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Resolving Kirkuk

Lessons Learned from Settlements of Earlier Ethno-Territorial Conflicts

Larry Hanauer, Laurel E. Miller

Sponsored by U.S. Forces–Iraq

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Preface

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. Of all the issues that could spark violence between these groups, none is more explosive than the political and legal status of the city of Kirkuk.

Kirkuk is not the first ethnically heterogeneous territory to be fought over by different communities. Throughout modern history, disputes over ethnically mixed territories have been settled through negotiations that established new structures for governance, instituted policies that either promoted assimilation or guaranteed communal autonomy, and defined relationships between the disputed territory and neighboring entities. Efforts to resolve other ethno-territorial conflicts, whether successful or not, can offer insights that may prove valuable in the effort to reach a negotiated solution regarding Kirkuk.

This monograph examines the academic literature regarding the governance of divided and multiethnic territories and regarding the most challenging aspects of ethno-territorial disputes—ethnic identity, security, sovereignty, and control over land. Next, it looks at agreements that resolved three earlier conflicts over multiethnic territories—Northern Ireland and the Bosnian cities of Mostar and Brčko—as well as some of the factors that have prevented Israelis and Palestinians from reaching a negotiated settlement regarding Jerusalem. It then applies insights from the literature and case studies to the situation in Kirkuk, drawing lessons that could positively shape future negotiations. Finally,

the report considers steps the United States and other outside parties might take to promote a peaceful resolution of the city's status.

The authors would like to thank Robert Perito of the U.S. Institute of Peace and Stephen Watts of RAND for the many insights they provided. The report is more thorough, comprehensive, and nuanced as a result of their contributions.

This research was sponsored by U.S. Forces–Iraq and conducted within the International Security and Defense Policy Center of the RAND National Defense Research Institute, a federally funded research and development center sponsored by the Office of the Secretary of Defense, the Joint Staