you need to know your boundaries, so for us this is the most important thing.²⁶⁴

²⁶⁴ Interview conducted by the author with Falah Mustafa, KRG Foreign Relations Minister, in Erbil, Iraq - 01/06/2013

However, if the Kurds allow for Article 140 – which has past its constitutional deadline and has no hope of resolving conflict – to be rescinded once and for all they put themselves in a strong negotiating position to gain other concessions. Mahmoud Othman, an independent Kurdish lawmaker, shares this idea and believes that the Kurds should relinquish Article 140 and negotiate towards a settlement before having a referendum. According to him the all or nothing approach taken by the Kurdish leadership will result in them gaining nothing.²⁶⁵ Without the Kurds relinquishing Article 140, there will be no end to the conflict and violence will escalate as a large proportion of the population will feel that they have been forced to join the KRG against their will. That is to say if Article 140 was actually ever implemented and not continuously impeded and delayed, leaving Kirkuk in a continual state of unstable limbo. In an interview with ICG, a high-level government official, linked to Maliki, suggested that Article 140 would not be implemented within ten years and Maliki himself suggested that Article 140 could not be implemented without changing the constitution.²⁶⁶ If Article 140 is to be replaced in a new broader agreement, there must be new mechanisms put in place to deal with returnees, decide the districts and sub-districts and to decide on the future status of Kirkuk. However, as illustrated, a new agreement needs to be broader than just a mere replacement of Article 140 and must deal with the other issues of conflict mentioned in this chapter.

²⁶⁵ International Crisis Group. 'Iraq and the Kurds: Confronting Withdrawal Fears.' *Middle East Report No. 103* – 28 March 2011, p.8.

²⁶⁶ International Crisis Group. 'Iraq and the Kurds: Confronting Withdrawal Fears.' *Middle East Report No. 103* – 28 March 2011, p.4.

2.4. Rival Ethnonationalisms

As has been demonstrated throughout this thesis, the symbolic value that Kirkuk holds to the various ethnonationalisms causes conflict, as they are intent on claiming ownership. This prevents an agreement being reached on the future of Kirkuk, as the protagonists involved are not willing to make compromises. Therefore this is an issue that needs to be addressed in order for an agreement to be reached. As highlighted by Paul Arthur, the stage of negotiation towards a settlement is reached either through desperation, due to the longevity of the conflict, or through exogenous factors.

There is a view that the conflict must "ripen" to the point at which the parties have reached mutual exhaustion or one side has been forced to capitulate. On the other hand, third parties have to make the crucial decision as to whether the price of doing nothing at all is greater than that of the "least bad" form of intervention.²⁶⁷

The issue of rival ethnonationalisms is not one that can be solved overnight, but rather its affects must be counteracted in order for an agreement to be reached. Learning from the advances of other conflicts can be a factor in helping the protagonists see the need to negotiate, but this is often paired with exogenous pressure on the actors to reach the stage of all-inclusive negotiations with no preconditions. Unlike the situation that existed in Northern Ireland, there is no intense pressure from Baghdad and the KRG on the various factions of Kirkuk to reach a settlement. In the Northern Ireland conflict, Westminster and Dublin had reached an agreement that a settlement was imperative for peace in Northern Ireland – regardless of their personal desires for the region. In Kirkuk, the same political parties that operate in

²⁶⁷ Arthur, Paul. *Peer Learning: Northern Ireland As A Case Study*. Wilson Center [Online] Available from <http://www.wilsoncenter.org/subsites/ccpdc/pubs/art/2.htm> [Accessed 16/08/2010]

Baghdad and the KRG are the ones responsible for negotiations on Kirkuk and their position on the future is clear and rather intransigent. Therefore, there is not the same pressure to negotiate, as the higher entities in the region are involved in the outcome and therefore cannot enact a sense of looming consequences on themselves if they do not negotiate. Similar to Northern Ireland, there cannot be the threat of international sanctions and embargoes forcing the actors in Kirkuk to negotiate, as it is a region and not a country. Without the pressure of having the future of Kirkuk decided without them, there is nothing currently forcing the factions of Kirkuk to make compromises and negotiate towards a settlement and instead there seems to be a culture of stalling and short-sighted attempts to manoeuvre one's own bloc into a better position. This is evident in the continual boycotts and threats of boycotts by the various factions of the Kirkuk Council; this type of action does nothing towards establishing peace and is reminiscent of the political situation in Northern Ireland that existed in the decades before serious negotiations began in the 1990s.²⁶⁸ Further evidence that the actors in the Kirkuk conflict have not reached the stage necessary to make use of the advances made in other conflicts is seen with the Kurds insistence on the implementation of Article 140; it is clear to see that this will eventually lead to violence in Kirkuk, as it favours one ethnicity over the others. However, the other parties are not free from blame, as instead of attempting to negotiate a new settlement that involves compromises from themselves, their main focus

²⁶⁸ O'Driscoll, Dylan. *Is Kirkuk likely to become the 'Northern Ireland' of the KRG?* Unpublished essay from MA Kurdish Studies, University of Exeter, 2009.

is on blocking Article 140.²⁶⁹ The fact that both the Article 23 and the Article 140 Committees – which both had representatives of all the ethnicities present in Kirkuk – failed in their tasks and were unable to work together, proves that Kirkuk has not reached the political stage where its political elites can visualise that it is imperative to compromise and to negotiate with no preconditions until results become evident. Although Kirkuk has not reached this stage, it is entirely unfeasible to wait for the conflict to ‘ripen’. Not only would there be the loss of unnecessary lives in Kirkuk, but – as discussed in the introduction – a violent conflict in Kirkuk could have a devastating affect on the whole region. In the case of Kirkuk, the price of third parties doing nothing is far greater than the price of intervention. Therefore, the stage of readiness to negotiate must be achieved through pressure from the US and UN. Thus forcing a self-realisation upon the protagonists that the current methods are achieving nothing.²⁷⁰ The methods of addressing the rival ethnonationalisms can be developed by including: (1) security for the survival and prominence of each of the ethnonationalisms (2) examples of how these methods of regulation have worked in previous conflicts with similar issues (3) exogenous pressure from the US and the UN on Kirkuk and also on both the KRG and Baghdad.

2.5. Governance

The issues with the governance of Kirkuk are closely linked to that of the rival ethnonationalisms, as due to the fact that each ethnicity is trying to

²⁶⁹ Agence France-Presse. Turkmen Join Arabs to Stop Referendum in Kirkuk. *Hürriyet* [Online] Available from <http://www.hurriyetdailynews.com/n.php?n=turkmen-join-arabs-to-stop-referendum-in-kirkuk-2009-08-17> [Accessed 24/06/2010]

²⁷⁰ *Kurds hold out Hope for Kirkuk Election*. *Kurdish Globe* [Online] Available from <http://www.kurdishglobe.net/displayArticle.jsp?id=DC6783C0B8C856F0E68A17E896241A44> [Accessed 27/06/2010]

manoeuvre themselves into the best possible position, the efficient governance of the region is sidelined. These issues started right from the beginning of the 'new Iraq', in 2003, when the PUK *peshmerga* forces invaded the city, took over the municipal headquarters and appointed their own mayor. Following the US' arrival in Kirkuk the Kurdish mayor was dismissed and the *peshmerga* were evicted from the city. The US then appointed a new twenty-four member council, consisting of six members from each ethnicity – including the minority-Christians. This caused problems, as groups who perceived that they had larger numbers within the city, particularly the Turkmen, felt they were not being adequately represented. This problem was further perpetuated by the US' reliance on the Kurds for help in managing the city. According to the KDP's media outlet, 1500 officials had been sent to Kirkuk to help the US forces to manage the city. As a result, the other ethnicities saw the US as favouring the Kurds, which caused conflict within the council. Furthermore, after complaints from numerous Turkmen parties and the two main Kurdish parties, five of the six ITF members were suspended and replaced by Turkmen with closer links to the Kurds. This resulted in the remaining ITF members boycotting the committee meetings and eventually being removed by the US, which further disrupted the committee's ability to govern the limited responsibilities that they were given. When the US created a more permanent assembly 39 delegates from each ethnic group were chosen, as well as 144 independent delegates. Each group, including the independents, then nominated six representatives to the council. Prior to the selection of the council the Arabs had five delegates arrested for being members of the Ba'ath Party. As a result of this the Arabs boycotted the

vote, and withdrew their candidates for the election of the mayor. The six independents elected consisted of five Kurds, which gave the Kurds 11 members (as well as many pro-Kurdish members within the Christian group) in the council and the minority-Christians a grossly unrepresentative seven members. Furthermore, two of the Turkmen members elected were seen to have close links to the Kurds. The fact that the council was pre-determined caused anger from the Arabs and Turkmen who saw the results as pre-decided by the US and largely in favour of the Kurds. Although the council had minimal responsibilities – due to the discontent with its establishment process by the Arabs and Turkmen – its effective operating was hindered, as Turkmen and Arabs set about disrupting what they saw as Kurdish governance rather than helping to govern the city as a unified entity. Turkmen also saw themselves marginalised in national governance, which made it all the more important to try to wield more power within Kirkuk. Thus making their main focus the pursuit of power, rather than the governance of Kirkuk. Even when the US reorganised the council by adding six more Arabs, two more Kurds and two more Turkmen, there were still issues as those considered to be pro-Kurdish were in the majority. The matter of the pre-determined council did not go away and there was still an impression of unfairness, which detracted from the actual governance, as manifested by two of the Arab councillors boycotting the council.²⁷¹

Article 58 of the TAL was perceived as granting the Kurds future ownership of Kirkuk.²⁷² As a result of this both Arab and Turkmen members of the Kirkuk Council walked out, which resulted in the council being suspended

²⁷¹ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 91-112.

²⁷² For more information on Article 58 and the TAL see Chapter 1.4..

in April 2004. Once again due to the battle for power the governance of Kirkuk suffered. In the run-up to the 2005 federal and provincial elections the Kurds wanted elections in Kirkuk to be suspended until Article 58 of the TAL was implemented. Although they were not successful in gaining this, they did gain the right to vote for the returnee Kurds – due to the threat of a boycott of the elections in Kirkuk. As a direct result of this development the United Arab Front (Sunni party) withdrew from the elections. Once again resulting in an unrepresentative council being elected in Kirkuk, which affected its ability to govern. Due to boycotts, unrest in the non-Kurdish areas, and the organisational strength of the Kurdish parties, the Kurdish list managed to gain 26 seats in the 41-person council. When it came to forming a council the same issues arose – as analysed in Chapter 2.2. – in that the battle for power prevented the formation of the executive (particularly due to the fact that the Arabs and Turkmen felt that the Kurds had gained more votes than their numbers warranted). Consequently, a council was not elected for six months, all the while preventing effective governance. Finally, due to the Kurds' majority in the council they elected an executive without the approval of the Turkmen and Arabs, giving the Kurds the top positions and leaving the deputy and assistant positions open for the other ethnicities. Subsequently, the Kurds could not effectively govern Kirkuk and the legitimacy of the council was void. This status quo was further cemented by the boycotting of the council meetings by Turkmen and Arabs. The lack of effective governance resulted in an inability to collect taxes and most of the finances, as well as the big decisions, came from Baghdad. In the drafting of a new constitution the Kurds managed to negotiate the inclusion of Article 140 and due to their power as

'kingmakers' in the December 2005 elections they managed to gain a guarantee that this would be implemented. As described in Chapter 1.4., this created issues which further resulted in the protagonists blocking each other, fighting for power and preventing effective governance.²⁷³ The lack of progress in the governance of Kirkuk, due to the rival ethnonationalisms, is described by Tahseen Kahya, a leading member of the Turkmen bloc in the council: 'We are suffering from political infighting. The problem with the council is the lack of trust, because any initiative from one group is always opposed by the others.'²⁷⁴ The International Crisis Group (ICG) also noted the blocking of the effective governance of Kirkuk in their 2006 report on Kirkuk. According to ICG, although Arabs and Turkmen participated in council debates they deliberately didn't turn up for votes in order to not legitimise the result, thus preventing it from being implemented throughout Kirkuk. Although both Arabs and Turkmen were aligned in their opposition to Article 140, they could not agree as to who would receive the position of deputy governor. This further shows that even when alliances were made in Kirkuk, they were only made to prevent the gains made by another ethnicity and did not prevent the battle for power within this kind of instrumental alliance. Apart from the obvious divide within Kirkuk politics, the lack of funding also made the Kirkuk Council entirely ineffective as there was external funding/programmes in Kirkuk from the KRG and US, thus undermining the Kirkuk Council.²⁷⁵ By late 2006 the problem of governing Kirkuk deteriorated further when Arab and

²⁷³ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 113-153.

²⁷⁴ Schemm, Paul. 'Northern Iraq City's Fragile Ethnic Mix Perseveres' *AFP* [Online] Available from <http://www.christiansofiraq.com/kirkukAp276.html> [Accessed 15/09/11]

²⁷⁵ International Crisis Group. 'Iraq and the Kurds: The Brewing Battle over Kirkuk.' *Middle East Report No. 56* – 18 July 2006, p.9.

Turkmen officials began a boycott of Kirkuk's council due to what they saw as Kurdish dominance of the council.²⁷⁶ Following more than a year of boycott of the council the Kurds and Arabs reached a deal in December 2007 for equal power sharing based on the 32/32/32/4 division of power. This saw the Arabs end their boycott, although despite the fact that this gave Turkmen the equal power sharing they were seeking, their boycott of the council remained intact.²⁷⁷ It was not until May of 2008 that the Turkmen finally ended their boycott.²⁷⁸

Although provincial elections were supposed to be held in 2008, owing to a lack of agreement on an election law – due mainly to the issue of Kirkuk – these were continually delayed. It was eventually decided that Kirkuk would be excluded from these elections and they went ahead in January 2009 without the participation of Kirkuk, despite the fact that provincial elections had not been held since 2005 and that the Kirkuk council was constantly being boycotted.²⁷⁹ As part of the new election law, Article 23 was created, which related directly to the Kirkuk issue.²⁸⁰ Despite the previous agreement for power sharing following the 32/32/32/4 division of power, the Kurds now saw this as something to be negotiated on through Article 23 and went back on this agreement. They further angered the Arabs by resigning both the

²⁷⁶ Associated Press. 'Arab, Turkmen members boycott meetings of Kirkuk's provincial council.' *Kurd Net* [Online] Available from <http://www.ekurd.net/mismas/articles/misc2006/11/kirkukkurdistan177.htm> [Accessed 16/09/2011]

²⁷⁷ 'Arabs and Kurds reach accord in Iraq's Kirkuk.' *AFP* [Online] Available from <http://afp.google.com/article/ALeqM5i3hvorMuUggdPDZQauhZxGLCYyJA> [Accessed 16/09/2011]

²⁷⁸ 'Turkmen Bloc Ends Boycott in Kirkuk.' *Iraq Slogger* [Online] Available from http://iraqslogger.powweb.com/index.php/post/5833/Turkmen_Bloc_Ends_Boycott_in_Kirkuk?PHPSESSID=2a62ad35bc6b372747628016ff3e75c2 [Accessed 16/09/2011]

²⁷⁹ 'Iraq deal over province elections.' *BBC News* [Online] Available from http://news.bbc.co.uk/1/hi/world/middle_east/7633557.stm [Accessed 16/09/2011]

²⁸⁰ Article 23 is discussed in further detail in Chapter 1.5.

Governor and President as part of a private deal with the Turkmen, in order for a Turkmen to be elected as President. This demonstrates the instability of the council due to the lack of elections and the problems caused by not having a just and agreed upon method for deciding the allocation and election of positions.²⁸¹ Due to battles within the Article 23 Committee, by the rival ethnonationalisms, no consensus was reached and it was deemed as a failure.²⁸² As a result of this on 8 November 2009 an election law was agreed upon that gave a year-long review of Kirkuk's results in order to scrutinise any irregularities.²⁸³ When the national elections were eventually held in Kirkuk, Turkmen and Arabs aligned themselves together against the Kurds and their desire to annexe Kirkuk to the KRG. The fact that they won the most seats with their al-Iraqiya alliance saw a further fracture of the political process in Kirkuk with the political battle between the rival ethnicities heating up, thus further affecting the governance of Kirkuk.²⁸⁴

As is evident the governance of Kirkuk has suffered due to the rival ethnonationalisms' battle for power. There have been constant boycotts and the blocking of proposals made by other ethnicities and a continuous battle for positions. According to Khadir Gihan of Gorran, those in power have not ruled for the people:

²⁸¹ Ghareeb, Azad. 'An Uneasy Truce in Kirkuk.' *Niqash* [Online] Available from <http://www.niqash.org/content.php?contentTypeID=75&id=2806&lang=0> [Accessed 19/09/2011]

²⁸² Serwer, Daniel & Sam Parker. *Maliki's Iraq between Two Elections*. May 2009. United States Institute of Peace [Online] Available from <http://www.usip.org/files/resources/Maliki's%20Iraq%20between%20Two%20Elections.pdf> [Accessed 19/09/11]

²⁸³ Visser, Reidar. 'The Election Law Is Passed: Open Lists, Kirkuk Recognised as a Governorate with "Dubious" Registers.' *Historiae* [Online] Available from <http://www.historiae.org/election-law.asp> [Accessed 19/09/2011]

²⁸⁴ Lawrence, Quil. 'Poll Results in Kirkuk may Spur Census.' *National Public Radio* [Online] Available from <http://www.npr.org/templates/story/story.php?storyId=125318805> [Accessed 27/03/2010]

I believe that if any city is ruled based on citizen rights, the ideas of ethnic ownership, etc. will get lost. I think that if in the past ten years they [KDP & PUK] had served Kirkuk properly I think the Turkomen and Arabs would have no problem in joining the KRG, but they didn't serve properly.²⁸⁵

The power sharing that exists in Kirkuk does not work, from the division of power to the election of positions, the system is flawed and therefore a new system needs to be introduced. Under the current system ethnic groups do not see any adverse effects as a result of the boycotts they stage, which effectively allows them to block the system, which thus denies Kirkuk proper governance. The political parties use boycotts and withdrawal from the council as a tool of political manipulation, as seen when Arab members withdrew from the Council in September 2011 demanding that the Asayesh forces be removed from Kirkuk.²⁸⁶ In order to prevent this political wrangling a new power sharing system needs to be created that addresses these issues and, most importantly, is agreed upon by all the ethnicities so that there can be no grievances. It is also important that elections are held and an agreed system is set in place for the division of power (see Chapter 2.2.) so that it cannot be continually contested and used as a method to block the governance of Kirkuk.

2.6. Resources

Neighbouring countries and rival ethnonationalisms within Kirkuk and Baghdad see the Kurds' aspiration for annexing Kirkuk as a desire to control its vast natural resources and in some cases as a means to secede from Iraq. Regardless of the inaccuracy of these accusations (these are discussed

²⁸⁵ Interview, conducted by the author, with the Gorran Leadership Council for Kirkuk – Kirkuk, 06/06/2013

²⁸⁶ Samad, Diyar. 'Arabs also want their own force in Kirkuk.' *AK News* [Online] Available from <http://aknews.com/en/aknews/4/262965/> [Accessed 27/09/2011]

throughout this thesis) they create an obstacle that prevents the development of a settlement for Kirkuk. This issue is further exasperated by the fact that Baghdad and the KRG are both backing different versions of the Hydrocarbon law and have different readings of the constitution on this issue. Still further strain is caused by the fact that the KRG has the ability to halt exports through the northern pipeline, as seen in 2009 over a disagreement related to this very issue.²⁸⁷ Without the creation of further agreements that guarantee Kirkuk's natural resources and the profits thereof will remain within Iraq – including a finalised agreement on a new Hydrocarbon law – this will always remain an issue that will prevent Kirkuk moving forward. Despite the fact that the constitution states that all previously discovered oil deposits, which Kirkuk is, will be controlled by Baghdad, this does not seem to be enough to satisfy non-Kurds and further guarantees might be required.

There is also the additional issue of there not being not enough money from the vast natural resources in Kirkuk making its way back to the province. Kirkuk needs more finances to deal with the returnee situation, as well as with the rebuilding of an area that has seen so much devastation over a long period of time. Although since the 2010 budget Kirkuk receives an extra \$1 from each barrel of oil produced, its infrastructure is so far behind that this entire fund went towards paying for the provision of electricity for Kirkuk.²⁸⁸

As well as the issue of natural resources within Kirkuk, there is also the issue of those shared with the KRG. This mainly concerns the very scarce

²⁸⁷ Zulal, Shwan. 'Halting Iraqi Kurdistan Oil Reminds Baghdad of Kurdish Dominance in North' *Kurd Net* [Online] Available from <http://www.ekurd.net/mismas/articles/misc2011/9/invest733.htm> [Accessed 20/09/2011]

²⁸⁸ Financial Times Gulf. 'People Power Keeps Lights Burning in Kirkuk.' *Kurdish Globe* [Online] Available from http://www.kurdishglobe.net/display_article.html?id=25CA7B0B130920EF825034B2932027BA [Accessed 20/09/2011]

resource of water with the KRG controlling the flow of water into Kirkuk through the Dukan dam. Arab farmers accused the Kurdistan region of ruining them by closing the valves to their water supply, the Dukan dam, in the winter each year. Sheikh Khaled al-Mafraji, a leader of the Arab Political Council, claimed that this was evidence of Kurds trying to harm the Arabs, as shown in the following statement:

We are harmed by the Kurds, and the officials responsible for Baghdad and Kirkuk will not lift a finger. They release too much water from June to September while from October it is the opposite: there is not enough drinking water and even less to irrigate our lands.²⁸⁹

The KRG claimed that the dam gates needed to be closed in the winter to ensure sufficient water for crops in the spring and summer. They stated that these actions were not carried out to harm those in Kirkuk, but instead were necessary due to a shortage of water. Evidently, this problem is caused through a lack of interaction and cooperation between the KRG and non-Kurds in Kirkuk on the provisions of water.²⁹⁰ There have also been disputes over the amount of electricity produced in Kirkuk going to Baghdad, whilst Kirkuk battles to have enough electricity itself.²⁹¹ This matter was dealt with through the purchasing of electricity from the KRG grid, which caused further issues with the non-Kurds wary of an additional link with the KRG. This development can actually be seen as a positive as it gives the KRG an opportunity to prove to Kirkuk the benefits of links to the Kurdish region.

²⁸⁹ 'Iraq water shortages raising ethnic tensions.' *Peyamner News Agency* [Online] Available from <http://www.peyamner.com/details.aspx?l=4&id=221370> [Accessed 29/01/2011]

²⁹⁰ 'Iraq water shortages raising ethnic tensions.' *Peyamner News Agency* [Online] Available from <http://www.peyamner.com/details.aspx?l=4&id=221370> [Accessed 20/09/2011]

²⁹¹ 'Baghdad, Kirkuk address electricity sharing dispute.' *PUK Media* [Online] Available from http://www.pukmedia.com/english/index.php?option=com_content&view=article&id=6295:baghdad-kirkuk-address-electricity-sharing-dispute-&catid=29:kurdistan-region&Itemid=385 [Accessed 21/09/2011]

However, without politicians in Kirkuk having other formal links (these are discussed in Chapter 5), they will always feel under the KRG's control, rather than as interacting with the KRG.²⁹²

Closely related to the problem of water shortage, there is also the issue of the agriculture sector, which was seriously eroded during the time of Saddam Hussein and has not been redeveloped in the ten years since his fall. Khadir Gihan from the Gorran party outlines the problem of the agricultural sector in Kirkuk:

he [Saddam Hussein] displaced people from the countryside to urban areas and when they came back they couldn't support the agriculture... and did not have the materials or education to redevelop these villages and for this reason in these 10 years we have seen no improvement in the agricultural industry. For example, the farmer used to be part of a production system, but right now he is just able to feed his family and no more. The agricultural goods we get right now are from Iran and Turkey.²⁹³

As the soil surrounding Kirkuk is fertile it is imperative that there is investment towards the agriculture sector in order to not only supply Kirkuk with local produce, but also to support the section of the population that relies on agriculture for its livelihood. Furthermore, agricultural matters have become politicised as in the case of Arab farmers complaining about the unfairness of having their farming contracts in Kirkuk cancelled, as part of the process to restore Kirkuk's demography. This created a rift between the al-Iraqiya list and the Kurdistan Blocs Coalition (KBC) over the legality of cancelling these contracts. To ease the tension created, Kirkuk's provincial council launched an initiative to pay compensation to both the farmers who cooperated with the

²⁹² Financial Times Gulf. 'People Power Keeps Lights Burning in Kirkuk.' Kurdish Globe [Online] Available from <http://www.kurdishglobe.net/display-article.html?id=25CA7B0B130920EF825034B2932027BA> [Accessed 20/09/2011]

²⁹³ Interview, conducted by the author, with the Gorran Leadership Council for Kirkuk – Kirkuk, 06/06/2013

scheme willingly and to those whose contracts were not renewed legally. This included allocating similar agricultural land in their areas of origin to those who did not want their contracts cancelled.²⁹⁴ However, this initiative did little to ease tensions, as Arab farmers, supported by their political parties in Kirkuk, demanded the return of their agricultural lands.²⁹⁵

As is evident, the natural resources in Kirkuk cause fear amongst the rival ethnonationalisms over control of them going to another rival. Therefore, it is important that any agreement developed includes significant reassurances that these essential resources will remain the property, and under the control, of Iraq.

2.7. Security

Currently there are numerous security forces operating in Kirkuk, these are: the police force (and its various subsidiaries), the Iraqi Army, the *peshmerga*²⁹⁶, the US Army (prior to withdrawal), the Asayesh²⁹⁷, and finally the *Sahwa*.²⁹⁸ Understandably, with this amount of security forces operating in Kirkuk there is a problem with communication between all the groups, which causes confusion and a lack of unity and consistency in the policing of Kirkuk. With no overall command there is a lack of trust and transparency and on the rare occasion when vital information is passed on it is not used, as opined by the KDP Asayesh spokesperson for Kirkuk: 'we have some people working

²⁹⁴ Ali, Ammar. 'Arab Current in Kirkuk backs initiative to resolve agricultural contracts crisis.' *AKnews* [Online] Available from <http://aknews.com/en/aknews/4/213338/> [Accessed 25/01/2011]

²⁹⁵ Usman, Rebwar. 'Disputes continue over Kirkuk's agricultural lands.' *The Kurdish Globe* [Online] Available from <http://www.kurdishglobe.net/display-article.html?id=8AD6CA6468FBC4EA20A847F3CC525C0A> [Accessed 30/01/2011]

²⁹⁶ The *peshmerga* is the Kurdish army controlled and paid by the KRG.

²⁹⁷ This is the Kurdish secret police and both the KDP and the PUK have their own branches.

²⁹⁸ *Sahwa*, also known as the Awakening Council or Sons of Iraq, is a Sunni Muslim force set up by the US to give disenfranchised Sunnis an option other than the anti-US groups and is used to maintain security in Sunni-majority areas.

with us and giving us information and we are passing that on to the army, but we are sure they are not using it.²⁹⁹ Along with the lack of cooperation between these groups, there is also negative competition, which at times leads to the arrest of members from rival organisations.³⁰⁰

According to UNAMI there are as many as 7800 Asayesh forces from the KDP and PUK operating in Kirkuk. Whilst the Asayesh are important in fighting terrorism in Kirkuk, they create an issue as the Arabs and Turkmen largely oppose their presence. Arabs and Turkmen claim that they are unaccountable, act above the law and are used as a force to intimidate political opponents. They also claim to fear the Asayesh, with many Arabs complaining of extra-judicial arrests and transfers to the KRG for interrogations and imprisonment.³⁰¹ Non-Kurds see the Asayesh as wrongly controlling the policing in Kirkuk and disagree with its interference with the other security forces. Additionally, Kurds who do not belong to the KDP and PUK claim that these forces are militias for the political parties rather than a security service for Kirkuk. This point is highlighted by Khadir Gihan, Gorran Leadership Council Kirkuk: 'We want the Asayesh as national security not as political security, if the Asayesh belongs to a party it is a militia, but if it belongs to a government it is not a militia.'³⁰² Arabs and Turkmen also resent the *peshmerga* operating in Kirkuk as it is a Kurdish army and they see its

²⁹⁹ Interview, conducted by the author, Lieutenant Colonel Azad, Spokesperson KDP Asayesh Kirkuk – Kirkuk, 06/06/13

³⁰⁰ Mukrian Aziz, Lawyer for KDP Kirkuk, numerous meetings and conversations in Kirkuk and Erbil in 2013.

³⁰¹ UNAMI. 'Kirkuk Markaz' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]

³⁰² Interview, conducted by the author, with the Gorran Leadership Council for Kirkuk – Kirkuk, 06/06/2013

involvement as an attempt by the KRG to gain control of Kirkuk.³⁰³ The following statement from the leader of the Iraqi National Turkmen Party, Jamal Shan, highlights these fears:

We are afraid that this small Kurdish force will grow in size and take absolute control over the city's security as part of a plan to incorporate Kirkuk into Kurdistan, whether legally or by force.³⁰⁴

At the same time, the Kurds denounce the need for the Iraqi Army to operate in Kirkuk and are particularly sensitive to its operations in areas that were part of the *Anfal* campaign. Moreover, the Iraqi security forces are dominated by members who have strong political party links, which allows these parties to influence the policing of Kirkuk. In addition, in a multiethnic area like Kirkuk, it is important that the police are multi-lingual in order for them to communicate effectively with the population they are policing. However, many of the police in Kirkuk can only speak one language, which hinders effective communication and by extension effective policing.³⁰⁵ Furthermore, instead of Kirkuk moving forward towards a unified multiethnic police force, things are going in the opposite direction and more fractures are being created. This was seen in September 2011 when first the Turkmen announced that they would create a special security force to protect Turkmen citizens in Kirkuk, and then Arab members of the Council demanded the removal of the Asayesh forces from Kirkuk or they too would create their own security

³⁰³ UNAMI. 'Kirkuk Markaz' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]

³⁰⁴ Interview conducted by International Crisis Group, see: International Crisis Group. 'Iraq and the Kurds: Confronting Withdrawal Fears.' *Middle East Report No. 103* – 28 March 2011, p.17.

³⁰⁵ UNAMI. 'Kirkuk Markaz' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]

force.³⁰⁶ Finally, the only factor that kept communication and cooperation between these various factions was the US Forces and this diminished notably following their withdrawal, in December 2011, which led to an increase in violence. For this reason many members of the security forces in Kirkuk did not want the US to withdraw, as highlighted by the following statement by the Deputy Police Commander, General Turhan Yousef, 'American troops should stay, or there will be civil war.'³⁰⁷ The bad state of the security forces is further highlighted by the amount of violence in Kirkuk, as exhibited in Chapter 1.7.. This violence has caused many to leave Kirkuk, particularly the minority Christians.³⁰⁸ To sum up, it is clear that the current situation of the security services in Kirkuk causes conflict, and thus a new system with cooperation, equality, accountability and with less factions, needs to be implemented. It is worrying that there is no attempt to even implement a system along these lines and instead the security services in Kirkuk are regressing.

2.8. Employment

As is evident from this chapter the employment within the security services and the council is highly contested, with both being seen as dominated by the Kurds. There are also issues of contention with the nationally-owned Iraqi Northern Oil Company (INOC), which operates in Kirkuk. Namely, Kirkuk's Kurds have complained about the ethnic and political dominance of Arabs in

³⁰⁶ Samad, Diyar. 'Arabs also want their own force in Kirkuk.' *AK News* [Online] Available from <http://aknews.com/en/aknews/4/262965/> [Accessed 27/09/2011]

³⁰⁷ Interview conducted by International Crisis Group, see: International Crisis Group. 'Iraq and the Kurds: Confronting Withdrawal Fears.' *Middle East Report No. 103* – 28 March 2011, p.18.

³⁰⁸ Numerous conversations between the author and Christians from Kirkuk who had moved to the Christian suburb, Ainkawa, of Erbil.

INOC. According to Adil Chawshin, deputy chief of the Kirkuk Oil Syndicate, INOC had 11,733 permanent employees at the time, and amongst them, only 805 were Kurds. Employees with temporary contracts – appointed after 2003 – amounted to about 4,400 employees, and only 225 of these were Kurds. Kurdish officials in the Kirkuk Provincial Council complained that INOC and the Iraqi Oil Ministry were ignoring the role of Kirkuk's local government in making decisions on the province's oil issues.³⁰⁹ Again, the issue of employment is a highly politicised one, as it is closely linked to the matter of the acceptance of returnees and the wider situation of electing officials, as until agreements are reached on these the proportional representation of posts cannot be decided. Under the Berlin Accord (see Chapter 4.4.) a group of Kirkuki politicians signed an agreement to rank the positions available within civil employment, in order to distribute the top positions fairly; to distribute employment proportionally with regards to the demographics of each region; and to distribute civil employment under the 32/32/32/4 ratio.³¹⁰ Although the first two points are important, the final point would create problems. If the Kurds are in the majority, it would be unfair for them to only have 32% of the police force as they would have a larger population to police, and so on. Or alternatively if an ethnicity only amounts to 20% of the population, but are gaining 32% of all civil positions this would result in a class system where this ethnicity is better off than the rest. The unfairness of this system is further highlighted by the Turkmen being the most vocal supporters of it, as they would have the most to gain when taking their

³⁰⁹ Usman, Rebwar. 'Kurds demand fair share for oil employees.' *Kurdish Globe* [Online] Available from <http://www.kurdishglobe.net/display-article.html?id=B17003BE3531246F741B03EEFBCD2F33> [Accessed 23/01/2011]

³¹⁰ *Berlin Accord*. Friedrich Naumann Foundation for Liberty [Online] Available from http://fnst-amman.org/en/images/stories/en-Berlin_Accord.pdf [Accessed 20/09/2011]

numbers into consideration.³¹¹ However, if a proportionate representation system was chosen, the returnee Kurds and the planted Arabs who have not returned to their area of origin would have to be accepted in order for the distribution to be recognised by all. Therefore, resolving this issue of employment depends on the steps taken on issues such as returnees, but the likely action would be based on the power sharing within the council, which itself is based on other factors (like the constitutional status).

2.9. Conclusion

There are many important issues that are mentioned in this chapter that are preventing Kirkuk from moving forward. As has been displayed, the various rival ethnonationalisms have different ideas of how to resolve the matters highlighted, hence the fact that these issues create conflict. As already stated, in order for a settlement to be developed these concerns must be tackled in a way that will result in all the ethnicities making equal compromises, yet feeling as if they have made relevant gains. Many of these issues are intertwined and consequently the method used to resolve them is dependent on the method used to resolve another related problem. It is therefore important that these are addressed in one package and that they are linked in a way that the necessary compromises are shared amongst the ethnicities. This chapter helps to understand what the key issues that need resolving are and gives the stance of each ethnic group on these, thus paving the way for a settlement to be developed in the succeeding chapters. In Chapters 5 and 6

³¹¹ The preference for this system was highlighted by Turkmen in interviews conducted by the author. See: Interview, conducted by the author, Salar Erbil, member of Turkmeneli Party Leadership Council – Erbil, 13/02/2013 & Interview, conducted by the author, with Sundus Saqi, Iraqi Turkmen Front Representative London - 09/06/2013

the analysis in this chapter will be used to develop a proposed agreement that takes into consideration that all these issues must be addressed in order to be accepted and, in fact, succeed. Furthermore, the analysis of the issues of conflict in this chapter will be used when deconstructing and exposing the weaknesses of previous proposals for Kirkuk in Chapter 4.

Chapter 3: Methods of Power Sharing

3.1. Introduction

As already stated in the introduction, it is impractical for areas that are involved in ethnic conflict to dissolve into ethnically homogenous countries. Not only would these self-determination disputes lead to much bloodshed, there would also be a proliferation of small states without the capacity to function on their own. At the same time majoritarian and authoritarian regimes have their own problems, but most of all they are shrouded in unfairness towards minorities. Therefore democratic power sharing offers the greatest prospect for long-term peace, even though it is evidently a difficult practice to introduce to a deeply divided society. Power sharing allows for inclusive governance where all the major ethnic groups have some form of representation within the government. According to Timothy D. Sisk there are two types of broad methods of power sharing for deeply divided societies – the consociational method and integrative method (centripetalism). There is a depth of literature on these two theories, with the main focus being on: which theory is better for conflict management, examining regions that have introduced one of these theories to analyse the successes and failures, and developing these theories within the dynamics of a particular conflict. One of the key reasons for the majority of the literature focusing on the conflicts rather than the theories is because the latter can be implemented differently depending on the dynamics of the situation where they are introduced. For this reason the majority of the literature on these theories does not make any direct developments to the theories as a whole, but rather on the specific conflicts that are examined. This should not be viewed as a negative, as

these theories need to remain broad in order for them to remain relevant to a vast array of conflicts. The refinements should take place once a specific conflict has been chosen, rather than before. As Michael Kerr states:

in societies deeply divided by ethno-national conflict, it is not the use of power sharing as a model for regulating political violence that is inherently problematic. For governments, policy makers, and academics alike, the great challenge is to construct institutional frameworks which address the constitutional issues that invariably lie at the kernel of ethno-national divisions, whilst maintaining a political process capable of providing the incentives and motivations to bring together all the major parties to the conflict.³¹²

Therefore this chapter will not attempt to examine all the leading literature on power sharing, but rather its aim – with regards to power sharing – is to give an understanding of the key principals as well as the advancements that have been made that are relevant to Kirkuk.

Both centripetalists and consociationists often use the terms ‘deeply divided societies’ and ‘divided societies’ interchangeably when referring to particular contexts they analyse. Despite this, protagonists of each method refer to the other as not being feasible for deeply divided societies, but rather for those where the divide has not reached this extent.³¹³ If a society has a lesser divide than a deeply divided society, but a divide nonetheless, then by deduction it would have to be a divided society. The fact that these terms have not been sufficiently differentiated has resulted in a lack of clarity between the classifications of many conflicts; some authors have referred to a number of societies as being divided, whilst others differentiate societies within the same list as being deeply divided. For this reason it is important

³¹² Kerr, Michael. ‘A Culture of Power Sharing’ in Rupert Taylor (ed.) *Consociational Theory: McGarry and O’Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, p. 206.

³¹³ For examples of this see: Horowitz, Donald. *Ethnic Groups in Conflict*. Berkeley: University of California Press, 1985; McGarry, John, and Brendan O’Leary. *The Northern Ireland Conflict - Consociational Engagements*. Oxford: Oxford University Press, 2004.

that these two terms are defined separately and not used interchangeably, therefore allowing for a differentiation between societies that are deeply divided and those that are merely divided. In this thesis Kirkuk is viewed as a deeply divided society and methods for its regulation are chosen based on this premise, whilst others are rejected due to their suitability for divided societies. Thus, reinstating the fact that it is imperative that these two terms are defined separately. Ian Lustick defines a society as deeply divided if:

ascriptive ties generate an antagonistic segmentation of society, based on terminal identities with high political salience, sustained over a substantial period of time and a wide variety of issues. As a minimum condition, boundaries between rival groups must be sharp enough so that membership is clear and, with few exceptions, unchangeable.³¹⁴

Whereas Arend Lijphart defines it as ‘a society that is sharply divided along religious, ideological, linguistic, cultural, ethnic, or racial lines into virtually separate subsocieties’³¹⁵ Although Donald Horowitz does use the terms ‘deeply divided’, ‘severely divided’ and ‘divided’ interchangeably when discussing societies with divides, he does differentiate European conflicts³¹⁶ as not being severely divided and therefore being ‘less ascriptive in character, less severe in intensity, less exclusive in their command of loyalty, and less preemptive of other forms of conflict.’³¹⁷ If one works on the premise that a divided society is one where the divide is less than that of a deeply or severely divided society, Horowitz’s definition of European conflicts thus becomes his definition of a divided society. This definition demonstrates a

³¹⁴ Lustick, Ian. ‘Stability in Deeply Divided Societies: Consociationalism versus Control’ *World Politics* Vol. 31, No. 3, 1979, p. 325.

³¹⁵ Lijphart, Arend. *Thinking About Democracy: Power Sharing and Majority Rule in Theory and Practice*. Abingdon: Routledge, 2008, p. 67.

³¹⁶ This is focusing on conflicts in mainland Europe prior to 1985 (when the book was published).

³¹⁷ Horowitz, Donald. *Ethnic Groups in Conflict*. Berkeley: University of California Press, 1985, p. 572.

clear difference between a deeply divided society and a divided society, and based on this, these terms can be defined for the purpose of this thesis, where the focus is on ethnic conflict. A deeply divided society will be defined as having ethnic groups with a high level of political salience that transfers to the society by creating ethnic divides at a local level which can lead to voluntary ethnic segregation. Whereas, in divided societies there may be issues that ethnic groups are divided upon, but political salience does not occur in the majority of the political parties and there is a greater interaction between ethnicities at a local level. Therefore, Kirkuk can be considered a deeply divided society as the ethnic divide between Turkmen, Arabs and Kurds is represented within the political parties and there is a high level of animosity between these parties, which is often displayed within the society as a whole.

A power sharing arrangement does not emerge on its own, but rather stems from a long history of violence and failure to reach accommodation, which results in rational calculations being made about the groups' future (thus leading to negotiations for a settlement), and often involves exogenous pressure upon the ethnicities to reach a settlement.³¹⁸ It has been identified in the introduction to this thesis that power sharing is the leading form of governance to minimise conflict in divided societies, and Kirkuk is seen as a deeply divided society in need of institutional design. Consequently, it is important to examine the theories of power sharing, which differ greatly, in order to analyse which is more suitable for Kirkuk. It is also vital to identify what are the leading aspects of these theories that make them feasible for

³¹⁸ See section on Northern Ireland.

Kirkuk. At the same time, it is crucial to analyse the main criticisms of these theories in order to create an awareness of them so that there can be an attempt to minimise their effect in any potential agreement relating to Kirkuk.

3.2. Consociation

Consociational theory was derived from Arend Lijphart's examination of the political systems operating in the Netherlands, Belgium, Switzerland and Austria. Lijphart observed that despite having divided subcultures and strong cleavages, these countries were stable. When examining how these democracies managed to remain stable, despite their fragmentation, Lijphart raised the hypothesis that this was due to the 'overarching cooperation at elite level.'³¹⁹ In order to prove this hypothesis Lijphart uses the example of Austria, amongst others. He demonstrates that following the Second World War the leaders of the rival segments in Austria were so intent on not repeating the civil war and dictatorship of the First Republic that they decided to form a grand coalition. Lijphart emphasises that elites learned from the past to form mutual tolerance, and this elite cooperation transferred into universal participation in governance, thus forming a consociational democracy. He identifies that this universal participation should preferably be a grand coalition, but can also be a cartel of elites. Hence in examining consociational democracies Lijphart places elite cooperation at the centre. It is the elites ability to accommodate rival subcultures and prevent political fragmentation that leads to the creation of a cartel of elites/grand coalition, which in turn leads to a consociational democracy.³²⁰ After Lijphart's initial examination of the use of, what he coined as, consociation he progressed to advocating its

³¹⁹ Lijphart, Arend. 'Consociational Democracy' *World Politics* 21(2), 1969, p. 212.

³²⁰ Lijphart, Arend. 'Consociational Democracy' *World Politics* 21(2), 1969, pp. 207-225.

usage in deeply divided societies. This led to Lijphart further defining consociation and developing the principles necessary for its implementation.³²¹ According to Lijphart:

In a consociational democracy, the centrifugal tendencies inherent in a plural society are counteracted by the cooperative attitudes and behaviour of the leaders of the different segments of the population. Elite cooperation is the primary distinguishing feature of consociational democracy...³²²

In order to successfully govern these antagonistic groups, Lijphart identified four consociational principles.

1. Executive power sharing³²³ (with a grand coalition being preferred) where each of the main segments of society is represented.³²⁴
2. Mutual veto, giving minorities political protection from decisions that affect their vital interests.
3. Proportionality in political representation, expenditure and public sector employment.
4. Segmental autonomy in the internal affairs of each group.³²⁵

The fact that consociational theory is quite broad – in that each of these principles can be implemented to varying degrees – allows for a great deal of institutional forms to be developed within its framework. Thus, when applying this theory to a specific context it is important to examine the details of the case at hand and to tailor make a package specific to the needs of the particular conflict. Despite the broadness available in the interpretation of

³²¹ Taylor, Rupert. 'Introduction' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, pp. 2-5.

³²² Lijphart, Arend. *Democracy in Plural Societies: A Comparative Exploration*. New Haven: Yale University Press, 1977, p. 1.

³²³ Although Lijphart did initially call for a grand coalition, in his later works he states that this is not a necessary requirement, but rather that there is universal participation.

³²⁴ Lijphart, Arend. *Thinking About Democracy: Power Sharing and Majority Rule in Theory and Practice*. Abingdon: Routledge, 2008, pp. 28-30.

³²⁵ Lijphart, Arend. *Democracy in Plural Societies: A Comparative Exploration*. New Haven: Yale University Press, 1977, pp. 25-52.

each principle, there is still an issue; a deeply divided society may not be in favour of installing all these principles. Lijphart, initially, stated that all four principles were required for consociation to occur, whereas they are not all necessary to install elite cooperation between the different segments of the society. By stating that consociation must include all four principals you limit the empirical cases available to study, but by giving different levels of consociation you open up the theory to more cases. In Lijphart's later works on consociation he differentiates between primary and secondary characteristics of consociational democracy. Lijphart labels the sharing of executive power and group autonomy as primary characteristics and proportionality and minority veto as secondary characteristics. Therefore, it can be said that the role of the secondary characteristics is to strengthen the primary characteristics. It should be stated however that these principles are important in developing an agreement that has the best possibility of stability, therefore any settlement created should try to include all four, but it is not imperative that all four principles are included in order for it to be called a consociational settlement.³²⁶

As the key element of consociation is elite cooperation, Lijphart has examined some of the favourable conditions that he sees as facilitating this cooperation. According to Lijphart these conditions make it easier for elites to cooperate whilst still maintaining the support of their grassroots, however, this does not mean that consociation cannot occur when these conditions are not present. The favourable conditions are:

³²⁶ Lijphart, Arend. 'The Wave of Power sharing Democracy' in Andrew Reynolds. (ed.) *The Architecture of Democracy*. Oxford: Oxford University Press, 2002, pp. 37-54.

- Proportionality of segments: There should be a balance between the segments, with no segment having a large majority. In a society where there is a clear majority segment, this segment will usually try and dominate the rest, as there is no clear incentive for the majority to share power. There should also not be too few or too many segments, with an ideal amount being between three and four. In a society where there are two equal segments, the leaders of each segment will always aim to win the majority. Having two equal segments can also reinforce the antagonisms, because in negotiations a win for one group is seen as a loss for the other. However, having two equal segments is preferable to having a segment with a large majority. The reason why too many segments are a problem is because the more there are, the longer it takes to negotiate, which can thus create instability.
- Multiparty systems: There should be a multiparty system, where each segment is represented by a party; this way leaders can be distinguished to represent each segment in a coalition. This is not to say that each segment shouldn't have more than one party, but rather that they should each have a clearly dominant party. Thus each segment is politically represented, preventing minorities from having to seek representation in larger multi-representative parties where they may feel isolated.
- Size of the entities: The size of the entity has an effect on the success of consociation; as the smaller they are the more likely the elites are to meet, which in turn enhances the chances of cooperation and accommodation. The size also effects their position on the international

arena, with smaller entities more likely to feel threatened. As a result of this there is a greater need for internal solidarity, therefore smaller entities are more likely to come together in a consociational government. The size also has an effect on the actual governance, as consociational democracies involve numerous negotiations between the segments. Therefore, the smaller the entity, the quicker these negotiations tend to be, thus allowing for more stability.

- Structure of cleavages: The way the cleavages are formed can have an effect on the success of consociation. This refers to the number of cleavages, their fragmentation, whether they cross-cut, the overarching loyalties and their representation within the parties. If there are numerous cleavages and they are equal in size, this can result in a further fragmentation of society; as people no longer classify themselves under a larger segment, but rather a smaller specific cleavage. This can only be viewed as positive if it transfers the society from having a specific majority group, to an all minority society. If the cleavages are unequal, they are more prone to cross-cutting and therefore, cross-pressures. This can result in more moderate attitudes. This interaction of the cleavages, paired with the overarching loyalties determines the amount of segments in the society. Overarching loyalties can form cohesion within the segments, or across the entire society. Cross-cutting of the cleavages within the party systems is conducive to consociation. However, it is important that the significant issues of each cleavage are represented within the parties, thus

institutionalising them and helping to resolve them. If these issues are not represented, violence can erupt.

- Segmental isolation: In a plural society it is beneficial to have clear boundaries between the segments. This limits the contacts between the segments at grassroots level, which in turn limits the chances of conflict. Consociation allows for the segments to stay apart, yet still allows for the creation and maintenance of organisations of governance. For this reason federalism is also favourable for consociation, as it helps further this segmental isolation, whilst still managing the organisations of governance.
- History of elite accommodation: Consociation relies on elite cooperation; one of the reasons elites cooperate is because a failure to do so could have vast consequences for all the segments of the society. If there is a past tradition of elite cooperation, these elites are then more likely to cooperate again and the process of cooperation is easier to promote to their grassroots support. This tradition of elite cooperation is possibly the most important of the conditions that are favourable to consociation. However, like the other conditions, it is not compulsory.³²⁷

Many of the favourable conditions developed by Lijphart have received criticism and others are seen as contradictory. These criticisms include the fact that he favours a smaller entity for power sharing so that elites can meet often, yet also argues that there should be segmental isolation and that the size of the country has nothing to do with the stability. Furthermore Lijphart

³²⁷ Lijphart, Arend. *Democracy in Plural Societies: A Comparative Exploration*. New Haven: Yale University Press, 1977, pp. 53-103.

favours a history of cooperation, yet this does not necessarily lead to successful consociation, e.g. consociation in Northern Ireland is more successful than in Lebanon despite the fact Lebanon has a history of cooperation.³²⁸ Furthermore, the empirical case of Kirkuk deviates from the favourable conditions set out by Lijphart due to the fact that the overarching loyalties do not benefit consociation. The sizeable 'nationalist' cleavage (nationalist in that they want Kirkuk to remain under direct governance of Baghdad) creates overarching loyalties between a large proportion of the Turkmen and Arab segments in a desire completely opposite to the rest of society. Therefore, although this overarching loyalty creates unity, it also creates conflict with another cleavage, that of the one which desires to join the KRG. Although this does alleviate the problem of Kurdish dominance in Kirkuk province by creating two relatively equal cleavages (as seen in the 2010 national elections where just 4794 votes split the leading blocs representing the two cleavages³²⁹) it is also an issue of conflict and somewhat transfers the society into two segments, which therefore make negotiations harder. Therefore, contrary to what Lijphart identifies, having cleavages with overarching loyalties is not always favourable to consociation; the 'nationalist' cleavage in Kirkuk is bigger than the Arab and Turkmen segments and has created two groups seeking exactly the opposite outcome in any settlement. Although many of these conditions have received criticism, the proportionality of the segments remains important and has been reiterated by McGarry and O'leary as they see the balance of power between the segments as being an

³²⁸ Kerr, Michael. *Imposing Power-Sharing: Conflict and Coexistence in Northern Ireland and Lebanon*. Dublin: Irish Academic Press, 2005, pp. 179-200.

³²⁹ Independent High Electoral Commission. 'Kirkuk' *IHEC* [Online] Available from <http://www.ihec-iq.com/ftpar/karkuk.pdf> [Accessed 20/02/2011]

important condition for consociation.³³⁰ In Kirkuk the Kurds are seen as a large majority, however, in Kirkuk city itself there is a far more even distribution of the various segments within the population. This therefore makes Kirkuk city more favourable to consociation than Kirkuk province, which should be addressed in a settlement for Kirkuk.

McGarry and O'Leary have developed consociational theory further and whilst Lijphart has largely influenced them, they do disagree with him on a number of points. The works of McGarry and O'Leary have helped to clarify a number of issues within consociational theory and have addressed many of the criticisms that consociation has received. Consociational theory has thus become a governance method in ethnic conflicts and is supported by the United Nations (UN) and seen as the go to method of governance for ethnic conflicts.³³¹ The reason McGarry and O'Leary have advanced this theory so much, despite the fact that it was described in the introduction as a necessarily broad theory, is because it previously concentrated on religious and socioeconomic, rather than ethnic conflicts. Although Lijphart is known as the 'father of consociation' it is important to examine the developments made by McGarry and O'Leary, as they are far more relevant to the contemporary global political situation where a large amount of ethnic conflicts, often involving self-determination disputes, exist. Seeing as Kirkuk falls into this category, these advances are also relevant to the development of a settlement for Kirkuk. There are seven main areas where McGarry and O'Leary's ideas on consociation differ from that of Lijphart – although it is also

³³⁰ McGarry, John & Brendan O'Leary. *Explaining Northern Ireland*. Oxford: Blackwood Press, 1995, pp. 338-344.

³³¹ Taylor, Rupert. 'Introduction' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, pp. 1-12.

worth mentioning that in Lijphart's more recent work he has aligned himself with the ideas put forward by McGarry and O'Leary.

- According to McGarry and O'Leary traditional consociational theory is overly endogenous and ignores important exogenous factors. Lijphart's initial 'favourable conditions for consociational democracy' completely ignore the exogenous role, in that only one of the conditions (size of the entities) contains exogenous factors. It therefore ignores the role that outside entities can play in facilitating an agreement, for example the way Ireland, Britain, the United States (US) and South Africa did for Northern Ireland (NI). Exogenous action has become a very important factor in the establishment of contemporary consociational settlements; it had a role to play in Bosnia-Herzegovina, Macedonia, Afghanistan, Iraq, and many more.³³² Although exogenous forces can help facilitate an agreement, they must be paired with endogenous ones, or else the longevity of the agreement could be questioned. This external help is not only important in the implementation, but can also have an important role to play in the operation of a consociational settlement. It can involve external actors or organisations taking roles that hold contention, therefore preventing conflict. Some examples of this include the overseeing of the implementation of police reform in NI, which was done by an American, Tom Constantine; and the Bosnian Supreme Court and Central Bank, which are presided over by external high representatives. Concurrently, these exogenous factors are very

³³² McGarry, John & Brendan O'Leary. 'Consociational Theory, Northern Ireland's Conflict and its Agreement: Part 1. What Consociationalists Can Learn from Northern Ireland.' *Government & Opposition*, 41 (1), 2006: 43–63.

important to Kirkuk, as the US and UN wield a great deal of influence there. Also no deal could be made, or would be allowed to be made, without the backing of the KRG and Baghdad – one could go further and say that the deal would be made by the KRG and Baghdad – however incorrect this may be – with the backing of Kirkuk. In fact these external entities are so important that it could be said that consociation may be impossible without them.

- As already stated, Lijphart's consociational theory was based on European countries (pre-1970) and therefore focused on religious and class divisions. Whereas the majority of contemporary internal conflicts are ethnic conflicts and involve self-determination disputes. Thus, to address these issues territorial autonomy is needed, as cultural autonomy is not enough. In cases that involve trans-state self-determination, new issues arise. In NI cross-border institutions were set up, giving both Unionists and Nationalists links to their favoured entity. A future chance for self-determination was also introduced in the Agreement, with both the majority of the 'North' and 'South' having to be in favour of this in separate referenda. As part of the Good Friday Agreement (GFA), new institutions (like the police and parliament) were made nationally impartial, thus demonstrating that it was an agreement between national communities. Again such cross-border institutions may be important for the future of Kirkuk, although these institutions would exist within the regional borders of Iraq.
- Traditional consociation tends to focus on the design of political institutions, and forming an agreement on these. It therefore ignores

numerous other factors that need agreement on, such as: the design of the police, demilitarisation, return of exiles, educational reform, economic policy, promotion of language and group rights, etc. Without designing an agreement that takes these factors into consideration, the settlement will be under pressure once these factors arise, that is if it is even possible to reach an agreement without addressing these issues.

- Lijphart favours proportionate representation (PR)- Party List electoral systems³³³, whereas McGarry and O'Leary are supporters of PR-single transferrable vote (STV).³³⁴ They see PR-STV as a better option for maintaining an agreement, as parties are more likely to remain unified. Whereas, in the PR-Party electoral system hardliners can form their own parties without threatening the total vote and seat share of their ethno-national bloc, yet at the same time penalising the more moderate parties. They do however state that either option is valid and the best option should be chosen with regards to the dynamics of the conflict.³³⁵
- Lijphart initially saw a grand coalition as the key principle to a consociational settlement and although he has slightly moderated this to 'universal participation', McGarry and O'Leary still see this as too high a demand. Instead they seek 'joint consent across significant

³³³ In this system seats in each electoral district are given in proportion to the votes won, but voters vote for a party list, rather than individuals within the party.

³³⁴ In this system voters from each electoral district rank candidates in order of preference. In order to get elected candidates must reach the desired quota, $[\text{votes} / (\text{seats} + 1)] + 1$, those who reach this quota with their first preference votes are automatically elected and their remaining votes (those over and above the quota) are redistributed according to their second preference. This continues until all the seats have been allocated. If there are no votes above the quota to allocate, the lowest party is eliminated and their votes are redistributed according to the next available preference.

³³⁵ McGarry, John & Brendan O'Leary. 'Under Friendly and Less-Friendly Fire' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, pp. 351-352.

communities', deeming this as a necessary factor to create a working consociational settlement. From this they distinguish three types of consociation: (1) unanimous consociation – grand coalition; (2) concurrent consociation – majority support of each segment; (3) and lastly weak consociation – plurality in one or more segments, but not all. They opine that there is no theoretical or empirical evidence that consociations are undemocratic when elites govern with factional or lower levels of support within their segments, as they are elected democratically and are involved in democratic governance.

- Traditional consociation relies on the formation of a government through negotiations over coalitions and government positions. This can result in political impasse over the formation of the government (an example of this is the 2010 Iraqi elections, see Chapter 1.6.) or the instability of a government that can easily be dissolved if a large bloc chooses to withdraw. Thus, McGarry and O'Leary favour allocating ministerial portfolios through sequential proportionality rules. Therefore, forming coalitions and allocating the positions without having to negotiate and preventing blocs from withdrawing, as their positions will merely be allocated to those next in line. The Good Friday Agreement uses the d'Hondt system³³⁶ for this allocation, although McGarry and O'Leary favour the Sainte-Laguë method^{337 338}.

³³⁶ Under the d'Hondt system in each round the party with the highest number of seats wins a position. The total number of seats that the party has is divided each time a position is won, following a sequence of 2,3,4,5,6,etc., and transferred to the next round. For a more detailed analysis see Appendix V.

³³⁷ The Sainte-Laguë method follows the same pattern as the d'Hondt method, however the divisor sequence is 3,5,7,9,etc. For a more detailed analysis see Appendix V.

³³⁸ McGarry, John & Brendan O'Leary. 'Power Shared after the Deaths of Thousands' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, pp. 15-84.

As is evident McGarry and O’Leary have developed consociational theory towards ethnic conflicts involving self-determination disputes in deeply divided societies. Consequently, the additions that they have made to consociational theory are highly relevant to the contemporary cases of conflict. Although these developments have been made with particular attention to Northern Ireland, they are relevant to ethnic conflicts the world over. This is due to proliferation of ethnic conflicts that involve self-determination disputes, and more importantly due the broadness of the theory, with different options available depending on the empirical case. Therefore, although it can be said that the contributions made by McGarry and O’Leary are favourable to Kirkuk, they should be developed further according to the dynamics of the Kirkuk conflict – as no two conflicts are exactly the same.

Another significant development to consociational theory was the development of liberal consociation by O’Leary, in his article ‘Debating Consociational Politics: Normative and Explanatory Arguments.’ McGarry and O’Leary, as well as Lijphart, have since become advocates of liberal consociation. Liberal consociation follows self-determination, in that any political identity that wins enough votes in the election may choose to join the power sharing coalition. Whereas, corporate consociation follows predetermination by having an ascriptive criteria where group identities are fixed. Under corporate consociation segments of the society are often obliged to vote within their own group.³³⁹ Corporate consociation predetermines the percentage each ascriptive group has in the cabinet and reserves certain

³³⁹ O’Leary, Brendan. ‘Debating Consociational Politics: Normative and Explanatory Arguments’ in S. Noel (ed.) *From Powersharing to Democracy*. Montreal: McGill-Queen’s University Press, 2005, pp. 15-16.

positions for specific groups.³⁴⁰ This excludes other groups that do not fall within this criterion, as well as those who wish to be classified as having no group. It also does not address the ever-changing population and can therefore give groups privileges above that of which their numbers warrant. In this way corporate consociation can produce instability, as it ignores segments of the society as well as failing to adapt to the demographic changes. Under liberal consociation there is no provisions for groups within the government. Rather democratic political parties are elected to the government based on their strength through a proportionate representation voting system. It is then preferable that the cabinet is decided through sequential proportionate rules. Liberal consociation is a lot less formal in its power sharing than that of corporate consociation and therefore more decisions are left to the individual groups. Under liberal consociation federal regions (if they indeed exist within the agreement, which is decided based on the dynamics of the situation) are decided at a local democratic level, whereas corporate consociation has a preference for dividing the predetermined segments of the society into federations. Thus liberal consociation allows for both decentralised and centralised governments to operate to different extents in the various regions, rather than following the decentralised model that corporate consociation favours. Liberal consociation offers more stability than corporate consociation because it allows the groups to decide if they want a federal region or if they want to fall under the central government. Liberal consociation also counters centripetalist's main criticism of consociation – that it entrenches the divides in the society. It does this by

³⁴⁰ Corporate consociation has been recommended for Kirkuk, under 32,32,32,4 division of power, by many, including: UNAMI, Article 23, Berlin Accords, etc.

allowing for whatever significant identities emerge following the elections to partake in governance, including cross community parties. Therefore, the development of liberal consociation has offered more stability, and thus longevity, to the consociational arrangement and has allowed the society to progress beyond the ethnic divide by representing whichever identities emerge.³⁴¹

Despite the above-discussed advances in consociational theory, scholars such as Donald Horowitz remain highly critical of this model of power sharing. As a critic of consociational theory Horowitz has many issues with the very notion of elite cooperation. He does not see why a group with a majority would cooperate and share power; if the elites did decide to share power, he questions what would make them tolerant of other ethnic groups and prevent them from only pursuing the advantage of their own group; and finally if the elites were to make compromises, this would create counter-elites who would try to block these compromises, thus breaking the group allegiance that consociation relies on. Horowitz doesn't mention that these same issues are likely to occur in any type of power sharing and that they are even more accentuated in centripetalism where elites are in the same party. The failure to mention this could be because Horowitz sees cooperation between elites as being enforced through institutional designs in centripetalism, which is hardly a democratic form of governance.³⁴² In answer to Horowitz, McGarry and O'Leary have pointed out that elites have chosen to cooperate in Northern Ireland and the so-called 'radical' parties have

³⁴¹ McGarry, John & Brendan O'Leary 'Iraq's Constitution of 2005: Liberal Consociation as Political Prescription.' *International Journal of Constitutional Law*, 5 (4), 2007, pp. 670-698.

³⁴² Horowitz, Donald. 'Constitutional Design: Proposals versus Processes' in Andrew Reynolds (ed.) *The Architecture of Democracy*. Oxford: Oxford University Press, 2002, pp.15-36.

moderated through consociation and it is now difficult to differentiate their policies from that of the so-called 'moderate' parties. They also point out that it was the centripetal features of the Agreement, electing Premiers that both segments support, that led to the failure and instability of the power sharing arrangements. Once these were removed, in the St Andrew Agreement, a more stable power sharing arrangement was established, which has been in place since 2007. Furthermore, there has been a marked decrease in violence with 509 people dying through political violence in the nine years prior to the agreement, in comparison to the 134 in the nine years after. Therefore, not only have the elites cooperated and moderated their policies through consociation, this accommodative behaviour has also transferred to the grassroots. Although there were many other factors that led to this accommodative behaviour, such as the Irish Republican Army (IRA) ceasefire and the Anglo Irish Agreement, the successful governance of Northern Ireland through consociation plays a large part in maintaining the stability.³⁴³ Furthermore, Horowitz raises an additional criticism that cultural autonomy is only possible once the conflict is reduced, as it is at the core of the conflict and that by having post-electoral coalitions there is no compromise on ethnic issues, just on cabinet portfolios. The majority of Horowitz's criticisms stem from the fact that he sees consociation as strengthening the divide of the society and does not see this as a positive approach to ending conflict. Consociational power sharing has far more empirical cases than that of centripetalism, and for this reason many of these criticisms have been addressed as it has developed. The fact that it is more widely used gives it

³⁴³ McGarry, John & Brendan O'Leary. 'Power Shared after the Deaths of Thousands' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, pp. 51-57.

more credit as a practical method of institutional design to end conflict and there is also therefore more evidence of its success – although many of its critics put this down to the UN polices of adopting a consociational approach to ending ethnic conflicts.³⁴⁴ Despite all this, there is one criticism that will always remain because it can be argued that it is what consociational theory is built upon, namely that it strengthens the divides in the society – although the word strengthen is too strong and should be replaced with ‘it is based on’. The question that remains is whether reinforcement of divides within a society is necessary to end conflict, or whether an option that weakens the divides could be just as successful. As already stated the empirical evidence points towards consociation as a more successful model showing that over time divides have weakened through consociation. However, more evidence is needed before being able to make an adequate comparison, with the stakes being so high ethnic conflict is not something to experiment with in order to prove the worth of political science theories. An important point to make is that although consociation does strengthen the divides at a political level by creating parties based on ethnicity, this divide is no greater than with a society that is in conflict, and is in fact less as there is a positive interaction at a political level. The problem that centripetalists have with consociation is that by it being based on ethnicity there is no chance for developing significant cross-communal relations in the society. This is where liberal consociation comes in; although it still focuses on the divides in the society, it leaves it up to the society to decide what these divides are, thus allowing the introduction of cross-community parties. Therefore, although liberal consociation still

³⁴⁴ Reilly, Benjamin. ‘Centripetalism’ in Karl Cordell & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011, pp. 289-299.

follows the principles of consociation, it is the society that chooses these divides, thus allowing them to evolve with the society.³⁴⁵

3.3. Integrative Power sharing

Integrative power sharing is also known as centripetalism, because its aim is to pull the political parties to the centre, i.e. to make them become more moderate. Centripetalists aim to do the opposite of consociationalists, in that rather than using the very plurality of the society to govern, their aim is to minimise the ethnic character of politics by creating institutional designs that promote and encourage interaction between the cleavages. Centripetalists' aim is to moderate politics through creating multiethnic parties, thus leading to accommodation between the segments of the society. Donald L. Horowitz gives five integrative mechanisms to reduce conflict:

- Disperse the power, in order to take the strain off the central politics.
- Create arrangements that encourage intra-ethnic conflict, such as territorial devolution.
- Introduce incentives for inter-ethnic cooperation, such as electoral laws for pre-election coalitions.
- Initiate policies that encourage the formation of groups based on social forces, rather than ethnicity.
- Reduce the differences between the groups, thus reducing the areas of conflict.

Centripetalists believe that their form of power sharing is the best way to govern a deeply divided society, as it bridges the divides – thus ending the

³⁴⁵ Horowitz, Donald. 'Constitutional Design: Proposals versus Processes' in Andrew Reynolds (ed.) *The Architecture of Democracy*. Oxford: Oxford University Press, 2002, pp.15-36.

ethnic conflict.³⁴⁶ However, this view can be seen as highly utopian. In a deeply divided society, like Northern Ireland or Kirkuk, it is highly fanciful to expect antagonistic segments of the society to come together in one party, or for voters to vote across the divide for different segments with which there is a long history of animosity. Although this would be a definitive step forward in bringing the society beyond the conflict and would be a transition to a unified society, it is just not feasible in a deeply divided society. If it were, there would not be such a big divide in the first place. Due to the fact that a deeply divided society is unlikely to follow a centripetalist path on its own, a strong outside power would have to enforce these mechanisms. Not only this, it would have to also monitor their practise, as a deeply divided society is unlikely to follow the mechanisms of centripetalism of its own accord. Enforcing centripetalist processes goes far beyond the exogenous pressure recommended in consociation and can be seen to overstep the mark, as the population is exposed to a new kind of domination, which is not necessarily better than the ethnic conflict that existed and is unlikely to stop violence.

Vote-pooling is seen as the central feature of integrative power sharing, as it is key to introducing the integrative mechanisms. By giving electoral rewards to those who make concessions to other groups, vote-pooling is supposed to maximise the incentives for accommodative behaviour. Thus, a key feature, and the overriding principle of centripetalism, is that it makes politicians compromise in order to gain the support of other groups.³⁴⁷ The purpose of this is to create interaction between the ethnic groups, as their

³⁴⁶ Horowitz, Donald. *Ethnic Groups in Conflict*. Berkeley: University of California Press, 1985, pp. 597-600.

³⁴⁷ Horowitz, Donald. 'Constitutional Design: Proposals versus Processes' in Andrew Reynolds (ed.) *The Architecture of Democracy*. Oxford: Oxford University Press, 2002, pp.15-36.

dependence on votes from other factions enforces communication and cooperation. In order to achieve this, institutional devices are introduced.

Benjamin Reilly distinguishes the following options:

- The use of preferential or cross-regional voting rules: An example of cross-regional voting is Nigeria; where cross-regional politics is encouraged by requiring the president to not only win the majority of the votes, but also to win 1/3 of the votes across 2/3 of all states. An example of the preferential voting rule is the use of alternative vote (AV) or of single transferable vote (STV). In these systems voters must register their second, third choices, etc. thus making politicians attempt to appeal to all voters.³⁴⁸
- Political party laws that require multi-regional party organisations: An example of this is Singapore, where parties contesting the fourteen multi-member districts must include designated ethnic minorities on their list and the voters must choose parties rather than individuals – thus ensuring cross-ethnic voting.
- The installation of legislative selection procedures that encourage moderate outcomes: This is done by creating larger aggregative parties with more moderate policies, i.e. parties must be nationally orientated and have a cross-regional organisational base. Likewise the creation of cross-ethnic parties/coalitions paired with the majoritarian electoral rules of integrative power sharing encourages the creation of larger moderate parties, as voters tend not to want to waste their vote on small parties.

³⁴⁸ Reilly, Benjamin. 'Centripetalism' in Karl Cordell & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011, pp. 289-299.

Through these principles, centripetalists aim to bring the society together by interaction with, and dependence on, other groups. By creating coalitions before elections and by forcing politicians to win votes across the divide, they see this as an accommodative method to end conflict and bring the society together, thus making the longevity of the agreement more feasible. Therefore, centripetalism is a political system based on an integrative identity, rather than a group identity. An important point to raise in relation to this is that any system that is introduced has to have the support of the people who operate within it. Therefore, it can be argued that if the population wanted an integrative system multiethnic political parties would exist or indeed be widely supported – this is neither the case in Northern Ireland nor in Kirkuk where instead the political systems mirror the divides within society. The issue here is that yet again centripetalists discuss implementing systems that are unlikely to be accepted in a deeply divided society. Accordingly, the examples that Reilly gives in his writings are usually not considered to be deeply divided societies, such as Singapore and Malaysia, and the ones that are, Nigeria, can hardly be considered as good examples for resolving ethnic conflict, as ethnic conflict still persists within them. This just reinforces the opinion that centripetalism is not feasible for a deeply divided society and can only work when the divides have not reached such a critical point. Unfortunately – as if centripetalism was feasible it would do a great deal to end conflict – this is one of those cases where theory cannot transfer into reality and centripetalism should be kept for divided societies, not deeply divided ones.³⁴⁹

³⁴⁹ Reilly, Benjamin. *Democracy and Diversity: Political Engineering in the Asia-Pacific*. Oxford: Oxford University Press, 2006, pp. 71-95.

Centripetalism also favours a presidential system, where the president is elected separately through a distributed support system, i.e. vote-pooling formulas. This way a strong moderate candidate, who has the support of the majority of the society, is elected as president. Thus leading to the selection of a moderate cabinet. The main aim behind this presidential system is to prevent ethnic exclusivity and to give members of all groups a claim/link to the president as they helped elect him/her. Horowitz sees the president, elected in this manner, as a strong centripetal force that will pull moderate parties to the centre and create a strong executive with the ability to make decisions. Horowitz's preference is for a multiparty system in the centripetalistic manner, however, he believes the president should be elected separately in order to create a coherent, powerful executive. Again this puts far too much faith in the ability of the segments in a deeply divided society to work together and to accept that a member of another segment, with whom they have an antagonistic history, holds the highest office. Understandably this is likely to make the losing segment/s feel vulnerable and can therefore destabilise the government.³⁵⁰ One could argue that centripetalists seem to have a habit of not taking the factors on the ground into consideration when developing their theories. The idea of a president supported by the entire society, who works for the best interests of the population without bias to bridge the divides within the society, is just that, an idea – as in reality this is highly unlikely to occur in a deeply divided society. In the case of Kirkuk, if an Arab president/governor were to win the support of the Arabs he would have to campaign for Kirkuk to remain under central control and if he were to gain the support of the Kurds

³⁵⁰ Horowitz, Donald. *A Democratic South Africa: Constitutional Engineering in a Divided Society*. Berkeley: University of California Press, 1991, pp. 205-214.

he would have to support Kirkuk joining the KRG – he cannot do both, therefore bringing into question the feasibility of having one president representing the whole society. In the case of Northern Ireland there is a First Minister and a deputy First Minister (note that deputy does not have a capital) both with equal powers, thus giving the two main segments of the society a connection to the leadership of the country. Centripetalists like to highlight the case of Nelson Mandela as a president who was supported by the majority of the country and was a force that moderated the society. However, the case of South Africa is very different as it was a majority that was oppressed through the conflict and it was this weighted majority that supported the African National Congress (ANC), whereas these circumstances don't usually exist in deeply divided societies (a minority oppressing a majority where the majority supports mainly one political party). Furthermore, Nelson Mandela is an exceptional individual, who has reached an iconic status through his 27 years of imprisonment, and most deeply divided societies do not have protagonists with his qualities in a position of power.

Federalism is another important aspect of integrative power sharing. Centripetalists see it as being important in a deeply divided society, due to the following factors:

- The combination of electoral systems and federalism in integrative power sharing allows for the proliferation of parties, which in turn makes inter-ethnic accommodation easier as there are no majorities
- Federalism allows ethnic groups to direct their political ambitions at a federal level, thus taking pressure off the central government

- In a homogenous federal system competition is created within the group, which detracts from the inter-group competition. In a heterogeneous federal system politicians gain experience dealing with different ethnic groups and creating ties at a local level, which can then be transferred to the central government.
- The granting of early devolution, with strong links to the central government, averts separatism.³⁵¹

Federalism is seen by many as a method to reduce ethnic conflict in a deeply divided society and this view is not unique to centripetalism. In fact, it is far more associated with consociational theory, where group autonomy is one of the leading principles.

Centripetalism has amassed a large number of critics, and some might say for good reason. Critics of centripetalism question the reality of it functioning in deeply divided societies, as they see it as unlikely that these groups will form coalitions across the ethnic divides and that the voters will vote for someone outside their group. McGarry and O'Leary use the regional elections of Northern Ireland in 1996 and 1998 as an example – in both these elections non-sectarian parties received less than 9% of the votes.³⁵² Another criticism of centripetalism is that it is exclusive, in that the winning coalition does not necessarily include all the parties and those parties excluded could possibly become radicalised in order to get their voice across.³⁵³ The AV

³⁵¹ Horowitz, Donald. 'Constitutional Design: Proposals versus Processes' in Andrew Reynolds (ed.) *The Architecture of Democracy*. Oxford: Oxford University Press, 2002, pp.15-36.

³⁵² McGarry, John, and Brendan O'Leary. *The Northern Ireland Conflict - Consociational Engagements*. Oxford: Oxford University Press, 2004, pp. 19-21.

³⁵³ In order to win cross-community votes more moderate candidates are selected, thus potentially denying ethnic groups representation from their favored party. In Fiji these made extremist politics more rewarding, which resulted in two coups, see: McCulloch, Alison. 'The Track Record of Centripetalism in Deeply Divided Societies.' in J. McEvoy & B. O'Leary

system favoured by centripetalists creates what consociationalists see as a majoritarian government because one coalition takes power and makes the others opposition, their worry is that this can then lead to unrepresented minorities who are likely to turn to means other than political.³⁵⁴ Centripetalists answer these criticisms by pointing out that the most moderate parties will form coalitions, and this is the whole point of centripetalism, in affect the moderate parties are rewarded and the radical parties are penalised. Centripetalists have no problem with the accusation that their model is majoritarian, their aim is to form an aggregative party system consisting of two parties. This way inclusive coalitions take up the majority and are in competition with other inclusive coalitions, therefore creating more likelihood of power changing between them. The main issue with the centripetalists' reply is that there is not enough empirical evidence for them to back this up, which is another criticism of centripetalism. Reilly, however, points to the emergence of centripetalist systems in Papua New Guinea and Bougainville, which have not entered comparative centripetalist literature yet.³⁵⁵ Despite this, the fact is that there are numerous criticisms of the use of centripetalism in a deeply divided society and their response to this criticism does not stand up to scrutiny. When this is paired with the lack of empirical cases documenting the success of centripetalism, it can be questioned as to whether the theory can be successfully transferred into practice. Whether it may be feasible to certain divided societies is questionable, however it is clear that it has no

(eds), *Power-Sharing in Deeply Divided Places*. Philadelphia: University of Pennsylvania Press, 2013, p.96.

³⁵⁴ Lijphart, Arend. 'The Wave of Power sharing Democracy' in Andrew Reynolds (ed.) *The Architecture of Democracy*. Oxford: Oxford University Press, 2002, pp. 37-54.

³⁵⁵ Reilly, Benjamin. 'Centripetalism' in Karl Cordell & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011, pp. 289-299.

future in Kirkuk as in the context of this conflict the divides are too strong to accept its basic principles.

3.4. Complex Power sharing

Stefan Wolff sees complex power sharing as a necessary action to address self-determination disputes in ethnic conflicts and defines it as:

a practise of conflict settlement that requires a relatively complex institutional structure across different layers of authority from the centre down to local government and that cannot be reduced to autonomy/(ethno-) federation, (traditional) models of power sharing, centripetalism or power dividing, but rather represents a combination of them.³⁵⁶

Wolff believes that power sharing theories are often confined within a fixed idea, whereas conflicts are not fixed and all differ greatly. Therefore, for him, conflicts involving self-determination disputes should have some form of self-governance (preferably territorial) at the core and then the dynamics of the conflict should dictate which aspects from the various theories of power sharing are used in the institutional design.³⁵⁷ In an article written with Karl Cordell, Wolff does state that complex power sharing is highly compatible with liberal consociation as the latter is open to the incorporation of many elements.³⁵⁸ Although McGarry and O'Leary see the need for consociational theory to go beyond the design of political institutions, they argue that liberal consociation should be at the core. They disagree with Wolff's comparison between complex power sharing and their form of liberal consociation for

³⁵⁶ Cordell, Karl & Stefan Wolff. 'Power Sharing' in Karl Cordell & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011, p. 307.

³⁵⁷ Wolff, Stefan. 'Complex Power Sharing and the Centrality of Territorial Self-governance in Contemporary Conflict Settlements.' *Ethnopolitics* Volume 8, Issue 1, 2009, pp. 27-45.

³⁵⁸ Cordell, Karl & Stefan Wolff. 'Power Sharing' in Cordell, Karl & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011, pp. 300-310.

conflicts involving self-determination disputes (they have named this 'consociation plus' when it is paired with elements from other methods of power sharing). This is because Wolff differs from McGarry and O'Leary as he sees complex power sharing as compatible with all forms of power sharing, therefore, for him, complexity is added to some form of self-rule. Whereas, McGarry and O'Leary see consociation as the core, which can then be surrounded by other aspects to address the issues of a particular conflict. They therefore do not see complex power sharing as being able to address intermixed deeply divided societies, as they opine that consociation is necessary for this. Here, McGarry and O'Leary seem to be missing the point of complex power sharing, as Wolff intends for it to use liberal consociation, whilst ensuring self-rule and not preventing the use of other methods of power sharing. Therefore, complex power sharing would use the very same aspects that McGarry and O'leary see as necessary to address intermixed deeply divided societies, thus giving it the same chance of success as liberal consociation.³⁵⁹ Although these authors have different starting points, use different terms and differ on certain principles, the similarity is that they see the need for any agreement aimed at ending conflict to go beyond the mere creation of political institutions.

In Wolff's chapter in *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*, he uses the Northern Ireland Agreement, and the later modifications made to it, as empirical evidence to base his argument that an agreement needs to go beyond political institutions. According to Wolff, the conflict in Northern Ireland is about national belonging –

³⁵⁹ McGarry, John & Brendan O'Leary. 'Response' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, pp. 343-347.

nationalist/republicans who want to be part of the Republic of Ireland and unionist/loyalists who want to remain part of the UK. He also states that secondary tensions exist over religion, language and culture. On the basis that this is the root of the conflict, Wolff states that a settlement must address: the relationship between the communities, the constitutional status of Northern Ireland, Northern Ireland's relations with Ireland and the UK and relations between all the entities involved. According to Wolff the settlement in Northern Ireland addresses these by: establishing a consociational government where ministers are elected through the d'Hondt system; ensuring that all sections of the society can participate in the functioning of each ministerial body; making the Executive a collected organ of government; allowing for the constitutional status to be changed by separate referendums in both Northern Ireland and Ireland; and by forming cross-border institutions that link Northern Ireland to Ireland and Ireland with all the self-governing entities in the UK.³⁶⁰ Wolff fails to mention some important aspects relating to the transition of the society – mainly the creation of an independent commission on policing in Northern Ireland, which led to the establishment of the Police Service of Northern Ireland (PSNI) and the replacement of the Unionist-dominated Royal Ulster Constabulary (RUC) – however, he demonstrates that the Northern Ireland agreement goes beyond traditional consociational theory to address the issues of conflict in the settlement.³⁶¹ By comparing the settlements of other conflicts involving self-determination

³⁶⁰ Wolff, Stefan. 'Peace by Design? Towards "Complex Power Sharing"' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, pp. 110-113.

³⁶¹ Independent Commission on Policing for Northern Ireland. 'A New Beginning: Policing in Northern Ireland.' *CAIN* [Online] Available from <http://cain.ulst.ac.uk/issues/police/patten/patten99.pdf> [Accessed 10/11/2010]

disputes, Wolff establishes a growing trend of combining self-governance, power sharing³⁶² and further mechanisms to address the particular issues of the conflict in contemporary conflict resolution. This is an important factor for Kirkuk, which involves self-determination disputes, in that a settlement needs to go beyond the creation of political institutions.

McGarry and O'Leary have already addressed self-determination disputes by examining a form of liberal consociation that goes beyond the creation of institutions. However, complex power sharing attempts to go beyond the realms of individual power sharing theories by introducing self-rule and then addressing the issues through the introduction of mechanisms that can have their roots in any of the available theories. Although Wolff admits that complex power sharing needs further defining and a more thorough examination of the empirical evidence, he does reinstate that the creation of an agreement to end conflict must address the dynamics of the situation and must not be stifled by trying to remain within any particular power sharing theory.³⁶³ Ultimately the use of complex power sharing in an agreement is likely to be highly influenced by liberal consociation, the important factor is that it does not allow it to dictate the mechanisms that are implemented and rather allows the dynamics of the situation to do this.

3.5. Conclusion

Through this chapter some ideas surface on the direction a future resolution for Kirkuk should take. By examining centripetalist theory it becomes evident

³⁶² In consociational settlements there is already power sharing and some form of self-governance, so, in the language of Wolff, the 'complexities' are added to existing principles of consociation.

³⁶³ Cordell, Karl & Stefan Wolff. 'Power Sharing' in Cordell, Karl & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011, pp. 300-310.

that it would not be suitable for Kirkuk, as the people of Kirkuk would be unlikely to accept its general principles. Conversely, consociational theory is more in line with the needs of Kirkuk, particularly the liberal consociation developed by McGarry and O'Leary (as Lijphart's early work is tailored towards non-ethnic conflict and is less flexible in the components necessary for consociation). Also, through an examination of the favourable conditions for elite cooperation that were developed by Lijphart, it becomes evident that Kirkuk city is more favourable to consociation than the province. This therefore encourages the development of options that split the city from the province. The developments to consociational theory made by McGarry and O'Leary demonstrate that a consociational settlement needs to go beyond institutional design and needs to provide resolutions to the various issues of conflict in Kirkuk. This is reaffirmed through examining complex power sharing, although a further lesson to draw from complex power sharing is that any agreement developed for Kirkuk must take into consideration the dynamics of the conflict and must be open to introducing elements from any of the power sharing theories and not be constrained by strictly following liberal consociational theory. Besides implementing the basic principles of consociation and developing resolutions for the various issues of conflict, a liberal consociation settlement in Kirkuk should include: the creation of institutions that encourage cross-communal relations; exogenous factors, i.e. Baghdad, Erbil, US, and Unami will have an important role in reaching an agreement; cross-border institutions linking Kirkuk to the KRG and Baghdad; and finally election rules that create stability, i.e. choosing seats through either PR-STV or PR-Party and choosing a cabinet through sequential

proportionality rules. In the next chapter the previous proposals that have been put forward for Kirkuk will be analysed and the theoretical understanding created in this chapter will be used in order to better understand the feasibility of these proposals.

Chapter 4: Perspectives on Kirkuk's Future

4.1. Introduction

Over the past few years academics and organisations alike have begun to examine the possible options for the governance of Kirkuk. The various options developed will be the focus of this chapter. To begin with, it is important to note that the main issue with these proposals is that they are lacking in detail; most analyses on Kirkuk's future are short articles that give very broad outlines on what the authors think is the most viable option/s for Kirkuk. Although these analyses examine the options, they do not give the specific details that are needed to implement them. At the same time, Kirkuk is a complicated issue and cannot be solved by just giving suggestions – these suggestions need to be thoroughly analysed to examine their chances of success. The thorough examination, by academics and organisations, of proposed settlement options can be an important factor in the protagonists of the conflict finalising the details involved in the implementation of an agreement. Evidence of this can be found in how influential the works of John McGarry and Brendan O'Leary were for the Good Friday Agreement (GFA)³⁶⁴ and the St Andrews Agreement in Northern Ireland.³⁶⁵ Not everything recommended was followed, but many of the ideas put forward by McGarry and O'Leary were included in these agreements.³⁶⁶ McGarry and O'Leary wrote several books on the subject, and the problem with the literature on Kirkuk is that its focus consists of small articles that tend to leave more

³⁶⁴ Also known as the 'Agreement' and the 'Belfast Agreement'.

³⁶⁵ Taylor, Rupert. 'Introduction' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, pp. 7-11.

³⁶⁶ O'Neill, Shane. 'Recognition, Equality, Difference: Achieving Democracy in Northern Ireland' in Rupert Taylor (ed.) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*. Abingdon: Routledge, 2009, p. 87.

questions than answers. Although these findings lack detail, they can play a role in examining the various options available for Kirkuk. Therefore, it is important to analyse the work of scholars who have addressed the future of Kirkuk in order to address the advancements they have made on the understanding of the conflict and its resolution. Through an examination of other scholars' work on a resolution for Kirkuk it is possible to identify what areas their analyses are lacking in, therefore avoiding following the same path.

4.2. Article 140

Article 140³⁶⁷ of the Iraqi Constitution calls for the implementation of Article 58 of the Transitional Administrative Law (TAL)³⁶⁸ by the 31st December 2007.³⁶⁹ Article 58 calls for the normalisation of the disputed territories of Iraq,³⁷⁰ followed by a census and then a referendum on the future constitutional status (in Kirkuk's case whether it would join the KRG or not). There are two views on Article 140 from the academics that have analysed the Kirkuk case, those who see it as redundant (such as: Liam Anderson, Gareth Stansfield and Stefan Wolff) and those who see it as imperative due to the fact that it is in the Iraqi constitution (such as: David Romano and O'Leary). Anderson and Stansfield are the only academics that have examined the Kirkuk conflict in detail; they have written an entire book, *Crisis in Kirkuk*, which focuses on the emergence of the conflict in Kirkuk, but not the future of the province. However, there are two chapters addressing the future of Kirkuk, these

³⁶⁷ For the full text of Article 140 see Appendix III.

³⁶⁸ For the full text of Article 58 see Appendix IV.

³⁶⁹ The TAL was an Interim constitution for Iraq, which was put in place before the creation of a permanent constitution in 2005.

³⁷⁰ The disputed territories of Iraq are those areas that had their borders changed by the previous regime and now involve disputes over the borders. They involve Kirkuk, Diyala, Ninawa, Salahaddin and the KRG. For a detailed analysis of the border changes in Kirkuk see Chapter 1.2.

discuss what a possible resolution to the conflict should include and what realistic compromises are available, rather than giving a preferred option. Consequently this makes these two chapters useful to analyse what an agreement should entail. Anderson and Stansfield see Article 140 as somewhat defeated, as it would be very hard to implement it at this stage, due to the fact that it has expired. They do however reiterate that this doesn't remove the issue of the disputed territories, in and around Kirkuk, that Article 140 was meant to deal with and therefore deem that it is in need of replacement. Nevertheless, the political situation in Kirkuk and Iraq has moved on since the creation of Article 140 and it would be very difficult to replace it with something similar and would instead have to involve compromises on both sides.³⁷¹

In the academic article *The Future of Kirkuk*, David Romano sees Article 140 as imperative to Kirkuk's future, although Romano's article was published before the deadline for the implementation of Article 140 was reached – and indeed missed. Romano divides the conflict in Kirkuk between two issues: control of resources and the symbolic value that Kirkuk represents to the various segments. For Romano the resources are an easy issue to deal with as they can be divided, as per Article 112, which distributes the revenues of all oil and gas fields that had been discovered prior to the creation of the constitution (this includes those in Kirkuk) in proportion to the population of Iraq. This analysis ignores the fear of those who see the KRG as wanting Kirkuk's resources for their own secessionist agenda, as misplaced as this

³⁷¹ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 185-203.

fear may be – it still exists.³⁷² Despite this, it is still the easier issue to solve as it can be overcome with assurances and guarantees to win over the population. Whereas the symbol that Kirkuk has become to Kurds, Turkmen and even Arabs, which leads to their desire for ownership of the province (or at least preventing others' ownership) is a harder task to negotiate over. This is due to the importance of the symbolism of Kirkuk, paired with the very different desires for Kirkuk that all of the segments involved have. Thus making it very hard to reach a solution without large compromises being made on all sides. Romano sees the failure to reach an agreement as a great threat to stability in Iraq, as the competition between these groups could lead to large-scale violence. Due to these facts, he derives that none of the options available for Kirkuk can perfectly satisfy all the parties. However, he sees it as an important factor for the future of Kirkuk that a settlement allows non-Kurdish majority areas the freedom not to join the KRG and that the referendum proposed in Article 140 should go beyond a mere majority in order to stabilise any transition. In Romano's opinion there are four available options for Kirkuk:

- The first option is to follow Article 140, although as already stated some complications have met this option since Romano's analysis – in that the deadline for the implementation of this article has passed and thus its legality can be questioned. However, even ignoring this, Romano sees some obstacles to this option. [1] The borders of the province would have to be agreed upon (i.e. maintain the current

³⁷² This fear appears misplaced as the KRG would have no way of exporting these resources if they separated from Iraq due to animosity all of its neighbours hold towards the KRG annexing Kirkuk as well as seceding from Iraq.

borders or revert to the old borders)³⁷³ and if Kirkuk's borders are to be redrawn there would be pressure to redraw all borders, including those between the KRG and the Nineva and Diyala provinces.³⁷⁴ [2] Another obstacle is the likelihood of any census being boycotted and the possibility of people being 'bussed in' from other provinces to vote in the referendum, if indeed this is not boycotted too. [3] With no agreement on the referendum, whatever the results, violence is a likely outcome from the losing parties.

- The second option also involves following Article 140, however it differs in that Kirkuk city would be given a special status as a free standing municipality, and districts that vote against joining the KRG would not have to join it. The details for this option are seriously lacking: what would happen to those districts who don't join the KRG, what governance system would operate in Kirkuk city, what links would Kirkuk city have with the KRG and Baghdad, etc.?
- Romano's third option is to leave Kirkuk as it is, that is under Baghdad's control, which as an option consists of doing nothing and it can be argued that this would allow for the conflict to spiral out of control. Romano rightly points out that this would lead to a Kurdish uprising that would destabilise an already fragile Iraq, therefore discounting it as a desirable option.
- The final option put forward by Romano is the recommendation of the International Crisis Group (ICG) in their policy paper on Kirkuk, which

³⁷³ The current borders of Kirkuk are a result of the Arabisation process for a detailed analysis of the previous borders see Chapter 1.2.

³⁷⁴ This would result in the KRG having to relinquish territory that was previously part of these provinces.

comprises of giving Kirkuk province a special status for ten years before allowing for a referendum to take place. In ICG's opinion, this time period would allow for normalisation to take place and Kirkuk would be more stable with better community relations by the time of the referendum. Romano rightly points out that this would just be a method of postponing violence – that is if the Kurds would be even willing to wait ten years before they could settle the issue of Kirkuk.³⁷⁵

In Romano's analysis of the options available to Kirkuk, he has left out some highly feasible options, which are discussed elsewhere in this section, and has included options that are entirely unfeasible, such as leaving the status quo. He admits that none of the options are entirely satisfactory, however he favours the second option, with a few additions. These are: consociational power sharing (in both the KRG and Kirkuk city), resource sharing, and a detailed referendum with various options (including the option for districts voting against the referendum to break away). Although this answers some of the questions raised above about this option, it is still significantly short on the details needed to give an analysis of its chances for success. For example consociational theory is very broad and numerous options are available within it, without giving specific details it could cover a great many varied possibilities.³⁷⁶ This option therefore needs further development, as it does

³⁷⁵ International Crisis Group. 'Iraq and the Kurds: Confronting Withdrawal Fears.' *Middle East Report No. 103* – 28 March 2011.

³⁷⁶ Consociation is a form of power sharing that guarantees segments representation – if they so wish – and places different parties together in a coalition government. It uses the very divides present within the society in the management of the conflict through elite cooperation at the centre. The four principles of consociation are: executive power sharing, mutual veto, proportionality and segmental autonomy and they can be implemented to varying levels. For a detailed analysis of consociational theory see Chapter 3.2.

what many analyses on the future of Kirkuk do – it raises more questions than answers.³⁷⁷

4.3. Special Status

Anderson and Stansfield state that any compromise deal that replaces Article 140 would have to address whether Kirkuk joins the KRG, whether Kirkuk is awarded a special status (if this applies to the city or the province), and finally what form of power sharing arrangement – if any – Kirkuk should be governed by. As this deal by definition would have to involve a compromise by both sides they automatically eliminate the options of Kirkuk joining the KRG or remaining under central control. This leaves the options of Kirkuk joining the KRG under a special status, or remaining outside the KRG with a special status. Therefore according to Anderson and Stansfield the resolution to the current conflict requires for Kirkuk to be awarded a special status. For many reasons, which are highlighted throughout this thesis, this should be the way forward for Kirkuk. Moreover, through Anderson and Stansfield's elimination process it becomes clear that this is the only feasible option.³⁷⁸ As already mentioned Romano also favours awarding Kirkuk a special status, but for the city alone in order to allow the surrounding districts a choice in their provincial classification.³⁷⁹

In his article *Governing (in) Kirkuk*, Stefan Wolff states that based on the current constitution there are three options available for the status of Kirkuk within Iraq. (1) Join the KRG through Article 140; (2) become an

³⁷⁷ Romano, David 'The Future of Kirkuk', *Ethnopolitics* Volume 6, Issue 2, 2007, pp. 265 – 283.

³⁷⁸ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 185-203.

³⁷⁹ Romano, David 'The Future of Kirkuk', *Ethnopolitics* Volume 6, Issue 2, 2007, pp. 265 – 283.

autonomous region (like the KRG), on its own or with other governorates; or (3) remain a governorate under central control. Each of these options would give different levels of power to Kirkuk, with the option of becoming an autonomous region allowing for it to have the most power. Wolff also examines the four options given in the UNAMI report (see Chapter 4.5.) and has a preference for the fourth option of a special status for Kirkuk. He sees Article 140 as redundant, at least in its current form, and therefore proposes a special status for Kirkuk as an interim settlement. This interim status which would be granted for a certain period of time (ten years is recommended by the ICG), would include power sharing along the lines of the Berlin Accords;³⁸⁰ it would place Kirkuk outside the KRG with a future referendum on whether it should join the KRG and would give Kirkuk powers greater than that of a governorate. It would also allow the option for the various segments of the society to form links with their ethnic group in the rest of Iraq (Kurds with the KRG and Arabs with Baghdad). Furthermore, Wolff suggests that the Turkmen of Kirkuk should be allowed to create formal links with Ankara. This could be a dangerous precedent to set, as not only could it endanger the territorial integrity of Kirkuk, but also that of Iraq. Although highlighting the fact that the UNAMI report gives very little details on a special status for Kirkuk, Wolff gives very few details himself. He instead states that it should be for the people of Kirkuk to decide the type of power sharing, the areas to fall under self-governance, how to form the referendum, etc. Wolff is absolutely right in saying that this decision should be made by Kirkukis. However, the more options that are analysed the better chance they have of making an informed

³⁸⁰ This would give Kurds, Arabs and Turkmen a 32% share of the power each and allow a 4% share for the Assyrians. There are numerous problems with this, which are discussed under the Berlin Accords.

decision and academics should argue their recommendations in order to advance the discussion on the future of Kirkuk. *Governing (in) Kirkuk* does not give any geographical specifications, although from the language used it seems to refer to Kirkuk province. Should this be the case, it leaves the question of why the districts of Kirkuk province, other than the city itself, would be included in a special status, as due to the relative homogeneity of the sub-districts, and the history of the creation of al-Ta'mim,³⁸¹ there could be the possibility of them joining other governorates and Kirkuk city receiving a special status.³⁸² This would release some of the ethnic tensions by allowing homogenous areas to join governorates along the same lines, it would also lead to greater numeric equality of the ethnic groups, which would be beneficial to power sharing in Kirkuk, as ethnic dominance would be removed. Wolff's article does explore an interim status for Kirkuk and contextualises Kirkuk within the self-determination dispute/territorial self-governance arena. However, a far more detailed and specific argument is needed to display the merits of an interim status, particularly if it were to be for the entire Kirkuk province.³⁸³

4.4. Governance

When it comes to governing Kirkuk, Anderson and Stansfield also see compromises as necessary, thus eliminating the least favoured outcome of each faction and resulting in only two remaining options; power sharing within the KRG or Kurdish majority rule outside of the KRG's borders. Due to the

³⁸¹ The name given to the province of Kirkuk as part of the Arabisation process. It is still the legal name for Kirkuk province to this day. For details on the history of the creation of al-Ta'mim see Chapter 1.2..

³⁸² The division of the governorate of Kirkuk and the creation of a special status for Kirkuk city is discussed in greater detail in Chapter 6.

³⁸³ Wolff, Stefan. 'Governing (in) Kirkuk: resolving the status of a disputed territory in post-American Iraq.' *International Affairs* 86, no. 6, November 2010, pp. 1361-1379.

fact that the number of returnee Kurds is contested they see power sharing only being accepted by Arabs and Turkmen based on a 32,32,32,4 scenario.³⁸⁴ Therefore, in their opinion Kurds either have to accept majority control outside of the KRG or equal power within the KRG and likewise Turkmen and Arabs either have to accept equal control in the KRG or being politically dominated outside the KRG. This leaves both factions with the choice over symbolic or actual power, and would involve a negotiation over which each would prefer. Although this analysis put forward by Anderson and Stansfield is valid, it involves a resolution where Kirkuk province remains intact and does not involve additions such as cross-border institutions. In a more intricate resolution involving these important details, both the demographics and dynamics of the scenario would change, which would increase the number of options available. For example: if the majority-Kurdish subdistricts were allowed to join the KRG; the other subdistricts had a choice of joining existing provinces or forming their own; and Kirkuk city was given a special status with links to the KRG and Baghdad, the dynamics and demographics of the resolution would change. This would largely eliminate the problem of the Kurdish influx, allow the districts outside the city to decide their future and lead to more equally balanced demographics by confining the conflict to the city. This would allow for a proportionate power sharing arrangement with a future referendum being held on whether Kirkuk city (under this special status) should be part of the KRG or not. Therefore although Anderson and Stansfield's analysis is correct, by adding to and

³⁸⁴ This consists of giving 32% of the seats each to the Kurds, Arabs and Turkmen and 4% to the Christians.

expanding the scope of the agreement, other previously discounted possibilities might become feasible.³⁸⁵

In *Governing (in) Kirkuk*, Wolff gives a brief background to the conflict in Kirkuk and the position of the relevant actors.³⁸⁶ Based on a combination of this background and an examination of other self-determination disputes – which are used to contextualise Kirkuk within this arena – Wolff sees Kirkuk as having an internal territorial dispute that is not secessionist in nature, yet with external properties, in that its future has implications beyond Iraq. He therefore gives the dispute three levels: the dispute between the ethnic groups in Kirkuk, the dispute between the KRG and Baghdad and the dispute involving other regional powers (mainly Turkey, but also Syria and Iran, due to the impact Kirkuk joining the KRG would have on the Kurdish question in the Middle East). Based on these three levels of dispute, there are two components that need resolution: Kirkuk's territorial status within Iraq, and the internal governance of Kirkuk. The literature on self-determination disputes discussed in Wolff's article would suggest that a resolution in Kirkuk would need to involve territorial self-governance. Wolff argues that this must go beyond a mere territorial dimension and must include political, economic and military elements as well, thus forming a complex power sharing arrangement.³⁸⁷ Thus, he derives that an agreement on the resolution of Kirkuk must include: (1) a form of self-governance for Kirkuk; (2) distribution of power between Kirkuk and the centre; (3) the creation of a power sharing arrangement, both in Kirkuk and with the next level of governance (KRG or

³⁸⁵ Anderson, Liam & Gareth Stansfield. *Crisis in Kirkuk: The Ethnopolitics of Conflict and Compromise*. Philadelphia: University of Pennsylvania Press, 2009, pp. 204-233.

³⁸⁶ This is not covered in this chapter, as a more in depth analysis of Kirkuk's background was given in Chapter 1.

³⁸⁷ For more details on Complex Power Sharing see Chapter 3.4..

Baghdad); (4) the creation of institutional arrangements that address policy coordination and the resolution of future disputes. Wolff's article appears to be in favour of the governance agreements made in the Dead Sea Declaration of 2008 and the Berlin Accords of 2009, which can be considered as highly problematic (see next paragraph).

The Friedrich Naumann Foundation for Liberty (FNF) has hosted a number of conferences on developing a government arrangement for Kirkuk, which have created some of the few actual agreements on Kirkuk by actors from the conflict. It began with a workshop held in Amman, Jordan in May 2008, which included twenty-three politicians and civil society officials from Kirkuk. The aim of this conference was to create an understanding of the conflict and to initiate dialogue between the various factions of Kirkuk away from the realities of the situation.³⁸⁸ The second conference hosted by FNF was held at the Dead Sea, Jordan in December 2008. The aim of this conference was to build on the relationships created in the earlier workshop and to develop possible future outcomes for Kirkuk, along the same lines as Article 23 of the Provincial Elections Law.³⁸⁹ The result of this conference was the drafting and signing of the *Dead Sea Declaration*, where the participants agreed to work together towards finding solutions for the key issues in Kirkuk.³⁹⁰ The third FNF conference was hosted in Berlin in April 2009.

³⁸⁸ *Foundation Facilitates a Multi-Party Dialogue on the Conflict Over Kirkuk/Iraq*. Friedrich Naumann Foundation for Liberty [Online] Available from <http://fnst-amman.org/en/index.php/iraq/33.html> [Accessed 19/11/2010]

³⁸⁹ The purpose of this article was to allow for a temporary power sharing arrangement in Kirkuk until local elections could be held under a newly formed election law, created specifically for Kirkuk. As part of this article the Article 23 Committee was formed to examine power sharing for Kirkuk, the distribution of power, and the demographic issues that exist in Kirkuk.

³⁹⁰ *Governing Arrangements for Kirkuk: Dead Sea Workshop Continues Dialogue, Adopts Joint Declaration*. Friedrich Naumann Foundation for Liberty [Online] Available from <http://fnst-amman.org/en/index.php/iraq/34.html> [Accessed 19/11/2010]

Twenty-five politicians and civil society officials from Kirkuk attended the conference. As a result of this conference an agreement for power sharing in Kirkuk, the *Berlin Accord*, was drafted and signed.³⁹¹ The signatories of the Berlin Accord agreed on the following points:

- To analyse the positions in government and the civil service in Kirkuk and rank them according to their importance.
- To implement power sharing under the ratio of 32,32,32,4 across the board in the government and all other civil employment, whilst taking into consideration the importance of each position and making it proportionate to the demographic situation of the region.
- To distribute the top positions of: Governor, Deputy Governor and Chairman of the Provincial Council, as per Article 23.

There are some key issues with this agreement, which explain why it was never implemented. Firstly, it took just three short conferences to reach, which explains why it is lacking in detail. Moreover, it would be impossible to implement this agreement without also reaching an agreement on the status of Kirkuk. Without a clarification on the constitutional status, it is not actually possible to know what powers the government of Kirkuk would have, which is a necessary requirement when laying out the governance structure. Although the Berlin Accord concentrates on the power sharing arrangement, it needs to go beyond a mere designation of the percentage of seats that each segment gets within the council; it needs to develop an understanding of the structure of the power sharing arrangement. Secondly, this is an agreement reached by a group of people from Kirkuk that does not include many of the leading

³⁹¹ *Berlin Conference 2009*. Friedrich Naumann Foundation for Liberty [Online] Available from <http://fnst-amman.org/en/index.php/iraq/35.html> [Accessed 22/11/2010]

politicians; for an agreement to stand a chance of actually being implemented it needs to have been agreed on by all the parties of Kirkuk and then signed by their representatives, not individuals. Furthermore, the reality is that any agreement on Kirkuk will have to include Baghdad and the KRG in the negotiations. Both these entities are hugely involved in the future of Kirkuk and no viable agreement can be made without their agreement. Finally, a power sharing arrangement of 32,32,32,4 is completely disproportionate. It would be impossible for the KRG or the Kurds of Kirkuk to agree to surrendering such a large percentage of the proportion they are warranted in the council without the other segments making serious concessions elsewhere.³⁹² It would also be unbalanced to give the other segments more representation than their numbers warrant. By having a prescriptive division of the power, this agreement would follow corporate rather than liberal consociation – in that the segments would be pre-determined, rather than self-determined.³⁹³ This would discriminate against those not represented in this formula, in this case mainly parties that represent all segments. This could also lead to the destruction of the settlement as the demographics of the society change,³⁹⁴ as happened in Lebanon.³⁹⁵ Therefore, although these meetings have allowed some of the protagonists from Kirkuk to meet on neutral territory, the agreements that have been made have no chance of being implemented.

³⁹² *Berlin Accord*. Friedrich Naumann Foundation for Liberty [Online] Available from http://fnst-amman.org/en/images/stories/en-Berlin_Accord.pdf [Accessed 22/11/2010]

³⁹³ For a detailed explanation on corporate and liberal consociation see Chapter 3.2..

³⁹⁴ For example, if the Turkmen population diminished to 7% conflict would likely emerge based on the fact that they would still have a 32% representation across society.

³⁹⁵ Cordell, Karl & Stefan Wolff. 'Power Sharing' in Cordell, Karl & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011, pp. 300-310.

Columbia University's School of International and Public Affairs (SIPA) wrote a policy paper on a possible settlement for Kirkuk, *Kirkuk: Reaching a Comprehensive Settlement for a Disputed Province*. According to this paper there are several issues that need to be addressed, such as birthright, constitutional powers, provincial governance and power sharing, decentralisation of power, provincial elections, referendum and sequencing. SIPA's paper lays out proposals to address these issues.

- *Birthright*: To deal with this issue SIPA borrows from the Northern Ireland (NI) situation, where as part of the deal for the Republic of Ireland (ROI) to abandon its constitutional claim to NI, Irish citizenship law was modified so that it was no longer defined by its territory, but rather by its people. This allowed people in NI to continue to be part of the Irish Nation through citizenship on a non-territorial basis, i.e. without NI being annexed by the ROI. SIPA's paper envisions a similar deal in Kirkuk and states it as follows:

The birthright of all citizens of Kirkuk to identify themselves and be accepted as Kurdish and Iraqi, as they may so choose, and accordingly confirm that their right to hold both Kurdish and Iraqi heritage would be accepted by both Governments and would not be affected by any future change in the status of Kirkuk or the Kurdish Regional Government.³⁹⁶

This thus allows Kurds from Kirkuk to be employed in the KRG civil service, receive an education in the KRG, buy a house in the KRG, etc.. Although this paper recommends 'birthright' it does not indicate whom this should apply to, but rather that the KRG should decide whom to award it to.

³⁹⁶ SIPA. *Kirkuk: Reaching a Comprehensive Settlement for a Disputed Province*. New York: Columbia University, 2011, p.4.

- Constitutional Powers:* Again along the lines of NI, this paper recommends joint administration, which is similar to – although potentially more powerful than – the cross-border institutions of NI. Under this ‘dual nexus’ SIPA sees the Kirkuk Provincial Council (KPG) taking control of local affairs (as per the Provincial Powers Act of 2008), this includes taking control of a ‘mixed and balanced police force’ once this is created. As for the Government of Iraq (GOI), they would control all national/sovereign powers, e.g.: trade, national security, etc.. The GOI would also have majority control over oil and gas management in Kirkuk; as part of this arrangement the KPG would control the distribution of all funds in a deal created for revenue-sharing. The proposal put forward in this paper severely limits the ‘dual nexus’ powers that the KRG would have. The only lone power proposed for the KRG would be in the determination of which of Kirkuk’s residents qualify for KRG birthright. The KRG is given joint powers with the GOI, in that they would jointly administer the security forces until such a time as the new multiethnic force is successfully implemented. The GOI and the KRG would also jointly govern Kirkuk’s main sources of energy and its distribution, development and general planning policies, domestic water policy, and public education. Under this plan Kirkuk would also elect representatives within the KRG legislature.
- Provincial Governance and Power Sharing:* Like many of the analyses that precede this, this paper also proposes power sharing within the KPC along the 32/32/32/4 percentage representation. The proposal is to implement this level of power sharing until a referendum is held, at

which point it could be changed or eliminated. The faults of 32/4 have already been discussed, but what is interesting is the methods that SIPA's paper proposes in order to implement it. One option it gives is 'Geographical Representation', which is just gerrymandering with a less politically charged name. This would involve redrawing the borders of the districts in order to ensure that a particular ethnic group would win each district adding up to a 32/32/32/4 end result. In light of Kirkuk's recent history, involving Arabisation and gerrymandering, this could be considered a cavalier suggestion. It would also cause unequal representation, large districts having less per capita representation, instability as demographics change, and would involve extreme complications. This would result in corporate rather than liberal consociation and would therefore be less stable (see Chapter 3.2. for further details). Although the authors do acknowledge some of these disadvantages, they still propose it as a method of installing a type of power sharing that has already been viewed as unfair i.e. 32/4. The other option proposed in this paper is to have an open list with the 32/4 quota a prerequisite for each list. This would ultimately see the introduction of centripetalism³⁹⁷ in Kirkuk, which is argued against in the next chapter. One of the main reasons that it is argued against is that due to the dynamics of the conflict it is unlikely that the leading parties would be willing to work together, therefore leading to smaller parties with little support taking control of Kirkuk. Alternatively, the

³⁹⁷ Centripetalism is a form of power sharing that creates institutional designs that promote and encourage interaction between the cleavages of the society. The aim is to moderate politics through creating multiethnic parties, thus leading to accommodation between the segments of the society. For a detailed analysis see Chapter 3.3.

Kurds could form a list consisting of all pro Kurdish parties, which would result in the Arabs and Turkmen not being properly represented. For the KPG Executive this paper proposes a Kurdish Governor with an Arab and Turkmen Deputy. Again this is corporate rather than liberal consociation and would prevent the Executive from evolving with the demographics of the society and from having members from multiethnic parties elected (ways around this are discussed in the next chapter). SIPA also proposes that each of the three executives should have veto rights. The problem with this solution is that not all the members of each ethnicity are aligned or have the same views for the future of Kirkuk, therefore, depending on which political parties get a member into the Executive, there will be other parties who will have no minority veto. Whereas in a weighted majority system each political party would have a chance to influence the decision making process.

- *Decentralisation of Power:* SIPA's paper recommends a decentralisation of power including giving budgeting powers at a subdistrict level. It also proposes the demilitarisation of Kirkuk city, which would be controlled by shared security forces. Decentralisation is a common method used to minimise conflict at a central level and to give minorities greater autonomy. However, the fact that SIPA separates the city from the province by saying it should be demilitarised begs the question as to why the authors don't think the city should be given a special status – as suggested by other analysts – as this clearly demonstrates that they think greater action should be taken within the city.

- *Provincial Elections:* SIPA believes that it is highly important that provincial elections are held in Kirkuk, preferably before the US' withdrawal.³⁹⁸ The reason for this is to rectify the disparities resulting from the Sunni boycott of the last provincial elections and to allow for the implementation of the Provincial Powers Act, which would give the provincial council more power. They also believe that electing a provincial council that is legitimate would therefore make it more capable to begin a dialogue on Kirkuk's future. The difficulty with this proposal is that many facets relating directly to the election are issues of contention in Kirkuk, therefore it would be hard to hold elections without having some form of agreement on these other issues as well. SIPA's paper does acknowledge that the power to call a referendum – which would be granted under the Provincial Power Act – should be receded, as this would ultimately allow for a referendum on Kirkuk's future status. Furthermore, SIPA also proposes a policy similar to the 2010 national elections, in that an electoral list for the provincial elections should not be made available for any referendum. It would be hard to deny a referendum without giving the Kurds some other gain in return, thus returning to negotiations over Kirkuk's future, which demonstrates the difficulties in having provincial elections before negotiations.
- *Referendum and Sequencing:* The other agreements SIPA proposes before elections are an agreement on dual nexus and on power sharing. As already stated, these agreements spawn other issues that

³⁹⁸ Ultimately the US withdrew before provincial elections were held.

need to be resolved therefore leading to negotiations, again making provincial elections problematic before negotiations have started in earnest. A dual nexus solution does not answer the question of a future status, as it could function with different constitutional statuses for Kirkuk. Whereas SIPA seems to think that by implementing a dual nexus there will no longer be the need for Kirkuk's status to be questioned – when considering the minimal powers they propose for the KRG, this is highly unlikely.³⁹⁹

4.5. Sitting on the Fence

Perhaps it is unfair to claim that UNAMI are sitting on the fence with regards to the resolution of Kirkuk's conflict. However, they do have the most influence on Kirkuk's future out of all the analysts mentioned, therefore a clearer direction from them could help with the conflicts resolution. In their policy/diplomatic discussion paper, *Possible Options for the Future Administrative Status of Kirkuk Within the Iraqi Federation*, UNAMI explores the options that they see available for Kirkuk's future. The report is on the basis that Kirkuk province should remain intact, however it is not stated whether the old boundaries should be restored or the new ones upheld. UNAMI sets out some common elements that they believe should be present in any agreement for Kirkuk:

- An unbiased local security force that corresponds to the population of the area being policed, along the lines of the police service in Northern Ireland. This would include a clear statement of the role of each security force and introduce mechanisms to monitor these roles.

³⁹⁹ SIPA. Kirkuk: *Reaching a Comprehensive Settlement for a Disputed Province*. New York: Columbia University, 2011, pp. ii-15.

- A power sharing arrangement, UNAMI stipulates that this would be along the lines of the report of the Article 23 Committee. Ultimately the Article 23 Committee didn't reach an agreement and was seen as a failure. However, it can be said that UNAMI favours a 32/32/32/4 power sharing arrangement.⁴⁰⁰
- Local autonomy and a form of self-governance for each of the segments of the society.
- Kirkuk to be involved in the management of its natural resources alongside the federal government and to receive a higher distribution of the oil revenue.
- The creation and expansion of economic ties with the rest of Iraq.
- UNAMI sees it as imperative that there is a transitional period before this option is implemented. This would allow for transparency, organisation and mechanisms of accountability to be addressed before an option could be put into place.

UNAMI discusses four specific options for Kirkuk, which should include the elements above:

1. **Restructuring Article 140:** This would involve clarifying all aspects of Article 140 (particularly the normalisation process and the details of any referendum), a longer time period allowed for the normalisation process and that the referendum will only take place once a political agreement has been reached. This option would favour the Kurds, providing the details were not drastically changed, as they would have Article 140 legitimised once more and this would allow for Kirkuk to join

⁴⁰⁰ This poses problems, which are discussed under the Berlin Accords.

the KRG, albeit that it would take a much longer time period than they would wish for. However, a large proportion of the population would not favour this option and it would need to include other elements and a significant change to Article 140 to be accepted by Iraq as a whole.

- 2. Fixed Governorate status for Kirkuk:** This would see Kirkuk being fixed as a governorate, which would mean that they could not become a region or join an existing region. Under this option Kirkuk would receive a higher level of autonomy than other governorates. However, even with higher autonomy, this option is highly unlikely, as it would entail majority Kurds giving up their aim of joining the KRG and the KRG giving up on annexing Kirkuk – both which are highly unlikely events.
- 3. Dual Nexus:** Under this option, Kirkuk could remain a governorate or become a region, but the significant point is that Kirkuk would have strong links to both the KRG and Baghdad. UNAMI proposes a similar agreement to that of Northern Ireland, where cross-border institutions exist linking Northern Ireland to the UK and Ireland.⁴⁰¹ UNAMI sees this as either involving joint institutions between Kirkuk, Baghdad and the KRG or the division of departments between the three. This dual nexus would either be implemented permanently or as an interim solution.⁴⁰² UNAMI's recommendation does not allow for a future referendum (if the dual nexus was implemented on a permanent basis), nor does it specifically mention removing Article 140, which would allow for the KRG to have a claim to Kirkuk. For a dual nexus agreement on Kirkuk

⁴⁰¹ More details are given on the cross-border institutions in Chapter 5.

⁴⁰² UNAMI. 'Possible Options for the Future Administrative Status of Kirkuk Within the Iraqi Federation' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]

to be acceptable to all the segments of the society these factors would have to be included in the settlement, which would raise further issues that would need to be addressed; for example, how Kirkuk would be governed if it joined the KRG, if Kirkuk joined the KRG would it still have links to Baghdad, the structuring of a new referendum, etc..

4. Special Status: UNAMI recommends awarding Kirkuk a special status as a distinct administrative territory with a power sharing arrangement. Kirkuk could be a governorate or a region and the special status could be an interim or permanent option. Under a special status Kirkuk would be given a high level of self-governance. UNAMI sees this special status as including legislation that prevents Kirkuk from joining another governorate or region; therefore, if Kirkuk were given a permanent special status it would be unable to join the KRG. Additionally, under this option, should Kirkuk ever join the KRG it would have to be without a special status and thus the rights of non-Kurds would be jeopardised as they would become marginalised in an overwhelmingly Kurdish political context. Although UNAMI does not address the option of the possibility of a special status for Kirkuk within the KRG, it offers many solutions to some of the key issues in the conflict.

UNAMI admits that options one and two are the least feasible and it would be difficult to gain the consensus of all the segments of Kirkuk to implement them. They also see a combination of any of the four options as being another alternative, with a mixture of options three and four being the most plausible. An amalgamation of options three and four does indeed seem the most likely to succeed for reasons discussed above. This leaves the question why

UNAMI didn't make this a separate option and give their recommendation as to how these two options could be joined to offer the best chance of it being successful in Kirkuk. However, even if UNAMI did create a separate option for such an amalgamation, like all the options given, it would need to be further developed and include more details than they currently give in order to judge its feasibility, and indeed to make it possible to achieve.⁴⁰³

4.6. Changing Internal Borders

In the academic book *How to Get Out of Iraq with Integrity*, O'Leary examines the US' withdrawal from Iraq, and comes to the conclusion that Iraq must maintain its territorial integrity. Firstly, he argues that this was promised to Iraq and the rest of the world before the 2003 Iraq War and secondly, because a federal Iraq was established in the Iraqi constitution, which was voted on by the people of Iraq. However, this does not mean that the internal boundaries cannot be changed, as changing them may help to ease Iraq's conflict without having to partition Iraq into homogenous states. In keeping with this, O'Leary sees two possibilities to resolve the status of Kirkuk fairly. One would be to Follow Article 140 and hold a referendum within the historical boundaries of Kirkuk and the second would be to allocate the districts and subdistricts to the KRG, or not, based on their population groupings. Both these options involve changing territorial borders, however these are internal borders and can be changed without violating the constitution. In O'Leary's writings he seems to favour following Article 140, as he believes that as this was agreed upon it would be unfair to the Kurds not to

⁴⁰³ UNAMI. 'Possible Options for the Future Administrative Status of Kirkuk Within the Iraqi Federation' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]

honour it. In this he is right, however, as an advisor to the Kurds on the formation of the draft constitution he doesn't take into consideration the favourable position the Kurds were in; whilst the rest of the segments were in chaos the Kurds were organised and able to hire numerous outside advisors which enabled them to negotiate Article 140 into the constitution.⁴⁰⁴ As it would be unfair to the Kurds if Article 140 was reneged on, it would also be unfair to the other segments in Kirkuk to install something that they did not vote on directly (as it was part of the entire constitution and voted on by the whole of Iraq). This therefore makes the second option more favourable, even though it has been dismissed by many⁴⁰⁵, as it holds a reasonable chance of ending violence due to the fact that it allows for the majorities of both sections to achieve their aims. Despite O'Leary expressing this as a fair and feasible option, he has not provided a possible framework for its implementation. He states that the districts and subdistricts would be allocated based on their election results, but does not offer an opinion on what should happen to them – will they form a new governorate, join existing ones, have the choice of joining the KRG or not, have any links with Kirkuk on matters of governance, resources, etc.? These questions need to be addressed when considering the break up of the current Kirkuk province. O'Leary does however give more details for Kirkuk city, if it were to join the KRG, stating that it should have a special status, with its own consociational power sharing arrangement and maintain links to Baghdad. Even though this analysis contains more details, it

⁴⁰⁴ Article 140 was added as part of a bargain where the Kurds accepted Article 119 and as most of the Arab and Turkmen parties in Kirkuk were part of broader Iraqi political party they were forced to back the constitution despite the fact that they were against Article 140.

⁴⁰⁵ Mainly UNAMI, see UNAMI. 'Possible Options for the Future Administrative Status of Kirkuk Within the Iraqi Federation' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]

still raises questions as to what this special status would entail – how independent Kirkuk would be from the KRG, what governance responsibilities it would have, what links it would have with Baghdad, etc.? The ideas put forward by O’Leary do come across as some of the more plausible options for Kirkuk, which can be attributed not only to his standing as an academic, but also to his experience with Northern Ireland (due to its many similarities with Kirkuk). However, as already stated, these ideas need to be developed further in order to successfully analyse their chances for success and to give the relevant actors of Kirkuk something more than just an idea to work with.⁴⁰⁶

Romano also favours a form of border change, in that he believes that non-Kurdish majority areas should have the choice not to join the KRG, therefore dividing the province if the Kurdish areas decided to join the KRG. However, as already highlighted, he too does not discuss what would happen to these districts if they chose not to join the KRG.⁴⁰⁷

4.7. Conclusion

Although the various options that have been put forward for Kirkuk are lacking in detail, there are many aspects that could be included in a settlement that would be accepted by its population. These include: [1] Giving a special status to Kirkuk city; [2] allowing non-Kurdish majority areas the option not to join the KRG; [3] creating cross-border institutions/links between Kirkuk, the KRG and Baghdad; [4] and introducing liberal consociational power sharing. Although these options are feasible for a settlement in Kirkuk, as already

⁴⁰⁶ O’Leary, Brendan. *How to Get Out of Iraq with Integrity*. Philadelphia: University of Pennsylvania Press, 2009, pp. 141-160.

⁴⁰⁷ Romano, David 'The Future of Kirkuk', *Ethnopolitics* Volume 6, Issue 2, 2007, pp. 265 – 283.

stated, there needs to be far more particulars as to what each aspect will involve and should include the geographic specifics, as these were somewhat thin in many of the analyses. If the resolution for Kirkuk is going to involve splitting up the province, it is imperative that clear details are given for the future of each section and how they link to the resolution. If the options mentioned are to be included in an agreement it is important that they are analysed further and a detailed description of how they can be implemented successfully is developed. The further analysis should take into consideration the geographic ramifications of each option and the affect that they could have on the dynamics and demographics of the conflict. Thus, allowing for the development of an agreement that takes into consideration the realities of each option available. It is an objective for this thesis to take the advances highlighted above and develop them towards a detailed framework for a possible agreement for Kirkuk. The next chapter analyses the relevant theories of power sharing, and when this is paired with the available resolutions highlighted in this chapter, an understanding of the direction a possible agreement for Kirkuk should take is formulated. Thus creating an outline that can be developed into a potential agreement for the future of Kirkuk in Chapters 5 and 6.

Chapter 5: Recommended Settlement

5.1. Introduction

Up to this point this thesis has laid the groundwork to develop an informed framework for Kirkuk; power sharing theories have been analysed, previous frameworks for Kirkuk have been discussed, a background to the situation has been given, and the issues of conflict have been highlighted. In the next two chapters this information will be used in order to develop a settlement for the conflict of Kirkuk. According to the Rand Corporation:

...durable settlements to ethno-territorial conflicts must address both strategic national concerns and hands-on governance issues. Rather than posit a choice between approaches that are driven from the bottom or from the top, therefore, it appears that both tracks must be pursued.⁴⁰⁸

The next two chapters will demonstrate that this thesis does just that – use a top-down as well as a bottom-up approach – in that power sharing, the political status and ethnic ties will be addressed alongside local issues such as policing, employment, education, etc.. This chapter will address the issue of the political status as well as addressing the local issues discussed in Chapter 2; thus creating a consociational settlement that goes beyond mere institution creating, but actually addresses all vital aspects of conflict. Thus, allowing the proposed settlement to ‘tackle the many causes which lie at the heart of the conflict’, which Gerry Adams highlights as one of the most important aspects in reaching a successful settlement.⁴⁰⁹

⁴⁰⁸ Hanauer, Larry & Loral E. Miller. *Resolving Kirkuk: Lessons Learned from Settlements of Earlier Ethno-Territorial Conflicts*. Santa Monica: Rand Corporation, 2012, p. 55.

⁴⁰⁹ Interview, conducted by the author, Gerry Adams, 15/07/2010.

5.2. Special Status

As the chapters preceding this one have highlighted, a special status for Kirkuk would ease some of the tensions created by the existence of rival ethnonationalisms by diminishing the battle for the ownership of Kirkuk. Article 140 has created conflict and by attempting to install this article, not only will the future of Kirkuk remain in limbo – as the various ethnicities fight over the installation of this disputable legislation – but there will also be all-out ethnic conflict in Kirkuk if it is ever implemented to the letter. Awarding Kirkuk a special status is one of the first steps necessary towards creating a settlement that can replace Article 140 as it creates a system where Kirkuk is predominantly owned/managed by Kirkuk and not by the KRG or Baghdad. Furthermore, by preventing Kirkuk from being directly under either Baghdad's or KRG's control there is no longer the need for the unconstructive discourse used by the leading protagonists in their attempt to prevent Kirkuk from being controlled by rival ethnonationalisms, which ultimately leads to the erosion of community relations. This eliminates one of the leading issues of conflict, which has created detrimental relations between the various ethnicities within Kirkuk. Furthermore, by disabling the fight for ownership, the negative discourse is also reduced, which thus allows for cross-community reconciliation to become a more feasible prospect. The RAND Corporation's report on Kirkuk states that 'minimising the symbolic importance of territorial control and sovereignty can help the parties focus on their pragmatic interests rather than on intractable nationalistic imperatives', which is what creating a

special status does.⁴¹⁰ Nevertheless, the fact that the Kurds managed to achieve the creation of Article 140 means that they are highly unlikely to just relinquish it – despite the fact that it is technically void. Thus, there are four steps that need to be introduced alongside a special status in order to counteract this issue; these are: (1.) the normalisation of Kirkuk (2.) allowing majority-Kurdish areas (or any area that wants to) to join the KRG (3.) creating cross-border institutions (4.) allowing for a future referendum on the positioning of the special status within Iraq's internal borders. In an interview the KRG Foreign Relations Minister showed a willingness to allow for the decision to join the KRG to be made on a district level:

You know we have rule of law in Kurdistan, we have stability and security, we want the people to make up their own minds, we want them to decide. If the people of these areas [non-Kurdish majority districts of Kirkuk] want to join Kurdistan they are welcome, if not, we don't want them. For us it is important to have people who are faithful, loyal to the process and not troublemakers... if there was a district where the majority of the people have decided not to join – it's their choice.⁴¹¹

The Iraqi Turkmen Front have also showed their willingness to allow other districts to decide where they wish to be placed as demonstrated in the following statement by Sundus Saqi when asked if her party backed Hawija joining another province: 'This is up to Hawija's people to decide.'⁴¹² However, establishing a special status for the city would be harder for the Kurds to accept, as already stated, they firmly believe in the validity and applicability of Article 140. Therefore, this would have to involve wider negotiations on a

⁴¹⁰ Hanauer, Larry & Laural E. Miller. *Resolving Kirkuk: Lessons Learned from Settlements of Earlier Ethno-Territorial Conflicts*. Santa Monica: Rand Corporation, 2012, p. XII.

⁴¹¹ Interview conducted by the author with Falah Mustafa, KRG Foreign Relations Minister, in Erbil, Iraq - 01/06/2013

⁴¹² Interview, conducted by the author, with Sundus Saqi, Iraqi Turkmen Front Representative London - 09/06/2013.

national level, which would include hydrocarbon laws, budget, as well as the already mentioned cross border institutions and future referendum. In the negotiations discussed above Erbil and Baghdad can take a lead and play a major role in helping to reach an agreement in Kirkuk. Although the KDP and PUK would be against a special status for the city, in an interview with the Gorran Leadership Council for Kirkuk, they voiced a willingness to follow the ICG's recommendations, which called for a special status for Kirkuk for ten years.⁴¹³ Furthermore, Gorran seem more willing than other Kurdish parties to relinquish Article 140 as evident from the following statement by Khadir Gihan:

From the beginning we believe that Article 140 made the problem bigger and harder to solve. They could solve the problem without going to the constitution and using Article 58 of the TAL or Article 140 of the constitution, which has right now created a big problem and a big deal. We believe that in any region of the world when there is a problem it must be solved by the people from the city. Right now the future of Kirkuk's people is in the hand of the political parties and we believe that this is wrong and that it must be in the hand of the people of Kirkuk to solve their own problems.⁴¹⁴

With Gorran's popularity growing and the PUK's diminishing, they may have a larger say following the next national election, which could open up the path for negotiations.⁴¹⁵ The Turkmen population of Kirkuk also favours a special status, but for them Tuz Khurmatu is extremely important. However, through the normalisation process Tuz Khurmatu would rejoin Kirkuk and then would be able to decide its own future and as Tuz Khurmatu is also important to the

⁴¹³ Interview, conducted by the author, with the Gorran Leadership Council for Kirkuk – Kirkuk, 06/06/2013

⁴¹⁴ Interview, conducted by the author, with the Gorran Leadership Council for Kirkuk – Kirkuk, 06/06/2013

⁴¹⁵ In the KRG provincial elections in September 2013 Gorran received the second highest number of votes after the KDP, overtaking the PUK as the second most popular party in the KRG. See: 'Results' *Rudaw* [Online] Available from <http://rudaw.net/english/kurdistan/elections/results> [Accessed 22/09/2015]

Kurds they could persuade the Turkmen to join the KRG through a side deal on its governance.⁴¹⁶

As there are majority-Kurdish areas, in Kirkuk province that border the KRG, it is highly feasible for these to join the KRG (if they desire) and therefore no longer fall within the boundaries of Kirkuk province. This allows for a large population of the Kurds within Kirkuk to achieve their desire of joining the KRG. However, this would not be possible if it resulted in the Kurds being a minority within Kirkuk; therefore, as part of this deal Kirkuk city would be given a special status and other majority districts/subdistricts would either join other provinces or form a new one. This again is a feasible proposition due to the history of gerrymandering that existed within Kirkuk (with districts being added to the province). By giving the city a special status and by allowing districts with a majority to join other provinces (or indeed create their own province), the conflict therefore becomes reduced to the city. With Kirkuk city having a far more equal spread of ethnic diversity, this therefore makes power sharing an easier and more attainable prospect. Such a solution is similar to the recommendations put forward for Jerusalem to enlarge its borders in order to create parity between the ethnic groups, as decreasing the conflict to the city would have the same effect in Kirkuk. It would be highly likely that the Kurdish-majority districts would join the KRG, rather than join the other districts/subdistricts in forming a new province. It would then be left for the remaining districts/subdistricts to decide whether they would like to join existing provinces (decided by joint referenda) or form their own province. With a special status being created for the city, this would

⁴¹⁶ Interview, conducted by the author, with Sundus Saqi, Iraqi Turkmen Front Representative London - 09/06/2013. Interview, conducted by the author, Salar Erbil, member of Turkmeneli Party Leadership Council – Erbil, 13/02/2013

be the only option for the remaining districts, thus easing any worries that the Kurds may have of being marginalised through this process. Furthermore, if the districts decided to form a province they would need a capital city. This is where the example of Chandigarh in India is useful; Chandigarh is a Union Territory on its own, but is also capital to both the Haryana and Punjab states. If the remaining districts chose to form their own province Kirkuk city could become their capital whilst remaining under a special status (this would also fit in well with the cross-border institutions). However, this does not mean that Kirkuk city cannot be independent, yet also be the administrative capital of the new province. The KRG could also choose to have Kirkuk as its capital – although this is highly unlikely due to the fact that the KDP would not relinquish the power stronghold that they currently have in Erbil.⁴¹⁷ However, the KRG could follow the example of many other entities that have multi capitals – South Africa has three; Pretoria is the administrative capital, Bloemfontein is the judiciary capital, and Cape Town is the legislative capital – making Kirkuk a second capital. This would be more symbolic and would be used to ensure that Kirkuk city does not hold more prominence to the new province, but nonetheless would be extremely useful in the administration of the cross-border institutions.⁴¹⁸ Making Kirkuk the capital to more than one entity would reduce the exclusive ownership claims by formally increasing the ownership.

⁴¹⁷ In the KRG provincial elections in September 2013 the KDP won 55.18% of the votes in Erbil, making them by far the most popular party. Whereas, in Kirkuk both the PUK and Gorran are more popular than the KDP. See: 'Results' *Rudaw* [Online] Available from <http://rudaw.net/english/kurdistan/elections/results> [Accessed 22/09/2015]

⁴¹⁸ Chandigarh Administration 'Redefining Chandigarh.' *Official Website of the Chandigarh Administration* [Online] Available from http://chandigarh.gov.in/knowchd_redfinechd.htm [Accessed 23/11/2011]

In the event that the remaining districts decided to form their own province with Kirkuk city as the capital, a system would have to be formed to manage the governance of all the relative entities. In Chandigarh the Capitol Complex houses the seat of government of Haryana, Punjab and Chandigarh itself.⁴¹⁹ Ideally in Kirkuk these seats of government would also be housed in the same building to allow for maximum interaction in the cross-border institutions. This would entail having separate, but linked, areas for the seats of government for Kirkuk city and the new province. The KRG would also have the option of moving some form of governance to Kirkuk, which they would be likely to take up (although it is highly unlikely that they would move their seat of government to Kirkuk, but rather some aspect of this) and this would also be housed alongside the others. Furthermore, it would be important to house the cross-border institutions in this same space, as these would involve members of all the governments and by housing them together interaction would be encouraged, if not inevitable. In this way Kirkuk could be the capital city (in some form) for more than one entity, whilst its governance would remain separate, yet at the same time being linked through location and through the cross-border institutions. The housing of these institutions could initially be held in the Provincial Council's building – there would no longer be the need for such a large space once Kirkuk is no longer a province – although, it is recommended that a new space be created specifically for this purpose.

However, by giving Kirkuk city a special status the self-determination desires of the Kurds within the city are not addressed. This is where cross-

⁴¹⁹ 'Capitol Complex.' *Chandigarh: The Beautiful City* [Online] Available from <http://www.chandigarh.co.uk/tourist-attractions/capitol-complex.html> [Accessed 01/12/2011]

border institutions come into play. By forming links between Kirkuk city and the KRG with joint governance on certain issues, particularly those which are of great interest to the Kurds, strong links between the Kurds within Kirkuk city and the KRG are created. This allows for the creation of official offices that involve both KRG and Kirkuki officials, thus leading to Kurds having an active role with their counterparts in both regions. It is also important for those districts that were part of Kirkuk province to maintain links to the city once a special status is created. By allowing their representatives to take up positions within these cross-border institutions on issues that affect them such as water, agriculture, etc. these districts could maintain links whilst benefiting from the products of these institutions. Thus, giving these districts links to Kirkuk, whilst at the same time ensuring their input on issues that directly affect them. There would also need to be cross-border institutions between Kirkuk City and Baghdad in order to address any potential changes to the territorial position that Kirkuk city (under special status) falls within. In order to decide what cross-border institutions are created there would have to be negotiations between the KRG, Kirkuk province (as it currently stands) and Baghdad. However, recommendations for potential institutions are given in Chapter 5.9..

Ultimately – this is still not enough – with the Kurds holding on to Article 140, where they had a deal for the whole of Kirkuk to join the KRG, mere links to the city fall short. This is why there also has to be the possibility for a future referendum allowing for Kirkuk city (under special status) to join the KRG. Nevertheless, it would be dangerous to use plebiscitary-majoritarian mechanisms to decide such a sensitive issue; as this could lead to just under

half of the population being forced against their will to join the KRG. Therefore, the Kurds would have to compromise and allow for this to be decided by majority consent (most likely 2/3 of the population) in order to prevent conflict from arising. The creation of cross-border institutions between Baghdad and Kirkuk city would also ensure that the communities within Kirkuk would always maintain strong links with Baghdad. The KRG could view the cross border institutions as a chance to prove to the people of Kirkuk, through the provision of services, that their future would be better within the KRG. In interviews conducted with the Turkmen parties and Gorran they have all pointed to the fact that the KRG and the PUK/KDP have done little to prove to the people of Kirkuk that they should join the KRG. Therefore, the KRG can view the cross border institutions as an opportunity to lead to a smooth transition to Kirkuk joining the KRG. However, due to the powers that Kirkuk city (under special status) would have, paired with the cross-border institutions and Kirkuk's continued links to Baghdad through its sovereign commitments, the increase in power that the KRG would have over Kirkuk's affairs would be minimal and indeed largely symbolic.

Although all the geographic changes to the provinces/regions/districts would be voted on by those that it affects, the most likely/desirable outcome can be highlighted. Therefore, it is recommended that majority-Kurdish districts/subdistricts that border the KRG join the KRG. Thus allowing for the remaining districts (apart from Kirkuk city, which is given a special status) to form a new province with Kirkuk city becoming its capital (following the Chandigarh model). It is then recommended that the KRG move some form of governance to Kirkuk, thus making Kirkuk the KRG's joint capital with Erbil.

5.3. New Police Force

Dealing with the security situation in Kirkuk is one of the most important aspects of any settlement. The people of Kirkuk need to feel safe, as highlighted by Khadir Gihan of Gorran:

The first thing that every person is looking for is security and in my opinion since the creation of human they try to secure themselves and if you don't, you don't feel human. One of the reasons they [PUK &KDP] couldn't secure Kirkuk and give the people safety and security is because there is militia for every person with responsibility and this makes people go mad. Militia in this community is seen as a civil phenomenon, for example there is no house without weapon, there is no young man without weapon and this is a disaster. No day passes without death...⁴²⁰

Kirkuk has witnessed a lot of violence, particularly since the creation of the Dijla Operation, therefore it is imperative that the issue of security is addressed in order to give the people the safety necessary to address the other issues in their society. By granting Kirkuk city a special status the opportunity arises to create a new multiethnic, multi-lingual and fully functional police force. The restructuring of the security services is backed by Arabs, Turkmen and Gorran, as previously mentioned, and was put forward (in negotiations over the Dijla Operations) by Baghdad and the KRG.⁴²¹ This process would involve those areas that have chosen to join the KRG becoming part of the KRG security services and those that have joined another province becoming part of that system – or if a new province is created forming a new system under the current Iraqi model. Thus, opening up the possibility of making Kirkuk city a demilitarised zone, which would

⁴²⁰ Interview, conducted by the author, with the Gorran Leadership Council for Kirkuk – Kirkuk, 06/06/2013

⁴²¹ In interviews with the author, politicians that did not belong to the KDP or PUK continuously voiced their complaints of these parties control of the security in Kirkuk.

remove the tensions of the *peshmerga* and Iraqi Army's presence within Kirkuk. Due to the current problems with a multi-level security service within Kirkuk that creates ethnic tensions, it is imperative that one single organisation is created, which follows the ethnic demographics of the city and has departments rather than divisions to deal with the various security duties. As part of the creation of a new police force in Kirkuk city a new cross-border institution focusing on policing terrorism and the borders of Kirkuk city would also have to be created. The cross border institution would create a joint task force involved in information sharing and possibly joint action at the borders. It would thus pave the way for the demilitarisation of Kirkuk, as apart from there being no trust between the *peshmerga* and the army there is also a belief that the current system could not deal with terrorism in Kirkuk without their help. This is illustrated by Lieutenant Colonel Azad of the Asayesh:

We also think that the *peshmerga* and the Iraqi army should be at the borders and not in the city, but we think that it is impossible, you can't do it. First of all the *peshmerga* and the army are not trusting each other, for example if the *peshmerga* left they don't believe that the army would leave the city too and secondly the Iraqi police are not capable of facing terrorist activities in the city.⁴²²

Thus, not only would the creation of a new multiethnic force with cross-border institutions linking it to the *peshmerga* and the Iraqi army allow for trust to develop, it would also create a force capable of dealing with the terrorist issues in Kirkuk. It is important to put a system in place that allows for the demilitarisation of Kirkuk, this is supported even by the Kurds, as illustrated by Fatih Muhammed Ameen:

⁴²² Interview, conducted by the author, Lieutenant Colonel Azad, Spokesperson KDP Asayesh Kirkuk – Kirkuk, 06/06/13

I believe that the military forces are not for internal use or for inside the city, it is for the borders. The creation of the Dijla forces is for political rather than security reasons. It is the police force's job to take care of the internal security and the city, not the military.⁴²³

The creation of a new police force should involve a pathway being developed by an independent panel and possibly being implemented by an independent administrator. Laying out the dynamics of the new police force is a PhD thesis in itself (as seen by the lengthy Patten Report), however it is important to give a basic outline.⁴²⁴

Firstly, Kirkuk city should be demilitarised to ease any tensions with regards to a perceived military take over of the city. Any police force created in Kirkuk city should aim to mirror the ethnic demographics of the city – this should also be represented within the hierarchy of the command of the new force. Secondly, there should be language training in order to create a multilingual police force. Thirdly, a cross-border task force should be created to fight terrorism and manage the borders – this should involve the KRG security services, Kirkuk police, border region police and the Iraqi Army. Fourthly, there should be a strong community policing system where local police work within, and interact with, their community. Finally, the police should be monitored by an independent commission to ensure that the police system does not revert to the grossly fractured and ethnically divided system that is currently in place. The level of monitoring should be extended to the role that the *peshmerga* and army have in Kirkuk in order to ensure that they

⁴²³ Interview, conducted by the author, Fatih Muhammed Ameen, Member of KDP's Kirkuk-Garmiyan leadership Council and former member of Kurdistan Parliament – Kirkuk, 06/06/13

⁴²⁴ The Patten Report gave recommendations for changes to policing in Northern Ireland. See: Independent Commission on Policing for Northern Ireland. 'A New Beginning: Policing in Northern Ireland.' *CAIN* [Online] Available from <http://cain.ulst.ac.uk/issues/police/patten/patten99.pdf> [Accessed 10/11/2010]

once again don't encroach on the borders, thus preventing the fears of the various ethnic groups and the lack of trust between them.

5.4. Managing Resources

Article 112, section one, of the Iraqi Constitution states:

The federal government, with the producing governorates and regional governments, shall undertake the management of oil and gas extracted from present fields, provided that it distributes its revenues in a fair manner in proportion to the population distribution in all parts of the country, specifying an allotment for a specified period for the damaged regions which were unjustly deprived of them by the former regime, and the regions that were damaged afterwards in a way that ensures balanced development in different areas of the country, and this shall be regulated by a law.⁴²⁵

As oil was found in Kirkuk during the first explorations for oil in Iraq, it definitely falls under the 'present fields' label. Therefore, under the Iraqi constitution, oil in Kirkuk must be managed by Baghdad regardless of Kirkuk's status. This statute should be strengthened rather than weakened and it should be further highlighted that Kirkuk's oil will always be controlled by Baghdad regardless of Kirkuk's status. It is necessary, in order to ease the tension of some Turkmen and Arabs who think that the Kurds want Kirkuk's oil for secessionist reasons. Also, the Kurds seem content with Baghdad controlling the oil industry in Kirkuk; they follow the reading of the constitution where old oil fields are managed by Baghdad. Nonetheless, the Kurds do have a problem with the reading of the constitution relating to new oil fields and although this is limited to the KRG, it is likely that any deal on hydrocarbon laws will involve deals on Kirkuk. Furthermore, the Kurds take issue with the employment in the Kirkuki oil industry, as they feel it is not

⁴²⁵ 'Iraqi Constitution' *UNIraq* [Online] Available from http://www.uniraq.org/documents/iraqi_constitution.pdf [Accessed 08/12/2011]

representative of the population (this is addressed in Chapter 5.5.). Although the oil in Kirkuk should be managed by Baghdad, the people of Kirkuk should see some of the benefits of living on one of the largest oil deposits in Iraq. Currently, they experience a lot of the negative aspects of oil production with very few of the positives, as opined by Khadir Gihan of the Kirkuk Gorran Leadership Council:

we have a lot of oil but we have a shortage of the useful products that come from oil that we need. There is the worst kind gasoline in Kirkuk. The people of Kirkuk are getting the smoke, toxins and other bad materials that come from the oil industry, but the positive products that come from this industry are going to those in charge and for power.⁴²⁶

As already stated, although \$1 for every barrel of oil produced in Kirkuk goes to Kirkuk, this is not enough for an area that has seen so much destruction over the years and needs major reconstruction. The people of Kirkuk deserve to see positive redevelopments as a result of the oil, which has been the bane of their existence for so many years. Furthermore, despite the fact Kirkuk produces so much oil there is no refinery, which would bring jobs and oil products to the residents of Kirkuk. As with most industry in Kirkuk, this is down to the political situation and lack of governance and this can and should be rectified through the successful resolution of the current conflict. Once the political sensitivity no longer surrounds Kirkuk and everything to do with it, the governance can change to benefiting the people, rather than political one-upmanship. As already stated, and further highlighted in Chapter 5.9., this should include a cross-border institution to manage the financial benefits of the oil industry. The finances available from the oil industry should be used to

⁴²⁶ Interview, conducted by the author, with the Gorran Leadership Council for Kirkuk – Kirkuk, 06/06/2013

undo the damages from the past. These damages are particularly evident in the rural areas and have had a negative effect on the agricultural industry. Therefore, the extra finances should be used to modernise the agricultural sector through: developing the rural areas, training the rural communities in modern agricultural techniques, creating cooperatives to help farmers deal with their produce and any shortages thereof, and offering grants in order to make this feasible. However, first and foremost, this should address the issue of encouraging people to return to the rural areas as:

Nowadays we see negative migration where the farmer people have become urban people and this is not good and is unbalanced. The reason for that the farmers did not return to villages to produce agricultural products is the PUK, KDP and the central government have not supported them in doing this.⁴²⁷

Therefore, the finances need to be in place in order to support and encourage people to return to the rural areas. The majority of the other issues created by the remaining resources in Kirkuk would be dealt with through cross border institutions, which will be further examined in Chapter 5.9.. This would include a cross border institution devoted to the management of the water resources, particularly those entering Kirkuk from the KRG and this cross border institution should extend to a cooperation body in agriculture, as they are closely linked. Finally there should be a cross border institution for managing electricity in order to link the production and consumption thereof between the three entities of Baghdad, Kirkuk and the KRG.

⁴²⁷ Interview, conducted by the author, with the Gorran Leadership Council for Kirkuk – Kirkuk, 06/06/2013

5.5. Civil Employment

The Berlin Accord recommended that a committee representing all lists be formed in order to collect data concerning the organisational structure of all departments and to rank the positions according to their importance.⁴²⁸ It is recommended that this process be followed, although contrasting to the Berlin Accord this should not lead to the implementation of these positions on the 32/32/32/4 scale. As already discussed in this thesis, this would lead to corporate consociation and thus instability as it would not represent, or follow changes in, the demographics. Therefore, the positions within the civil service should be distributed according to the demographics and involve the correct share of each ranking position. However, this should not be an immediate process, but should rather be applied over a longer period of time. Also, it should involve the creation of jobs and adjusting the statistics through retirements/hiring and should not involve the loss of jobs, as this would create discontent. There are jobs available, particularly in the oil industry, as well as the employment that would be created through the new institutions, but there is a lack of skilled people. Therefore, as part of the initiative of fairly distributing civil service employment, training should also be provided in the areas where jobs are created and this should follow the demographics needed to ensure that the ethnic groups are correctly represented. Although the committee for employment should include representatives of each list in Kirkuk, it should be led by an international supervisor. This would ensure progression and allow for external pressure to be used in order to avoid delays. It would also ensure fairness in the creation of, and training for, new

⁴²⁸ *Berlin Accord*. Friedrich Naumann Foundation for Liberty [Online] Available from http://fnst-amman.org/en/images/stories/en-Berlin_Accord.pdf [Accessed 01/12/2011]

jobs. Although the Turkmen call for an implementation of 32/32/32/4 employment in the civil service, Salar Erbil from the Turkmenli Party has shown that they are willing to be flexible on this matter as long as they feel that they are being treated as equals:

Each one should feel that he is equal with the others, there is no difference between the Muslim and the Christian or between the Turkmen and the Kurdish. If you succeed in this, even if it is 40%, 30% [share of the positions] it doesn't matter, it's not very important, the importance is in the equality between them.⁴²⁹

As there is currently no legislation calling for this form of employment distribution in Iraq, the factors mentioned here would have to be included within the Special Status Law.

5.6. Returnees

By giving Kirkuk city a special status the sensitivity around returnees to the surrounding districts is counterbalanced. Therefore simplifying the release of the allocated funds and allowing for the rebuilding of villages destroyed by the Anfal campaign. Furthermore, it also makes it no longer necessary to remove Arabs who were brought to the province through Arabisation; although those who want to leave should be helped in their relocation and this too should be an easier process due to the depoliticisation of the issue. Creating a special status for the city also defuses the element of ownership of the city – as it will always be under a special status and predominantly run by itself regardless of its location within the internal borders of Iraq – thus making it easier to accept the new demographics. By creating a discourse of Kirkuk being a new city under special status and the population as the people of this new city, the

⁴²⁹ Interview, conducted by the author, Salar Erbil, member of Turkmeneli Party Leadership Council – Erbil, 13/02/2013

issue over who rightfully belongs can be reduced. Thus, allowing Kirkuk to finally address the housing, administration, resources and services issues that have presented themselves through the presence of returnees. The creation of a special status should remove the ethnic competition for ownership of Kirkuk. The process would be strengthened by the creation of cross-border institutions, as this would ensure that links were maintained to Kirkuk. Furthermore, by demilitarising Kirkuk the concerns over a possible future military takeover are counteracted. This would allow for the acceptance of returnees and would also stop the process of trying to evict those people who do not desire to leave. This would lead to the creation of houses and the provision of services for both those who have been displaced by returnees and for the returnees themselves. Thus leading to a higher standard of living and consequently easing conflict. This thesis argues that this is the route that Kirkuk has to follow in order to effectively and successfully deal with the issue of returnees. The finances are available – with there continually being a massive budget surplus for the central government at the end of each year – to address these issues.⁴³⁰ Furthermore, once they are addressed many of the issues involving who is rightfully a Kirkuki will dissipate once the standard of living is increased.

The current panel dealing with returnees in Kirkuk represents the ethnic makeup of Iraq and consists of people who are against the very process.⁴³¹ Although ethnic competition should become lesser with the implementation of the elements previously discussed, this process is likely to

⁴³⁰ Wing, Joel. 'Iraq Ends Up With Another Budget Surplus In 2010.' *Musings on Iraq* [Online] Available from <http://musingsoniraq.blogspot.com/2011/11/iraq-ends-up-with-another-budget.html> [Accessed 23/11/2011]

⁴³¹ Mahmoud, Nawzad. 'Analysis: No Progress on Article 140.' *Rudaw* [Online] Available from <http://www.rudaw.net/english/kurds/4134.html> [Accessed 25/11/2011]

be sped up by installing an independent international supervisor (undertaken with advice from the ethnic groups). Furthermore, the current panel is related to Article 140 and it can therefore be argued that it is no longer valid and needs replacing. Therefore, it is recommended that an international observer be placed in charge of managing the returnee issue and that a new independent committee is established.

5.7. Education

In order for Kirkuk to transcend beyond a society where rival ethnonationalism is at the fore, ethnic competition in its current form needs to be eliminated and this should begin with the youth. Therefore, the education system needs to be redesigned, as this is a sphere where the next generation's attitudes towards other ethnic groups can be positively influenced. For this to have the desired outcome it is important that Kirkuk changes from a monoethnic education system to a multiethnic one. This process is not possible without creating a new curriculum that is respectful to all the ethnicities' heritage and entrenches a notion of common history. Once again, due to the lack of trust and of productive dialogue between the various ethnicities in Kirkuk, this too would best be done under an international committee with advisors from each ethnic group. The international committee would supervise the implementation and initial running of the new system until such a time as it was deemed suitable to handover to the Kirkuk government. It is recommended that apart from being multiethnic the education system in Kirkuk should also follow the Brčko

system;⁴³² in that it should be a multilingual system, where the children are not forced to speak or do their homework in another language, but the teacher teaches in all the languages. As the special status is recommended for the city alone in this thesis, it makes this a more feasible prospect, as here the ethnic groups are living in close proximity to each other and there is more interaction between them. It also makes this process more necessary as it is important that all the ethnic groups can communicate and interact properly in order to reduce conflict.

A reformed education system should also include a cross-border institution for education that links Kirkuk, the KRG and Baghdad. This would allow the three different education systems to be connected, thus enabling the sharing of information and research, progression towards a common goal and for students to be able to pursue tertiary education throughout Iraq. It is imperative that a new education system is formed so that divisions within Iraq are not entrenched, thus beginning the process of building a multiethnic, inclusive society, starting with the next generation.

It could be argued that the educational system recommended above is centripetal in nature, as it does not use the divides in the society, but rather brings all the ethnic groups together at the centre. This is not an issue to having a liberal consociational settlement, as through complex power sharing

⁴³² Following the Bosnian War students in Brčko attended mono-ethnic schools that followed an ethnically tailored curriculum. One of the new laws established by the Brčko Law Revision Commission was the Law on Education, which introduced integrated multiethnic schools. This process included the creation of an integrated multiethnic curriculum, which was led by the Office of the High Representative in Bosnia and Herzegovina and carried out by international and local experts. This saw the banning of religious and nationalist symbols in schools and the introduction of teaching in all three languages (Croatian, Bosnian and Serbian) whilst still allowing the students to speak and do their homework in the language of their choice. See: Karnavas, Michael. 'Creating the Legal Framework of the Brčko District of Bosnia and Herzegovina: A Model for the Region and Other Postconflict Countries.' *The American Journal of International Law* Vol. 97, No. 1, 2003, pp. 111-131.

other forms of power sharing can be added to the base in order to deal with the issues of conflict.⁴³³

5.8. International Committee

A number of the recommendations put forward in this chapter involve an international presence in the management of the Kirkuk conflict resolution process. As these recommendations differ greatly in the expertise needed to help successfully implement them, it is suggested that an international committee be created with members who have expertise in the specific areas that require intervention and reform. The committee would include experts on policing, employment, returnees, etc., and would be led by an expert on power sharing and constitutional law. Currently UNAMI and the US have the strongest presence in Kirkuk, however there are controversies surrounding both of them. The early US withdrawal diminishes their presence in Iraq and there would be opposition to their involvement by certain groups, therefore it would not be suitable for them to be in charge of such a committee. Furthermore, many actors reject the role that UNAMI has played in Iraq, particularly in Kirkuk and their report on Kirkuk (See Chapter 4.5.) alienated all the ethnic groups. This is illustrated by Falah Mustafa when questioned on the role of UNAMI in Kirkuk:

They have distorted historical facts, they did not say anything, they went into details that were not allowed and in fact they brought young university graduates and sent them into the field without knowing what kind of method they are using and what are they looking for... Being neutral, doesn't mean pleasing everybody,

⁴³³ Cordell, Karl & Stefan Wolff. 'Power Sharing' in Karl Cordell & Stefan Wolff (eds.) *Routledge Handbook of Ethnic Conflict*. Abingdon: Routledge, 2011.

it means to be scientific in your approach, to be objective and to have facts in your hand.⁴³⁴

Therefore, their role as leaders of the committee would also have to be discounted. Nevertheless, as these two groups have had the largest international presence in Kirkuk they would undeniably have to have some sort of an involvement. As both the UN and US have experience in international committees and in finding experienced international advisors, it would be feasible for them to use this experience to select an independent committee not directly connected to them. Obviously this international committee would have to be approved by the Iraqi parliament and in the event that this is not approved a committee could be chosen consisting of Iraqi citizens. This would ideally be the preferred original option, but since it involves larger issues linked to the KRG's and Baghdad's aspirations for Kirkuk, it could lead to unfairness, friction within the committee, delays, and an inability to exert pressure. Therefore, the selection of the committee should be managed by both the US and UNAMI and it should be left to these entities to find and hire international members with the relevant expertise. The committee members would then have three stages of work; research and write a proposal, oversee the implementation, and finally monitor its workings. The committee should be given a specific time frame for each stage of the process and a deadline to hand over the management to the relevant local entities.

Although it is likely that some factions of Iraqi society would have a problem with an international presence resolving Iraqi issues, they only have

⁴³⁴ Interview conducted by the author with Falah Mustafa, KRG Foreign Relations Minister, in Erbil, Iraq - 01/06/2013

to look at the past failures of the local committees relating to Kirkuk to see the need for external involvement in this matter. Even members of the international community may take issue with what they see as international interference, but without this no progress may be made; as seen in the dynamics of Kirkuk since 2003. Furthermore, there is a long history of international supervision, dating back to the League of Nations' involvement in the Free City of Danzig (1920-1939). The UN itself also has a history of being involved in international administration, beginning with the Congo (1969-1974). In all the cases that the UN has played a role, they have become involved in administration of the territory due to a sovereignty issue or the lack of good governance in the territory – both which exist in Kirkuk. The UN also has a history of international territory administration involving disputed internal territory (cities, provinces), of which Kirkuk is, this is demonstrated by their administration of Eastern Slavonia, Mostar and Brčko. Moreover, by having an international committee the transition towards a special status and liberal consociational power sharing can be managed fairly and the processes needed can be implemented. As Kirkuk has an active political community it would not be the place of the international administration to take over this role, but rather to 'promote a multiethnic social and political culture' through the creation of new institutions.⁴³⁵ Therefore, it would not be up to the international committee to govern these institutions, but rather to implement their creation and to ensure that they are fair to all the communities within Kirkuk. Exogenous pressure is, as highlighted by McGarry and O'Leary, an extremely important part of creating a successful

⁴³⁵ Wilde, Ralph. 'From Danzig to East Timor and Beyond: The Role of International Territorial Administration' *The American Journal of International Law*, Vol. 95, No. 3, 2001, pp. 583-606.

consociational settlement.⁴³⁶ This was evident in the NI Peace Process where the UK, US and ROI all played a major role in reaching an agreement.⁴³⁷ Furthermore, the UK acted as a form of international supervisor and thus ensured that the process moved forward. In Bosnia and Herzegovina the US acted as an international supervisor and this case is a prime example of the fact that through international supervision a society can transcend from an extremely damaging ethnic conflict to having the institutions to manage/govern the conflict, thus leading to relative peace.⁴³⁸ Exogenous pressure is an important aspect in reaching an agreement in ethnic conflicts that involve self-determination disputes and for this reason it is imperative that an international committee is put into place in Kirkuk. Without this aspect it is unlikely that the political process will move forward enough to transfer Kirkuk out of its current state of limbo.

5.9. Cross Border Institutions

The role that cross border institutions play has already been discussed in Chapter 5.2. Therefore, this section will consist of recommendations for possible cross border institutions. Some of the areas where implementation bodies linking the KRG, Kirkuk city and Baghdad could be created are:

- **Education:** The reforming of the education system has already been discussed in Chapter 5.7., however issues still remain that require cross border institutions to deal with them. Currently those

⁴³⁶ See Chapter 3.2..

⁴³⁷ See: O'Kane, Eamonn. *Britain, Ireland and Northern Ireland Since 1980; The Totality of Relationships*. Abingdon: Routledge, 2007. Clancy, Mary Alice C. 'The United States and Post-Agreement Northern Ireland, 2001-6' *Irish Studies in International Affairs*, Vol. 18, (2007), pp. 155-173.

⁴³⁸ Bieber, Florian. 'Local institutional engineering: A tale of two cities, Mostar and Brčko.' *International Peacekeeping* 12, no. 3, 2005, pp. 420-433.

Kurdish students studying in Kirkuk are disadvantaged because they are stuck between two education systems where the two-examination system from the KRG is condensed into the one final examination system that exists in the rest of Iraq. They are also not given places in Kurdish universities and do not have the Arabic skills necessary for Arabic universities. Creating a body for education would allow students in Kirkuk to follow one educational system and would also allow them to go to university in the KRG and the rest of Iraq.⁴³⁹ Furthermore, by joining Baghdad to this body students maintain a link to the central system, which would be particularly important if the special status was ever to be placed within the KRG.

- **Anti-terrorism:** Turkmen and Arabs have complained about the domination of the Asayesh forces in Kirkuk, and the Kurds have insisted they are needed to combat terrorism. If the security forces in Kirkuk are to be restructured and Kirkuk is to be demilitarised, there needs to be links with the security services in the KRG, Baghdad and the border regions in order to ensure the safety of the people. By establishing an anti-terrorism body to ensure cooperation and the operation of joint task forces between these entities, the security in both the KRG and Kirkuk would be protected. This would thus allow for the restructuring of the security services in

⁴³⁹ Usman, Rebwar. 'Kirkuk Students Face Curriculum Problems.' *Kurdish Globe* [Online] Available from <http://www.kurdishglobe.net/display-article.html?id=AC0FB01C878ACD2B8F783403CA373AFE> [Accessed 08/03/2011]

Kirkuk.⁴⁴⁰

Some of the areas where implementation bodies linking the KRG, Kirkuk city and those areas formerly part of Kirkuk province are:

- **Electricity:** there is a long running dispute with the central government and Kirkuk over electricity. An imbalance exists where electricity produced in Kirkuk province is being transferred to Baghdad, leaving those in Kirkuk with no electricity. If Kirkuk city was to be given a special status, an electricity body could be formed with the KRG for the production and sharing of electricity, as the KRG has the highest levels of electricity in the country.⁴⁴¹
- **Water:** the water shortage in Iraq has raised tensions in Kirkuk with Arab farmers accusing the KRG of closing the valves to the Dukam dam in the winter. The KRG claim that the dam gates must be closed in the winter to ensure that there is sufficient water for crops in the spring and summer. They state that they are not trying to harm those in Kirkuk, but rather that there is a shortage of water. Through creating a joint water management body these decisions could be negotiated and made together so those in Kirkuk can not only understand but also trust the reasons behind these decisions.⁴⁴²
- **Redevelopment Body:** The most successful cross border

⁴⁴⁰ UNAMI. 'Kirkuk Markaz' in UNAMI *Disputed Internal Boundaries, Volume Two*, 2009 [Not published]

⁴⁴¹ 'Baghdad, Kirkuk address electricity sharing dispute.' *PUK Media* [Online] Available from http://www.pukmedia.com/english/index.php?option=com_content&view=article&id=6295:baghdad-kirkuk-address-electricity-sharing-dispute-&catid=29:kurdistan-region&Itemid=385 [Accessed 19/01/2011]

⁴⁴² 'Iraq water shortages raising ethnic tensions.' *Peyamner News Agency* [Online] Available from <http://www.peyamner.com/details.aspx?l=4&id=221370> [Accessed 29/01/2011]

institution in Northern Ireland, with regards to positive interaction between the various ethnic communities, was the cross-border institution focusing on EU projects. This was due to the funds available for development projects. It is therefore recommended that a similar cross border institution is established linking Kirkuk city to the areas previously part of Kirkuk province. The focus of this institution would be the redevelopment of the area as well as on projects that bring the communities together. The funds for this institution would be made available from the production of oil in Kirkuk (see Chapter 5.4.).

There are also many areas where it would be beneficial to both Kirkuk city and the KRG if bodies for cooperation were formed. Some of the areas where cooperation could be created between Kirkuk and the KRG are: agriculture, healthcare, transport and the environmental concerns.

If Kirkuk were to be granted a special status, Baghdad would lose some of its control over, and links with, Kirkuk. As there are many in Kirkuk who oppose such a solution, it is essential that formalised cross-border institutions between Kirkuk and Baghdad are created. Many of these would not entail any drastic changes from the current system, however their creation should be aimed at protecting the rights of non-Kurds in areas that are important to them if Kirkuk were ever to join the KRG. Baghdad would already be part of the Education and Anti-terrorism institutions, however they should also form cross border institutions with Kirkuk on:

- **Oil**, even though the oil operations in Kirkuk, and the profits there from, are controlled by Baghdad it is important that a Kirkuk/Baghdad oil

body is formed if Kirkuk is given a special status. This will guarantee to non-Kurds that the KRG will not take control of Kirkuk's oil if they are successful in a referendum on Kirkuk.⁴⁴³

- **Electricity**, as already highlighted, Kirkuk supplies Baghdad with much needed electricity. Therefore, in order to allow for Kirkuk to be given a special status, Baghdad still needs access to electricity from Kirkuk and in order to make this possible a cross border institution should be created between the two for electricity. In the future this could also link to the cross border institution for electricity between Kirkuk and the KRG, but to begin with, due to the animosity between Baghdad and the KRG, these two institutions should remain separate.

It is important to ensure that high levels of collaboration exist between Kirkuk and Baghdad if Kirkuk were to ever join the KRG. For this reason it is important that areas of cooperation in common policies are set up. Again, although these would exist at a national level, it is important to have committees focusing directly on Kirkuk as its autonomy increases. These could include: transport, healthcare, and the environment.

Additionally, Stefan Wolff has suggested that it is important for the Turkmen in Kirkuk to have links to Ankara through cross-border institutions.⁴⁴⁴ As discussed in Chapter 4.6., this could have undesirable consequences, as, depending on the type of institutions, it could even lead to a threat to the territorial integrity of Iraq. Wolff's analysis could also be said to overlay the

⁴⁴³ As analysed by Gareth Stansfield and Liam Anderson in *Crisis in Kirkuk*, this is not really an issue as oil profits for all of the original oil deposits must go to Baghdad to be redistributed. Furthermore, the KRG would not be able to fulfil the secessionist agenda suggested by those who claim this is their reason for trying to gain Kirkuk, as they would be unable to export Kirkuk's oil without the support of Iraq or their neighbours.

⁴⁴⁴ Wolff, Stefan. 'Governing (in) Kirkuk: resolving the status of a disputed territory in post-American Iraq.' *International Affairs* 86, no. 6, November 2010, pp. 1361-1379.

importance that Turkey has to the Turkmen in Kirkuk and ignores the fact that many Turkmen in Kirkuk desire to create a separate Turkmen region, not to join Turkey. However, it is important that the Turkmen in Iraq maintain strong links with each other in order to ensure the preservation of the Turkmen culture and language. The creation of a national Turkmen institution with funding from Baghdad would support this and would also help Turkmen feel more protected within Iraq. As well as concentrating on language and culture, this institution could also be involved with developing Turkmen education throughout Iraq. For the same reasons behind the need to create a national Turkmen institution, and following the same guise, it would also be important to create a national Assyrian institution, or alternately a national Christian institution. The creation of these institutions would give these minorities a level of autonomy over their own affairs and would prevent them from being neglected within Iraq.

5.10. Conclusion

As highlighted in this chapter the structure of the framework for a deal on Kirkuk depends highly on a special status for the city, as this allows all the other facets to fall into place. Giving Kirkuk city a special status changes the whole dynamics of the conflict and opens up possibilities for resolution. As underlined throughout this thesis, successful resolution must involve equal gains and compromises for each group, i.e. every compromise must be counteracted with an equitable gain. In relinquishing Article 140 the Kurds make the biggest compromise of all, but one that is essential as Article 140 cannot ease the conflict and can only intensify it. The only possible equitable gain that can be given to the Kurds within Kirkuk is for them to be given

majoritarian control of the governance. However, as discussed in the introduction to this thesis, this is not a feasible option as majority rule in a deeply divided society generally creates minorities who are excluded from the political process and have no hope of changing this. Thus, resulting in conflict either through the minority groups seeking power, or the majority suppressing them. As this is not an option, it leaves a deal for the special status of Kirkuk between Baghdad and the KRG involving facets outside of the realm of Kirkuk. This could involve a deal on the budget and a new hydrocarbon law, which would ensure that the KRG gets their 17% of the budget, that Baghdad pays the oil companies in the KRG for their export costs, etc., and finally that the KRG can manage their own oil fields. Thus, effectively, a deal for Kirkuk relies highly on cooperation between Baghdad and the KRG. However, this involves issues that need to be resolved regardless of Kirkuk, as they are creating conflict between these two entities. Furthermore, other options for Kirkuk have failed and ten years after the US forces arrived there is still no end to the Kirkuk conflict in sight. The framework put forward in this thesis offers feasible alternatives to minimise conflict and move away from the status quo of trying to dominate other ethnic groups into submission. A lot of the analyses on the future of Kirkuk try too hard to please and are not audacious enough to give their opinion on what can regulate conflict in Kirkuk. This thesis aims to be different in that, despite the fact that it will not make everybody happy, it highlights that the only viable option for Kirkuk is awarding a special status for the city. As it has been illustrated, this enables the local issues such as policing, employment, education, etc., to be addressed and resolved. In order to strengthen the special status and other

proposals put forward, the next chapter will focus on the power sharing and legalities of the framework.

Chapter 6: Power Sharing

6.1. Introduction

The previous chapter discussed the most important part of the agreement (special status) and then went on to address the local issues that exist within the conflict in Kirkuk. The aim of this chapter is to strengthen the framework put forward by examining the legal details necessary to make it work, as the structure for the special status goes beyond the current dynamics of Iraq. Although it is possible for Kirkuk to have a special status within the laws of the current constitution, it is important that a new law is formed in order to make it more binding and to address all the issues that are specific to Kirkuk. This will allow for the various additional factors, like cross border institutions, to be implemented. As highlighted in Chapter 4, many of the analyses on Kirkuk call for power sharing without actually giving the details of how such an arrangement would operate in Kirkuk. Therefore, this chapter will examine the finer details of the actual governance of Kirkuk, by forming a method for power sharing in Kirkuk and developing a legal structure in order to facilitate this. It will cover the issues of electing the government, the ratio of representation, decision-making and developing an ulterior option in case the power sharing breaks down.

6.2. Special Status Law

If Arabs want to remain under the control of Baghdad, Turkmen want Kirkuk to be a strong region, and Kurds want Kirkuk to join the KRG; the creation of a special status with cross-border institutions gives each group an element of their desired option and involves them all making compromises (the Turkmen compromise involves relinquishing their desire for 32,32,32,4 form of

governance), thus including the necessary components for a successful settlement. In order for Kirkuk city to be given a special status with power sharing a new law would need to be created. This new law would cement the necessary components needed in order for the special status to be successful. A special status for Kirkuk could be created within the current constitution, but by creating a law that specifically deals with this issue, problems and disagreements can be prevented from arising through addressing them in the legislation.

The first matter that this law needs to address is what governmental status Kirkuk city is given, as this denotes what power is available to share. It is the recommendation here that Kirkuk city, under a special status, form a governorate, as per Law 21/2008. This would allow for further powers to be shared through the Cross Border institutions (more details on this are given in Chapter 5.9.). Under Law 21/2008 the governorate council comprises of 25 seats with the addition of one seat for every 200,000 inhabitants over and above 500,000 people. Therefore Kirkuk city would have a council of 26 seats, due to its estimated population of 700,000.⁴⁴⁵ Ultimately, a decision on such a fundamental issue cannot be done through an estimation of the population, so as part of this law a census will have to be held in Kirkuk city. Including a census as part of the Special Status Law would take away from the fears of this leading to Article 140 being fulfilled, as this article would be completely void and would be replaced by the Special Status Law. Law 21/2008 gives a term of four years for the governorate council. Although it is suggested that Kirkuk city follows Law 21/2008, there would have to be a few alterations

⁴⁴⁵ Due to the lack of a census this is just an estimate and some estimates, although unlikely, are as high as 1000000 people, which would add an additional seat. See: <http://www.citypopulation.de/Iraq.html>

present in the Special Status Law. Law 21/2008 calls for the council head and his deputy, as well as the governor and his/her two deputies to be elected by an absolute majority, whereas it is proposed here that it is not necessary to have a council head and deputy as well as a governor and deputies. Therefore, the governor and two deputies would take responsibility for the council and would be elected through Sequential Proportionality Rules (SPR). Although in Chapter 2.2. it is recommended that the national cabinet be elected through the SPR system of d'Hondt, due to the dynamics of the situation, in Kirkuk Sainte-Laguë is more suitable as it is beneficial to have the smaller ethnic groups involved. Law 21 also calls for the governor to propose at least five candidates for senior positions in the governorate of which the council must approve three by an absolute majority, under the Special Status Law this too should be chosen through Sainte-Laguë. Sainte-Laguë should also replace the method of absolute majority for electing positions within the *Qada'a* (district) Councils and *Nahiya* (sub-district) Councils. Under Law 21 the governors deputies are named first and second deputies, it is proposed here that under the Special Status Law they both simply be named Deputy Governor, thus not giving one importance over the other. Under Law 21, and thus the Special Status Law, the Governorate Council would have the following powers: remove the governor and his deputies if they are not fulfilling their duties; to issue local laws, instructions, bylaws and regulations; to develop policies in coordination with the ministries; to prepare the council budget and to approve the general budget; to monitor the local executive authority (excluding those that fall under federal control); to approve local security plans; to approve administrative changes made to the districts/sub-

districts/villages; outline the governorates strategic plans; select the governorates logo; collect any fees due to the governorate, including taxes and duties. Whilst the governor's powers include: drafting the general budget; executing the decisions of the governorate council; executing federal policy; overseeing and inspecting public facilities (excluding those that fall under federal control); establishing universities, colleges and institutes in coordination with the relevant ministry and with the approval of an absolute majority of the council; appointing civil servants; directing the local security services and responsibility for all matters with regards to their size; and directing the work of up to five assistants and seven advisors.⁴⁴⁶

As Cross Border Institutions do not exist in Iraq, for them to operate within Kirkuk they would have to be introduced within the Special Status Law. This would address their creation, what areas they cover and also the amount of power they would have. As the creation of the cross border institutions is discussed in the previous chapter, it is only left to distinguish how much power they would have. If Kirkuk is a governorate it allows for the extra powers that would be available to it if it were a region to be wielded within the Cross Border Institutions. Thus making Kirkuk more powerful than a governorate, satisfying the Turkmen desire for it to be more autonomous, satisfying the Kurds' desire for it to have links to the KRG and also satisfying the Arab desire for it to be tied to Baghdad. Therefore, the powers now available within the Cross Border Institutions would include: all those executive, legislative and judicial powers that the federal government doesn't have exclusive authority over (foreign policy; national security; fiscal and

⁴⁴⁶ 'Iraqi Constitution' *UNIraq* [Online] Available from http://www.uniraq.org/documents/iraqi_constitution.pdf [Accessed 08/12/2011]

customs policy; regulating standards, weights and measures; citizenship; broadcast frequencies and mail; general and investment budget; external water policies; population statistics and census); it would have joint powers over numerous areas (customs; regulate electric energy sources and distribution; environmental policies; developmental and general planning policies; public health; education; internal water policies) although the regional law would take precedence over these. This would thus allow for the creation of Cross border institutions relating to education, security, water, environment, health, etc..⁴⁴⁷ As part of the law on Cross Border Institutions there should be an increase in the amount of oil revenue that Kirkuk receives from the central government. This extra funding would go directly to the cross border institution for redevelopment and would be used to develop all the areas that have suffered in the former Kirkuk province, not just in Kirkuk city. This would allow some of the vast oil wealth that Kirkuk has to be spent on readdressing some of the destruction from the past.

As Article 140 included a referendum for Kirkuk to join the KRG it would be unfair for any legislation that replaces it not to also include this referendum. Although, as it has already been deemed unfair, there would have to be a few adjustments to the details of the legislation. Firstly, if Kirkuk were to join the KRG it would have to be the will of the vast majority of the people, otherwise it would only lead to all-out ethnic conflict. Therefore, instead of a majority deciding in a referendum, it would have to be a super majority. It is recommended here that this be decided by a 2/3 majority. Secondly, as there is a huge fear amongst the non-Kurdish population of

⁴⁴⁷ 'Iraqi Constitution' *UNIraq* [Online] Available from http://www.uniraq.org/documents/iraqi_constitution.pdf [Accessed 08/12/2011]

Kirkuk that they would be marginalised if they were to join the KRG, the special status in Kirkuk would have to remain even if Kirkuk were to join the KRG. This would ensure that power sharing would continue in Kirkuk, thus protecting the minorities.

In order for the security recommendations, as per Chapter 5.3., to be installed, it would have to be included within the legislation that Kirkuk is a demilitarised zone. By installing the fact that Kirkuk is a demilitarised zone in the legislation, not only does it prevent the *peshmerga* and Iraqi army from entering Kirkuk, it also allows for the ethnicities to feel more at ease by limiting the potential of a military takeover by a rival ethnic group. Furthermore, this opens up the way for the creation of a new security service in Kirkuk and allows for the formation of the Cross Border Institution on security.

In order for Kirkuk to become a multi-entity capital city (as discussed in Chapter 5.2.), this prospect needs to be installed in the legislation. It would allow the KRG to establish Kirkuk as a second capital, if they so desired. This legislation would also allow Kirkuk to become the capital city of the new governorate created by the break away districts. Therefore, Kirkuk would become the capital of three entities and for this to be possible it would have to be introduced in the Special Status Law.

6.3. Electing Power Sharing Government

In order to elect members to the council it is recommended here that PR-STV is used. In this system voters, from each electoral district, rank candidates in order of their preference. In order to get elected, candidates must reach the desired quota, $[\text{votes} / (\text{seats} + 1)] + 1$, those who reach this quota with their

first preference votes are automatically elected and their remaining votes (those over and above the quota) are redistributed according to the voters' second preference. This continues until all the seats have been allocated. If there are no votes above the quota to allocate, the lowest party is eliminated and their votes are redistributed according to the next available preference.⁴⁴⁸ This is not to say that there are no issues with this system; it can lead to rival candidates in the same party battling each other rather fiercely, a sort of tribal voting where voters vote for candidates they know or for candidates who are from their area, if parties run too many candidates they can end up losing out on a seat, and finally a very popular candidate can influence his supporters second preference vote.⁴⁴⁹ However, despite the pitfalls of this system, it is still superior to the other recommended option of PR Party List; where seats in each electoral district are given in proportion to the votes won, but voters vote for a party list, rather than individuals within the party.⁴⁵⁰ In this system candidates from smaller parties or those representing smaller ethnic groups are less likely to get elected, as voters only vote for one single party. Therefore, voters would also be less likely to vote outside their ethnic group for a particularly worthy candidate or for a multiethnic party. Furthermore, as McGarry and O'Leary point out, PR Party List is likely to lead to the creation of extremist parties as hardliners are aware that the creation of a new party

⁴⁴⁸ *Guide to Ireland's PR-STV Electoral System*. Irish Department of Environment, Heritage and Local Government [Online] Available from <http://www.environ.ie/en/Publications/LocalGovernment/Voting/FileDownload,1895,en.pdf> [Accessed 24/02/2012]

⁴⁴⁹ White, Michael. 'If you Believe PR is the Answer Don't go to Ireland'. *Guardian* [Online] Available from <http://www.guardian.co.uk/politics/blog/2011/feb/28/if-you-believe-pr-answer-ireland> [Accessed 24/04/2012]

⁴⁵⁰ *Guide to Ireland's PR-STV Electoral System*. Irish Department of Environment, Heritage and Local Government [Online] Available from <http://www.environ.ie/en/Publications/LocalGovernment/Voting/FileDownload,1895,en.pdf> [Accessed 24/02/2012]

will take votes away from the moderate parties without detracting votes from their ethnic group.⁴⁵¹ Thus, PR STV is more suitable for power sharing in a multiethnic society and is therefore recommended here for the election of the Governorate Council in Kirkuk.

It is recommended that the top positions within the council be elected through Sainte-Laguë, this includes the governor and his deputies, as such important positions should not go to candidates that were not voted for by the people. Since the Governor and his two deputies are the top positions, they should be chosen first and with the proviso that each faction can only win one of these positions. This prevents ethnic groups from dominating the key positions. It also allows for non-ethnic parties to be awarded these positions as they would be included as a faction thus allowing for their advance as the ethnic divides weaken. Following the SPR system, if a member of Kirkuk's government were to resign their position, it would be given to the next available candidate through Sainte-Laguë, provided that a member from their faction doesn't already hold one of these positions. This will prevent the current issue in Kirkuk of resigning one's position in order to prevent the political process.⁴⁵²

6.4. Decisions/Veto

As discussed in Chapter 3.2., having some form of a minority veto is imperative for consociational power sharing in ethnically diverse society. This prevents the minorities from being politically marginalised and turning to non-

⁴⁵¹ McGarry, John, and Brendan O'Leary. *The Northern Ireland Conflict - Consociational Engagements*. Oxford: Oxford University Press, 2004, pp. 13-16.

⁴⁵² McGarry, John, and Brendan O'Leary. *The Northern Ireland Conflict - Consociational Engagements*. Oxford: Oxford University Press, 2004, pp. 48-54.

political means to voice their opinion. The issue with having a veto is that it should not be too strong or 'hard', as it is referred to, otherwise it will disrupt the political process. Yet, at the same time you don't want it to be too 'soft' so that it does not adequately protect the minorities. Furthermore, the use of the veto should not be corporate in nature, as this would entrench the ethnic divide and prevent other groups, specifically non-ethnic parties, from emerging.⁴⁵³ Therefore creating a veto that protects the minorities, yet doesn't entrench them, and prevents them from disrupting the political process is a fine balancing act.

In order to prevent ethnic groups from halting the political process it is not recommended that they be given a veto as such, but rather that decisions within the council are passed by a weighted majority (60%) with at least 40% of two of the three (Turkmen, Arabs and Kurds) ethnic groups voting in favour. This would prevent the situation that exists in Northern Ireland where parties do not work together on legislature due to a weighted majority not being prescribed. Lord Alderdice highlights this fault:

The type of power-sharing formula which was adopted in the GFA - the 'parallel consensus' model - was not the right approach because by institutionalizing cooperation between the most powerful party in EACH community, it deepened the split and hindered cross-community politics. We had proposed that the power-sharing government should require a 67% support from the elected Assembly AS A WHOLE, and this weighted majority approach would have facilitated and indeed required the building of cross-community alliances.⁴⁵⁴

However, due to the dynamics in Kirkuk – where there are three, rather than two main ethnic groups – this has to still include a form of cross community

⁴⁵³ Kelleher, Shane. 'Minority Veto Rights in Power Sharing Systems: Lessons from Macedonia, Northern Ireland and Belgium.' *Adalah's Newsletter, Volume 13*, May 2005, pp. 1-8.

⁴⁵⁴ Interview, conducted by the author, Lord Alderdice, former leader of the Alliance Party, 25/08/2010

support, otherwise it would be possible to pass legislature that is not widely supported by all communities.⁴⁵⁵ In order for this to not to cement the ethnic divide and prevent new groups from emerging (thus being corporate in nature) it is recommended that this be reviewed regularly and changed to include the Assyrians, multi-ethnic blocs, or any other group that emerges, once they pass 15% of the council members. It is important that aspects such as this are written into the Special Status Law so that the legislation can evolve with the community otherwise it can be very difficult to change these afterwards, as highlighted by Lord Alderdice:

In the long-term, if it is possible to sustain the Good Friday institutions it may be possible to evolve into something better, but changing written constitutions is notoriously difficult if they do not have 'sunset' clauses written into some provisions from the start, and this we failed to do.⁴⁵⁶

Decisions by the governor or the removal thereof can also be put to this same vote if 1/3 of the council contests his order (this already exists within Law 21/2008). Although this system does not give the minorities a traditional veto, it does prevent decisions from being made by a simple majority. It ensures that decisions are made by strong support from the majority of the communities, thus leading to sharing power, rather than a majoritarian form of power sharing, as with the central government. By stipulating that there must be a weighted majority as well as support from 40% of at least two of the ethnic groups, parties are forced to work together and versions of laws that are more likely to be accepted are put forward. This helps with the political process, lessens the divides and takes away extreme politics, as there is no

⁴⁵⁵ For instance, if it was supported by 100% of the Kurds and 20% of the Turkmen (those closely aligned with the KRG) it could reach the 60% threshold, despite the fact that all the Arabs and the majority of the Turkmen disagree with the proposed legislation.

⁴⁵⁶ Interview, conducted by the author, Lord Alderdice, former leader of the Alliance Party (NI), 25/08/2010

chance of it being successful. The reason that only two ethnic groups need to exceed the 40% mark is in order not to halt the political process, as if 40% from all ethnic groups was needed it would be almost impossible to reach agreement and negotiations would be made more difficult.⁴⁵⁷ This system is a variation of the system used in Northern Ireland, but it additionally addresses some of the concerns of the non-ethnic based parties who feel that they do not have a veto. The NI system has been far more successful in not halting the process and allowing for power sharing to work than the one used in Bosnia and Herzegovina, which gives minorities the right to veto decisions and has continuously delayed the political process. It is for this reason that the traditional veto is not recommended for Kirkuk and rather a system of weighted majority and ethnic consent is put forward.⁴⁵⁸ It is further suggested that this process be reviewed after six months to ensure that this veto is not slowing down minor issues, as if its usage can be reserved for serious issues, such as budget, security, etc..

6.5. Birthright

As already highlighted by SIPA the issue of birthright is very important in minimising self-determination disputes. If Kirkuk is given a special status and Article 140 is removed, it is necessary to implement counteracting policies to minimise the loss to the Kurds of Article 140. One such measure is to ensure that Kurds in Kirkuk have birthright to the KRG, thus allowing them to be employed in the KRG civil service, receive an education in the KRG, buy a

⁴⁵⁷ Schwartz, Alex. 'How unfair is cross-community consent? Voting power in the Northern Ireland Assembly.' *Northern Ireland Legal Quarterly* 61 (4), pp. 349-362.

⁴⁵⁸ McEvoy, J. 'We Forbid! The Mutual Veto and Power-Sharing Democracy.' in J. McEvoy & B O'Leary (eds), *Power-Sharing in Deeply Divided Places*. University of Pennsylvania Press: Philadelphia, 2013, pp. 253-278.

house in the KRG, etc.. Although SIPA recommends birthright to the KRG for Kirkukis, it does not go as far as to specify whether this should only be for Kurds or whether this should be for the whole population, but instead leaves this for the KRG to decide. It is recommended here that under the Special Status Law birthright to the KRG be given to all those in Kirkuk who wish to claim it. This fits with the Foreign Minister of the KRG's statement that 'it is important to have people who are faithful, loyal to the process and not troublemakers.'⁴⁵⁹ As it would be their choice to claim birthright to the KRG, which implies that they share the ideologies of the KRG. The reason behind offering birthright to all Kirkukis is to create a stronger unity amongst all the ethnicities in Kirkuk by not differentiating amongst them. This also helps the KRG in laying their claim for Kirkuk as a special status to be situated within the KRG.

6.6. Contingency Plan

Through SPR there is a mechanism in place if officials resign from their position – electing the next highest candidate through Sainte-Laguë. However, a contingency plan is needed for if the situation becomes untenable. To let the governance revert back to Baghdad in the event that this happened would undermine the special status, as those against it and for central control would be rewarded for disrupting the governance. To let the KRG govern Kirkuk would have a similar affect, with Kurds being rewarded for sabotaging the political process in Kirkuk. Through the cross border institutions there will already be a strong link between the KRG, Baghdad and Kirkuk. Therefore, in order not to favour any one ethnicity, it is recommended that if the

⁴⁵⁹ Interview conducted by the author with Falah Mustafa, KRG Foreign Relations Minister, in Erbil, Iraq - 01/06/2013

governance of Kirkuk becomes untenable Kirkuk is governed jointly by the KRG and Baghdad with the input of Kirkuki officials. It is preferred that this is done by officials from the cross border institutions, as they will already be in a cooperation partnership with each other and will have a greater understanding of the dynamics of Kirkuk. This is obviously a worst-case scenario, and it is preferable that it doesn't come to this and that Kirkuk is governed by Kirkukis. Nevertheless, a system has to be in place in the event of a breakdown. This scenario would not be activated whilst the international supervisor was present, in which case s/he would manage the power sharing, but would rather be reserved as an emergency plan for if the government became untenable after his/her withdrawal. However, as animosity is likely to exist between Baghdad and Erbil, it is recommended that a member of the international committee return in order to act as a whip for the process.

6.7. Conclusion

This chapter has highlighted the final aspects necessary in order to implement a working deal in Kirkuk. It has concentrated on the top down features in order to complement the bottom up aspects of the previous chapter. Thus, this chapter has focused on the legal facets necessary in order to make the deal work. The main characteristic of this is to create a specific Special Status Law in order to address the issues that are particular to Kirkuk. As part of this Kirkuk city would be given the powers of a governorate, thus allowing for the additional powers available to a region to be wielded through the cross border institutions. However, unlike a governorate, Kirkuk city would use Sequential Proportionality Rules (SPR) in order to elect the government

with Sainte-Laguë being the chosen system in order for the smaller parties to be represented. This will be paired with PR-STV for the election of seats, which will prevent the system that currently exists in Kirkuk where people vote for parties and people with connections are put into power.⁴⁶⁰ Furthermore, this will give smaller parties and multiethnic parties a chance and will also lead to the election of more eligible candidates. As the Special Status Law would be a replacement for Article 140, the option for Kirkuk to join the KRG in the future has to be included, although it is recommended that Kirkuk city remains under a special status and that this decision is decided by a super majority in order to reduce conflict. The whole idea behind a special status for Kirkuk is to neutralise the issue of ownership, making Kirkuk city a multi capital city further enhances this through giving every ethnicity a link to it. Minority vetoes are an important aspect of consociation, although they can be used to slow down the political process, therefore, it is recommended that decisions be made by a weighted majority of 60% and that at least 40% of two of the three main ethnic groups vote in favour. This should be regularly reviewed in order to take into account any changes in population. It has also been recommended that birthright to the KRG be offered to all people from Kirkuk, thus offering Kurds their desired link and creating a stronger link between the ethnicities. This thesis has been all about offering a framework for Kirkuk's future, however it would be arrogant and dangerous not to prepare for the event of the prescribed solution's failing. It is therefore recommended that in the event of the power sharing arrangement collapsing that Kirkuk be governed by both Baghdad and the KRG through the officials

⁴⁶⁰ The system of voting for a party rather than an individual allows for cronyism and nepotism to exist within politics, as people with connections are able to get elected, when they may not have necessarily been voted in by the people.

of the cross border institutions. The reason that this must involve both entities is in order to ensure that ethnic groups don't benefit through forcing the arrangement's failure. This chapter has highlighted the top down aspects of the agreement that are imperative in order to allow the bottom up aspects of the previous chapter to work. Together they compliment each other and allow for a conclusive agreement that has the best possible chance of success. Most importantly they give the citizens their rights and implement projects to further the society, thus taking away from the ethnic ownership of Kirkuk.

Conclusion

Since the start of the Dijla Operations there has been a drastic increase in violence in Kirkuk and in Iraq as a whole, and by April 2013 Iraq had reached its deadliest period since June 2008. There is an ongoing battle between Baghdad and the KRG over many issues, of which Kirkuk plays a considerable part, and there is also a wider conflict in Iraq between the Sunni and the Shiites (see Chapter 1.9.). Many analysts believe Iraq has already entered a civil war – due to the issues between the Sunni and Shiites – and fear that the situation may get worse if the tensions between the KRG and Baghdad continue to increase. There is currently no agreement between the main factions (Sunnis, Shiites and Kurds) in Iraq and they are all working for their own groups rather than for Iraq as a whole, as highlighted by the KRG Foreign Relations Minister:

Sunnis will not accept Shiites to rule over them and Shiites do not accept Sunnis and we do not accept either. So therefore when you can preserve your own identity, especially for us our national identity is far more important to us than our other identity – I am a Kurd, and then we are part of this country we are Iraqis. For the Sunnis, the Sunni identity comes first and for the Shiites the Shiite identity.⁴⁶¹

Iraq is currently without a president; it has a vice president in exile who has been sentenced to death; a host of al-Iraqiya ministers have resigned, despite their bloc having won the most seats in the election; there are boycotts of parliament meetings by both Kurds and Sunnis, whilst Maliki's party is also battling fellow Shiites the Sadrists; Maliki is trying to take control of more power and is currently Prime Minister, Minister of Defence and Minister of

⁴⁶¹ Interview conducted by the author with Falah Mustafa, KRG Foreign Relations Minister, in Erbil, Iraq - 01/06/2013

Interior; the *peshmerga* and the Iraqi army are facing off in Kirkuk; the Kurds are making oil deals that Baghdad doesn't approve of, whilst Baghdad is making oil deals that the Kurds don't approve of; and finally ethnic and sectarian violence is happening across the country at the highest level since 2008. This does not paint a good picture of the state of Iraqi politics and it is not clear how long Iraq can continue with this daily extreme sectarian and ethnic violence before the system collapses entirely. Many of the key issues could be solved through finding a solution for Kirkuk, as this would likely involve aspects that would end the tensions between the KRG and Baghdad and would also contain facets that could ease some of the Sunni's discontent. This would involve creating a region for the Sunnis; however, it would not ease the major concern of Maliki's grab for power and the lack of proper power sharing. Therefore, the constitution needs to be changed in order to institutionalise power sharing and prevent a return to majoritarian politics, which can easily be done (as highlighted in Chapter 2.2.) through installing d'Hondt as a method for choosing the cabinet. D' Hondt is an important part of ensuring good governance and a way to implement it must be found. As demonstrated, ethnic tensions are getting worse which makes it all the more important that power sharing between all the communities is institutionalised in central governance through d'Hondt. As, firstly, if the cabinet was chosen through d'Hondt Maliki would not be in power in the first place, as his coalition did not win the most seats. Secondly, it would not be possible for someone to hold more than one cabinet position, as they would be allocated to specific people within the parties in rounds of allocation. Thirdly, it would not be possible to have empty or absent positions, as if the party did not replace

these positions they would be replaced by the next in line. Finally, it would not be possible to try and freeze out parties and begin new coalitions as through d'Hondt anyone who has enough votes and who wants to be part of the government, can. It therefore makes it imperative that a sequential proportionality system like d'Hondt is installed in Iraq. It was extremely irresponsible of the US to withdraw before its implementation, as if Maliki truly does have an eye on creating a majoritarian regime he would not back the legislation necessary to implement this. Kirkuk is also a major factor in the current situation in Iraq and a deal for it is likely to involve solutions for many other issues that exist. Therefore, a solution for Kirkuk can help to stabilise Iraq and prevent an escalation of civil war.

The Conflict:

Although the resolution of the conflict in Kirkuk could help to stabilise Iraq, the conflict involves many issues, which also consist of sub-issues and it is imperative that these are all solved together. Thus, through the use of process tracing the emergence of conflict was analysed in this thesis in order to create a greater understanding of the issues of conflict and the possible resolutions thereof. Firstly, it has been argued that Article 140 needs to be replaced, as the 2010 national elections demonstrated that a minimum of 38% of the population of Kirkuk's active electorate are against Article 140 and the therein embedded prospect of joining the KRG. As a consequence of this, Article 140 cannot be used to decide the future of Kirkuk and is correspondingly one of the main issues that needs to be dealt with in Kirkuk. The inclusion of it in the constitution was made without the Sunnis and was decided at a national level, rather than by the people of Kirkuk whose lives it

will actually affect. If Article 140 is implemented the conflict will intensify; therefore it cannot be seen as a solution, as it doesn't solve anything. Furthermore, it has passed its constitutional deadline, thus putting a question mark over its legitimacy. Therefore, Article 140 must be replaced by a more acceptable solution that involves all the groups making compromises, whilst still feeling as if they are making gains and are being treated as equals. As Article 140 deals with the normalisation of Kirkuk, replacing it creates the sub-issues of defining the borders of Kirkuk and dealing with returnees, which also must be tackled. Furthermore, as Article 140 involves a referendum on the future of Kirkuk, by eliminating it the sub-issue of dealing with the future constitutional status of Kirkuk is created and thus needs to be resolved.

Secondly, the rival ethnonationalisms in Kirkuk are preventing the political process. Rather than trying to advance the situation and find a solution together, they are focusing on impeding their rivals and thus negotiations are impossible. Unfortunately, this does not seem likely to change anytime in the near future. For this reason, as has happened in the other conflicts examined, exogenous pressure has got to play a role in the resolution of the conflict in Kirkuk. This exogenous pressure can take the role of the US and UN putting pressure on Kirkuk, the KRG and Baghdad, thus leading to a deal being made between Baghdad and the KRG on other internal issues. This would allow for a deal to be made on Kirkuk on the parts that they disagree on, but must still involve the people of Kirkuk having a say in their own future.

Thirdly, Kirkuk has a history of bad/non governance, which stems from the issues between the rival ethnonationalisms. There are countless boycotts

and threats of boycotts in Kirkuk, which have done little to help with the governance of the city. By many accounts, there seems to be a governor in place now who is honest and hardworking, however, despite this, there is still no transparency or proper power sharing, thus preventing the ethnic groups from working together. The lack of governance creates many sub-issues, as although the people of Kirkuk live in one of the wealthiest cities, with regards to natural resources, in the world there is an extreme lack of services, a high unemployment rate and a major security/safety issue. The entire system of governance in Kirkuk needs to be replaced, as it is not fair and has no chance of working. From the division of power to the election of positions, the current system is a failure. It needs to be replaced by a fair arrangement based on the dynamics of Kirkuk, one where boycotts are not rewarded and side deals are not possible. Most importantly, it must receive the backing of all the ethnic groups in order to prevent future complaints and disruptions. It is not just the division of power in the government that is affected by the bad/non governance, as a further sub-issue created by this is the unfair/unequal division of power across the civil service, which also needs to be addressed.

Fourthly, the oil in Kirkuk causes conflict, as although the constitution is clear on the fact that the oilfields in Kirkuk will always be managed by Baghdad, it needs to be strengthened in a new agreement for Kirkuk, as non Kurds still fear that the KRG is trying to annexe Kirkuk in order to secede from Iraq. This is paired with the fact that Baghdad's own reading of the hydrocarbon laws with regards to the KRG is not exactly correct. Thus, the hydrocarbon laws are brought into play in the negotiation over Kirkuk, as Baghdad could potentially support the KRG's reading of the hydrocarbon law

(along with other concessions) in exchange for the KRG relinquishing Article 140. Furthermore, this would involve a clearer understanding that Kirkuk's oil will always be managed by Baghdad, thus giving the non-Kurds of Kirkuk the protection they feel they need. By ensuring that Kirkuk's oil is always controlled by Baghdad the wider sub-issue of Iraq's hydrocarbon laws needs to be dealt with, as one cannot be done without the other. This is not necessarily a problem, as it opens the way for deals to be made on Kirkuk. Nevertheless, a further sub-issue is managing all the resources in Kirkuk fairly, as from water to electricity conflict has emerged through the way these resources have been managed and therefore this must be successfully resolved to prevent disagreements from happening in the future.

Finally, the security situation in Kirkuk needs to be improved. It has been highlighted throughout this thesis that the security issues in conflicts are the most important and often the hardest issues to solve. In Kirkuk this situation is particularly inauspicious due to the proliferation of different security agencies operating within its borders. This is heightened by the lack of cooperation between them, their control by single ethnic groups and the fear from the different ethnic groups that they will be used in order to take control of Kirkuk by force. The proliferation of forces in Kirkuk has not led to an increase in security and safety, but has rather had the opposite effect, as the lack of cooperation between the forces has allowed terrorism to flourish. Therefore, as with other conflicts, it is imperative that the security situation in Kirkuk is resolved. There are many concerns within the security issue in Kirkuk, for example: the Iraqi army's presence, the *peshmerga's* presence, militias, ethnic dominance, etc.. This only reiterates the fact that solving the

security issue in Kirkuk is one of the most important and most difficult aspects of the conflict to resolve.

The Lessons:

Through identifying the issues of conflict it then makes it possible to propose a resolution for Kirkuk. This thesis has used an examination of the solutions put forward by other analysts working on Kirkuk in order to analyse the elements necessary for a successful resolution. The overriding feature of these analyses is their considerable lack of depth. This is due to the fact that the majority of these are articles, which makes it somewhat impossible to give a complete analysis to the resolution of a conflict as complex as that of Kirkuk. There are however methods put forward in these analyses that deserve further attention; these include: giving a special status to Kirkuk city, allowing non-Kurdish majority areas the option not to join the KRG, creating cross-border institutions/links between Kirkuk, the KRG and Baghdad, and introducing liberal consociational power sharing. Although these options are feasible for a settlement in Kirkuk, as already stated, they need to be far more detailed on what they will involve. In this thesis these options have been examined further in order to assess their probability of success. Consequently, it is important for this thesis to take the advances made by other scholars and highlighted here, and develop them towards a detailed framework for a possible agreement for Kirkuk.

Although an analysis of the issues of conflict and an example of resolutions used in other conflicts gives a good foundation to develop a framework for Kirkuk the various theories of power sharing also play an important role. This was examined in Chapter 3 and through this analysis it

became evident that centripetalism is not feasible for Kirkuk. This is due to the fact that in a deeply divided society, which Kirkuk is, it is highly unlikely that the ethnic groups will form a coalition across the divide, or that voters will vote for someone outside of their ethnic group. If centripetalism were to be implemented in Kirkuk there would be unrepresented minorities, as this model creates a form of majoritarian government by excluding those who are not in the coalition. It is therefore likely to radicalise the factions excluded from such an arrangement, as if they are not being heard through the political sphere, they are forced to voice their opinion in another way, which is often violence. However, the analysis of consociation proved more favourable for Kirkuk, as this model uses the very divides present in deeply divided societies as part of the governing process. It has been demonstrated in this thesis that due to the structure of the cleavages in Kirkuk consociation would have more chance of success in the city, as through Lijphart's analysis of the favourable conditions it becomes evident that the more even split of the ethnic groups in the city makes it less likely that the political process will be blocked. Moreover, liberal consociation is even more feasible for Kirkuk, as it does not entrench the divides and rather allows them to evolve with the society. The advances in consociational theory made by McGarry and O'Leary address the issues involved in ethnic conflicts with self-determination disputes, of which the situation in Kirkuk is an example. One of the key factors of their advancements to consociational theory is the necessity of exogenous pressure in order to reach a successful settlement. It is therefore imperative that any settlement for Kirkuk has some form of exogenous pressure if it is to

successfully resolve the conflict. Furthermore, Adrian Guelke highlights the suitability of consociation to these external factors:

the consociational model is particularly attractive to external parties seeking to influence political developments, since its institutionalization of differences facilitates the management of these sorts of conflicts by external parties.⁴⁶²

Moreover, McGarry and O’Leary assert that contemporary ethnic conflicts often have some form of trans-state/region self-determination dispute and therefore new issues, that were not addressed in original consociational theory, arise. Therefore, new methods, such as cross border institutions, need to be added to the original theory, as it was done in practice in NI and as it has been recommended for Kirkuk in this thesis. Perhaps the most important addition that McGarry and O’Leary made to consociational theory, particularly with regards to this thesis, is that it needs to go beyond the design of political institutions in order to address all the issues of conflict. As if the other issues of conflict are not addressed within the settlement, it makes it impossible for the political institutions to function. This hypothesis is strengthened through the analysis of complex power sharing in Chapter 3.4.. Complex power sharing has self-rule at the centre and is then surrounded by other aspects to deal with all the issues of conflict. When paired with liberal consociation one arrives at, what is seen in this thesis as, the best method to deal with the conflict of Kirkuk, as it adds the positive factor of not being confined to any one theory.

⁴⁶² Guelke, Adrian. ‘The potency of external conflict management – Northern Ireland’ in Stefan Wolff & Christalla Yakinthou (eds.) *Conflict Management in Divided Societies; Theory and Practice*. Abingdon: Routledge, 2012, p. 250.

The Settlement:

The first step in replacing Article 140 would be to give a special status to Kirkuk. As already discussed, when examining the favourable conditions for consociation, it would have more chance of success if this included the city only. Furthermore, such a solution would allow for the addressing of the self-determination desires of many members of Kirkuk's population, as part of this process would involve the remaining districts/subdistricts deciding if they want to join the KRG, an existing neighbouring province, or form a new province of their own. This process would take away from the competition over the ownership of Kirkuk and would go a long way to easing the tensions created by the rival ethnonationalisms, thus allowing the protagonists to focus their attention on the actual governance of Kirkuk. Giving Kirkuk city a special status is one of the most important aspects of this framework, as it opens up the prospect of the other methods proposed to deal with the issues of conflict. Another aspect of the special status that helps to deal with the self-determination desires is the maintaining of strong links between districts/subdistricts that are excluded from the special status with Kirkuk city. This is ensured through making Kirkuk a multi-capital city similar to Chandigarh in India; Kirkuk would be made the centre of governance for the special status, it would be the capital city of the new province if it were to be created, and it would be some form of additional capital to the KRG, for example the judiciary capital. The special status for Kirkuk city is the first stage in replacing Article 140 and thus a Special Status Law is needed to make it part of the constitution. Through the Special Status Law, Kirkuk would be given the powers of a governorate, as per Law 21/2008, thus allowing the additional powers that would be available to a region to be shared through the

cross border institutions. The Special Status Law would also include a census for Kirkuk city and this would be made possible, as it would not hold the same threat as it did through Article 140. The Special Status Law would also include all the succeeding aspects mentioned in this framework, thus allowing a different system to operate in Kirkuk.

Nonetheless, a special status does not address all the self-determination desires of those within the city, therefore the addition of cross border institutions is a essential. Cross border institutions linking the special status of Kirkuk city to the KRG, Baghdad and a new province (if created), give those within the special status a link to their desired entity. Furthermore, introducing cross border institutions helps with the governance of contentious issues. Additionally, in order to satisfy the Kurd's self-determination desires, the inclusion of a future referendum for Kirkuk, under a special status, to join the KRG would have to be included. However, a mere majority decision would not be good enough, as this would lead to conflict, therefore it would have to be decided by a weighted majority of 2/3 of the voters. A Further aspect of answering the self-determination desires of those remaining within the special status – alongside cross border institutions and a future referendum – is granting members of the special status birthright to the KRG. This would give citizens of the special status the same rights as those within the KRG.

As discussed throughout this thesis, security is a major concern in Kirkuk and nothing can be achieved without improvements in this area. Therefore, under the special status Kirkuk city would become a demilitarised zone, thus eliminating the threat that the *peshmerga* and Iraqi army portray to their rival ethnonationalisms. This also opens up the opportunity to create a

new police force to replace the current one and take up the duties left vacant by the Iraqi army, *peshmerga* and Asayesh. Thus, allowing for the security in Kirkuk to come together under one umbrella in a new multiethnic, multi-lingual (implemented through a language training programme) force, where all departments are linked together through one central command. At the same time, with the demilitarisation of Kirkuk it becomes necessary to create a cross border institution focusing on terrorism and border control and thus maintaining links to the Asayesh, *peshmerga* and Iraqi Army. Consequently, a joint task force would be created, which would include information sharing and joint action on the borders. In order to implement the replacement of the entire security services in Kirkuk and to ensure that the old political links don't resurface in the new ones, it is important that an independent commission monitors the new force. This would be made up of international specialists on policing who would put forward recommendations for the new force and make sure these were implemented properly.

In an oil-rich country management of natural resources is bound to be highly politicised, and Iraq is no different in this matter. A functional settlement for Kirkuk needs to therefore address this issue effectively. Management of Kirkuk's oil fields by the federal government needs to be strengthened in the legislation. This can be done through the Special Status Law by ensuring that no matter what constitutional status Kirkuk falls under the oil fields will be managed by the federal government. Furthermore, Baghdad's ownership can be strengthened through the new hydrocarbon law, although this would have to happen alongside an acceptance that the KRG can manage their own oil fields. This is however a necessary step as part of the negotiations for the

Kurds to relinquish Article 140, as this must include compromises and gains for both parties. The remaining issues involving the resources – including water, agriculture, and electricity – of Kirkuk can be managed through the various cross border institutions.

Another matter that was given consideration in this thesis is civil employment in Kirkuk. The civil employment should be distributed amongst the ethnic groups based on their demographics; to do this the positions within the civil service would have to be ranked in order to ensure fairness in their distribution. The process of changing the employment in the civil service to a demographic based model should not involve the firing or redundancy of any existing employees, but should rather be done over time through the creation of jobs and training in order to correctly fill positions. This process would be advanced through the positions created by the formation of the cross border institutions and the new police force. This would all be implemented through the Special Status Law, which already calls for a census, by including the additional aspects within the legislation. Part of this would also include an international committee in order to manage the entire process, ensure fairness and to prevent disagreements between the ethnic groups from surfacing.

Giving Kirkuk city a special status, finally allows for the addressing of the housing, administration, resource and service issues that have arisen due to the issue of returnees. A further step in speeding up the process of dealing with the returnees is the installation of an independent international committee to deal with this issue. This takes away from the ethnic competition

and installs someone who will deal with both returnees and those displaced equally and fairly, therefore allowing for the whole process to move forward.

This thesis also addresses the issue of education in Kirkuk. The Kirkuki educational system needs to be changed from a mono-ethnic to a multiethnic one. The first step in this process would be the creation of a new curriculum that is respectful to all the ethnicities' heritage and entrenches a notion of common history. As the process of creating such a curriculum is bound to cause disagreement and raise tensions, it is best that this is done under the auspices of an independent international committee specialising in education with advisors from each ethnic group. This would allow for the international committee to supervise the implementation of the new education system and take it to a stage where it would be suitable to hand it over to the council. Furthermore, schools should be changed so that they offer a multi-language education system, where the children are not forced to speak or do their homework in another language, but the teacher does however alternate between the languages. There also needs to be a cross border institution linking the education systems of Erbil, Baghdad and Kirkuk. The cross border institution would ensure that they are all moving towards a common goal and would allow students to pursue tertiary education in any of the three systems.

Several aspects of this framework for Kirkuk – policing, returnees, education and civil employment – call for some form of international committee to ensure the successful implementation of the process. It therefore makes it imperative to create a wider independent international committee for the entire framework with experts who specialise in each area. As power sharing is at the centre of this agreement the committee would be

led by an expert in power sharing and constitutional law. The committee members would have to research and write a proposal, oversee the implementation and then monitor the functioning of the programme.

Power sharing is at the centre of this framework for Kirkuk and therefore it is important that it is entrenched through the Special Status Law. The first part of this would be the election of the power sharing government and it is recommended that this be done through PR-STV. In this system candidates from smaller parties or those representing smaller ethnic groups are more likely to get elected, as voters vote for individuals, thus making it more likely that a particularly charismatic or talented candidate would receive votes. Therefore, voters would be more likely to vote outside their ethnic group for a particularly worthy candidate or for a multiethnic party. Once seats within the council are given it is then left for the top positions to be decided and this would be done through Sainte-Laguë. The governor and his two deputies are the highest offices and therefore would have to be chosen first, but this would be under the proviso that each faction can only win one of these positions. This prevents ethnic domination of the council, but doesn't prevent the growth of non-ethnic parties as they would be included as a faction. This process institutionalises power sharing, but rather than setting any fixed quota the ethnic groups representation within the council is based on the votes received. Using Sainte-Laguë allows for a wider cross-section of the political community to be part of the power sharing government by giving smaller blocs a higher chance of being elected. Once power sharing is installed a system for the decision making process is needed. Decisions by the council should be made by a weighted majority (60%) with at least 40% of

two of the three factions (Turkmen, Arabs and Kurds) voting in favour. If decisions by the governor are contested by more than 1/3 of the council they would also be put to the weighted majority vote – likewise with the removal of the governor. This prevents decisions being made by a simple majority and ensures that they are made with strong support from the majority of the communities. Furthermore, it forces parties to work together in order to put forward versions of laws that are more likely to receive cross community support. By making decisions through this method minorities are given a form of veto as they have the ability to influence the formation of laws/bills. As already highlighted this leads to more consultation on ideas put forward and makes it more likely that a version that is agreeable to all would be proposed, thus taking away the need for a 'hard' veto.

Even the best-laid plans need to include preparation for the event of failure, as this always remains a possibility. Therefore, if the government in Kirkuk becomes untenable it would have to be governed by both Baghdad and the KRG through the officials from the cross border institutions. This system would not come into place until after the international supervisor has withdrawn, as whilst s/he is present it would be his/her duty to prevent the situation of the governance collapsing.

Substantiation:

Currently, in Kirkuk, all sides seem to be willing to wait whilst they try to manoeuvre themselves into a better position, rather than negotiate and compromise towards a solution. With the greater political game of Iraq happening in Kirkuk it is the people of Kirkuk who suffer whilst the politicians refuse to negotiate; it is the people who are denied the basic services and

who have to deal with the lack of security. The politics in Kirkuk cannot continue in this vain and neither can the politics in Iraq. There have been many proposals put forward for the future of Kirkuk, but (as analysed in Chapter 4) they lack the details necessary to make them a viable possibility. Furthermore, many of them have tried too much not to offend and have failed to replace the disputed Article 140. That is where this thesis is different, as it is detailed, has not tried just to please and has put forward a viable replacement for Article 140. In this thesis conflicts are viewed as not existing within a static status quo, but rather as being ever-changing. In acknowledging the ever-changing nature of conflicts, the thesis makes forecasts of socioeconomic changes, as these too impact upon the dynamics and what is effectively possible in any resolution. Furthermore, the notion of an ever-changing context impacts on the development of a resolution, in that each side has aims and once an aim is achieved or a compromise is reached the dynamics of the remaining issues at stake change. Therefore, when working towards a resolution all the strategies are linked together, as the previous steps taken open up new possibilities, whilst halting others. Furthermore, by linking all the aspects together more actions become possible. In addition to replacing Article 140, this thesis has also put forward a proposal to replace the 32/4 ratio of power sharing, both which have been analysed in this thesis as being unsuitable for ending conflict in Kirkuk. The framework delivered in this thesis follows the four principles of consociation:

- **Executive power sharing** is ensured by electing the government through PR-STV and Sainte-Laguë, thus giving all those with sufficient votes the choice to join the power sharing government.

- **Mutual veto**, giving minorities political protection from decisions that affect their vital interests, is present through making decisions in the council by a weighted majority (60%) with at least 40% of two of the three factions (Turkmen, Arabs and Kurds) voting in favour.
- **Proportionality** in political representation is guaranteed through using PR-STV for the election of seats and Sainte-Laguë for the election of positions within the council. Proportionality in public sector employment is guaranteed by distributing the positions based on the demographics of Kirkuk city. In order to do this the positions within the civil service would have to be ranked in order to ensure fairness in the distribution of the positions.
- **Segmental autonomy** in the internal affairs of each group is implemented by using Sainte-Laguë at district and sub-district level, thus allowing for the governance of their own community. Furthermore it is implemented through the cross border institution in education and the creation of Turkmen and Christian cultural/language organisations.

This thesis also follows the principle of liberal consociation, as it is advised that any political identity that wins enough votes in the election may choose to join the power sharing coalition and all groups are eligible for the top positions within the council. Although the weighted majority voting procedure does call for 40% of two of the three main ethnic groups, this is in order not to stop the political process by letting a group that only constitutes say 1% of the vote preventing a decision from being made. Furthermore, any group that reaches more than 15% of the council is eligible to join this aspect of the decision making process. This thesis also follows the principles of complex power

sharing, as well as McGarry and O'Leary's developments to consociational theory, as it goes beyond the mere creation of political institutions and addresses all the issues of conflict. Therefore, this framework follows the analysis, laid out in Chapter 3, of using liberal consociation as a base, whilst addressing all the issues of conflict.

This thesis' analysis of power sharing theories, issues of conflict and the previous proposals put forward for Kirkuk, give it a solid foundation to propose a settlement for Kirkuk. Through an unbiased, neutral and flexible approach, as adopted in this thesis, it is possible to examine the 'problems as problems of disturbed historic relationships between groups rather than a 'zero sum' struggle over territory and resources', which Lord Alderdice sees as the first step in reaching an agreement.⁴⁶³ This allows for all the issues to be addressed in the best possible way, rather than being caught up in the ethnic divisions. This thesis has developed a framework that addresses all the issues of conflict in Kirkuk, whilst at the same time not favouring any ethnicity. It follows the principle that every ethnicity should make necessary compromises, yet still make gains, which is an essential component in conflict resolution. Through a detailed analysis of all the issues of conflict and the best option to resolve them, a complete framework that differs from those that precede it has been put forward. The reason for this is that through exploring options in further detail more possibilities become available, as through being linked to each other they become feasible. Thus, new proposals for Kirkuk have been put forward in this thesis, such as: an international committee, the various cross border institutions available, a multi-capital city, the creation of

⁴⁶³ Interview, conducted by the author, Lord Alderdice, former leader of the Alliance Party, 25/08/2010

a new province, and making decisions in the council based on a weighted majority of 60% with 40% of two of the main three ethnic groups being in favour. Furthermore, this thesis also addresses many issues that exist within Iraq that affect Kirkuk and have resulted in the country being in the turbulent state it currently finds itself in.

Through creating a liberal consociational settlement for Kirkuk, this thesis has developed liberal consociational theory with regards to trans-regional self-determination disputes. Therefore, the concepts of cross border institutions, demilitarisation, multi-capital city, special status, international committee and regional power sharing are analysed within this context, thus furthering consociational theory.

As already highlighted, O'Leary, McGarry and Guelke have all pointed out that solving the security issues are both the hardest and the most important in resolving an ethnic conflict. Furthermore, the Rand Corporation stipulates solving the issues of ethnic identity, security, sovereignty and control over land as the most important regarding the governance of divided societies.⁴⁶⁴ This thesis has given options for the resolution of the above-mentioned issues, thus potentially making it a comprehensive settlement that could help move Kirkuk beyond its current stalemate.

Firstly, ethnic identity is addressed by giving Kirkuk a special status, as this allows many of the Kurds to join the KRG, thus joining their ethnic kin in a Kurdish region. Likewise, this also allows the Sunnis to create their own province, join an existing province and to even join a Sunni region if one were to be created. Ethnic Identity is also addressed through the cross border

⁴⁶⁴ Hanauer, Larry & Loral E. Miller. *Resolving Kirkuk: Lessons Learned from Settlements of Earlier Ethno-Territorial Conflicts*. Santa Monica: Rand Corporation, 2012, p. iii.

institutions and making Kirkuk a multi-entity capital, as this allows ethnic groups to maintain links to their ethnic kin. The inclusion of birthright to the KRG also addresses the Kurds' ethnic identity, as this gives them the same rights as Kurds within the KRG, whilst the creation of Turkmen and Christian bodies secures their ethnic identity. Furthermore, ensuring that civil employment is distributed based on the demographics guarantees that ethnic identity does not count against the population in employment. Ethnic identity is also addressed through power sharing, as this allows the ethnic groups representation with the government (with Sainte-Laguë giving the smaller ethnic groups a greater chance of being represented) and gives the ethnic groups access to a form of veto.

Secondly, the security in Kirkuk is addressed through making Kirkuk a demilitarised zone and by creating a new police force. This would address the main issue, with regards to security, of ethnic dominance of the security services. Having one single force with an overall command also addresses the problem of a lack of communication between the security services, which causes confusion and a lack of unity and consistency in the policing of Kirkuk. The creation of the new service would allow trust and transparency, which is essential for the transition of the society.

Thirdly, the sovereignty of Kirkuk is decided through the awarding of a special status, as following this certain districts would join the KRG, thus deciding their sovereignty. The other districts, outside the city, would also decide their own sovereignty and this would be either under a new province or an existing one. The sovereignty given to Kirkuk city would be a more complicated matter, as it would be given a special status with the powers of a

province whilst the powers of a region would be governed through the cross border institutions and would be shared between Kirkuk, Baghdad and the KRG.

Finally, control over land is dealt with very clearly under this framework, as the districts/sub-districts would decide under which boundary they fall and thus who controls the land. The likely scenario would be for the Kurdish districts/sub-districts on the border with the KRG to join the KRG and for the creation of a new province, thus controlling their own land under the wider control of the central government. The city would be given a special status and would thus control its own land, but through it being a multi-capital and having cross border institutions the other entities would have claims to certain offices – similar to that of an embassy. The inclusion of a future referendum could put Kirkuk under the umbrella of the KRG, but it would still remain under a special status. Thus, Kirkuk would have its own police force, be a demilitarised zone, etc., so for all intents and purpose it would still control its own land.

As shown above, the framework proposed in this thesis includes all the elements that the Rand Corporation deem necessary for success. Thus, implementing this framework could minimise conflict in Kirkuk and move Iraq forward to a better political position. The aim of this thesis is to provide a greater understanding of the issues of conflict in Kirkuk and the possible resolutions thereof. Through this it is then possible to increase the debate in Kirkuk and help those on the ground to resolve the conflict. As other conflicts have taught us, this is not a quick process, but the more literature that is available and the greater understanding that is created, the greater chance

that a resolution is found. Highlighting the possibilities available to the protagonists could enable them to see more options when they eventually develop their own framework. It is not likely that any ethnic group would put forward a framework like the one proposed here, as it does not favour any one ethnicity, but through negotiations they might nevertheless arrive at a similar solution. So although when the various factions in Kirkuk examine this framework they may disagree with the ideas put forward, this is not necessarily negative, nor is it a sign of failure. On the contrary, it is actually a sign of success, as if one ethnic group did approve entirely that would mean that the framework favoured them, which is not the aim. The aim of this thesis is to put forward a framework that could be accomplished through negotiations, in other words the product after compromises and gains have been made, it has thus made predictions based on actions and has viewed the conflict as ever-changing. Baghdad and Erbil have to reach an agreement on Kirkuk's future. However, a deal on Kirkuk is likely to be decided through trade-offs between the KRG and Baghdad on many issues, not just on Kirkuk. This is not an issue as these trade-offs have been included within the framework put forward in this thesis. The problem arises when these compromises – between Baghdad and Erbil – are made without addressing all the issues in Kirkuk. Here the exogenous pressure of UNAMI and the US come into play, as they cannot allow for this to happen and need to ensure that negotiations include all the issues.

In the words of Salar Erbil, 'after each night a sun is born again, now we are living the night of Kirkuk, but there must be a day where the sun will

rise again.⁴⁶⁵ The only hope is that Kirkuk reaches serious negotiations soon so that the sun can be born again in Kirkuk. If Kirkuk is considered a tinderbox that could explode at any minute, the aim of this thesis is to throw water over the tinderbox in order to prevent it from being set alight. In this analogy the alternative path available through the framework developed in this thesis is the water to be thrown over the tinderbox known as Kirkuk.

Further Research:

To develop this research further the procedure of forming negotiations in order to create a similar framework needs to be analysed. Examining all the issues of conflict to develop a framework that not only addresses these, but also does this without favouring any ethnic group is only the first step. Developing a method to start formal negotiations on all the issues by all the parties in a way that resolutions such as these could be accepted is a more complicated issue. As already highlighted this is likely to start with the negotiation of other issues that would have a domino effect moving from one issue to the next. The challenge is to develop a method that ensures resolutions are made for all the issues, thus allowing a framework such as the one put forward in this thesis to be proposed. Additionally, once data becomes available regarding the demographics of Kirkuk – through either a census or local elections being held in Kirkuk – it needs to be analysed in order to understand the ethnic make up of Kirkuk. This understanding allows for an educated analysis of the likely power sharing arrangement in the city as well as the constitutional desire of the subdistricts. Furthermore, in the future, the lack of access to people on the ground (due to the security situation)

⁴⁶⁵ Interview, conducted by the author, Salar Erbil, member of Turkmeneli Party Leadership Council – Erbil, 13/02/2013

needs to be rectified and the surveys put forward in Appendixes I and II need to be conducted, thus cementing the research already carried out.

As part of this thesis I also began a comparative analysis between the conflict in Kirkuk and the conflicts in Northern Ireland, Brcko and Chandigarh, which I decided to omit as it needed to be far broader than would be possible within the current thesis. I would like to continue with this research, as it is important in creating a further understanding of the conflict in Kirkuk. Finally, it would be desirable to conduct fieldwork in Chandigarh in order to learn from their experiences of having multi-capital city and what is essentially a special status. As there is very little written on the case study of Chandigarh, a further analysis could help to develop the framework for Kirkuk.

Appendix I

The survey created for this fieldwork borrowed from the work of Colin Irwin and involved four questions, which each entails several possibilities that need to be ranked. The first question is 'What do you see as the cause of conflict in Kirkuk?' This question entails a list of options – from 'Arabic terrorist groups' actions' to 'the actions of the Kurdish security services' – to be ranked with 'Very Significant', 'Significant', 'Of Some Significance', 'Of Little Significance, and finally 'Of No Significance'. This allows one to see what issues need to be dealt with in order to satisfy each ethnic group and also where they possibly have similar ideas. If, for example, security places high on all the ethnic groups' list, then it becomes clear that a complete overhaul of the various security systems operating in Kirkuk is necessary, and so on. The second question asks 'What actions are necessary to secure peace in Kirkuk?' Like the previous question this will give a list of options – from 'Restructuring the security services' to 'Supplying houses to the returnees' – to be ranked with 'Essential', 'Desirable', 'Acceptable', 'Tolerable' and finally 'Unacceptable'. Again, this allows one to see what actions are important to each ethnic group and where they possibly converge. This also demonstrates possible compromises through examining those actions that are not ranked as essential. The third question asks 'What are the possible consequences of failure to ensure peace?' This question entails a list of possibilities – from 'All-out ethnic conflict' to 'Mass emigration' – to be ranked with 'Very Probable', 'Probable', 'Not Sure', 'Improbable', 'Very Improbable'. This question allows one to gauge what each ethnic group thinks will happen and what their likely actions are in the event of failure. Furthermore, it also gives the participants a

chance to think of the consequences of failure to reach an agreement. Seeing as there has not been a local election in Kirkuk, the final question asks 'What is necessary for free and fair elections?' This question will involve a list of options – from 'Acceptance of returnees' to 'International monitors' – to be ranked with 'Essential', 'Desirable', 'Acceptable', 'Tolerable' and finally 'Unacceptable'. This question will allow one to gauge what steps each ethnic group sees as necessary for free and fair elections and this can then be included in a settlement.⁴⁶⁶

⁴⁶⁶ Irwin, Colin. 'Peace, Stability and Elections: An Opinion Poll and Its Implications.' *The Global Review of Ethnopolitics* Vol. 2 no. 1, 2002, pp. 62-74.

Appendix II

Following the research of John Fraser the first question of the survey would ask the respondent: 'What steps towards establishing Kirkuk's future do you think your political representatives ought to make?' The second question would ask: 'how well they think their representatives are acting towards establishing Kirkuk's future?' This is then followed by questions that are answered on a scale of 1-10 (1 = very poor, 5 = average and 10 = excellent) in order to measure the responses. This allows for the survey to determine their perceptions in relation to their support. The remaining questions would relate to political trust, political efficacy, political cynicism, political ethics and political violence. Through examining the level of support the participants have in relation to these questions it is then possible to measure the level of support they have for their representatives.⁴⁶⁷ The survey would be reinforced through interviews, in order to push the limitations in what is acceptable to the ethnic groups rather than the individual. The intention was to conduct these interviews in groups in order to create a more relaxed environment that encourages debate, thus allowing for the boundaries to be pushed on what the group would be willing to accept. Although this could lead to certain individuals not portraying their true opinion, it does give a more realistic portrayal of what the group is willing to accept and how certain weaker opinions may be manipulated. The language problem of needing a translator could pose an issue, however with a trusty and confident translator it can be used as an advantage by only allowing one person to speak at a time and in order, thus preventing stronger personalities from dominating the debate.

⁴⁶⁷ Fraser, John. 'Validating a Measure of National Political Legitimacy.' *American Journal of Political Science* Vol. 18, No. 1, 1974, pp. 117-134.

Appendix III

Article (140) of the constitution of the Republic of Iraq.⁴⁶⁸

- 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.

⁴⁶⁸ Iraqi Constitution. 'Article 140'. *Fourth Annual Report of the Article 140 Committee* [Online] Available from <http://www.com140.com/pdf/english%20copy.pdf> [Accessed 20/09/2013]

Appendix IV

Article 58.⁴⁶⁹

(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.

⁴⁶⁹ The Coalition Provisional Authority. 'Article 58' *Transitional Administrative Law* [Online] Available from <http://web.archive.org/web/20090423064920/http://www.cpa-iraq.org/government/TAL.html> [Accessed 02/09/2013]

Appendix V

Table 2 demonstrates how the positions would be allocated following the d'Hondt rule (the figures are for illustrative purposes).

Position	KA	INDF	ITF	INL	IAF	GORRAN
[1]	39	20	17	15	10	11
[2]	19.5	20	17	15	10	11
[3]	19.5	10	17	15	10	11
[4]	13	10	17	15	10	11
[5]	13	10	8.5	15	10	11
[6]	13	10	8.5	7.5	10	11
[7]	9.75	10	8.5	7.5	10	11
Total won:	3	1	1	1	0	1

Table 2

As the KA has the highest number of seats, 39, they win the first position. Their total number of seats is then divided by the first divisor, two, giving them a total of 19.5.

The highest total in the next round is the 20 seats that the INDF hold, therefore they win the next position and their total is divided by the first divisor, leaving them with 10.

In the third round the KA has the highest total again, 19.5, therefore gaining them another position. Now their original total is divided by the second divisor (as this is their second seat) of 3, leaving them with 13 for the next round.

This process continues until all the positions are allocated.

Position	KA	INDF	ITF	INL	IAF	GORRAN
[1]	39	20	17	15	10	11
[2]	13	20	17	15	10	11
[3]	13	6.7	17	15	10	11
[4]	13	6.7	5.7	15	10	11
[5]	13	6.7	5.7	5	10	11
[6]	4.3	6.7	5.7	5	10	11
[7]	4.3	6.7	5.7	5	10	3.7
Total won:	2	1	1	1	1	1

Table 3

Table 3 demonstrates how the positions would be allocated following the Sainte-Laguë method.

By changing the divisors to 3,5,7,etc. the smallest party, IAF, wins a position that it was unable to win following the d'Hondt method. This demonstrates how the Sainte-Laguë method allows small minority parties a greater chance of winning a position in the cabinet.

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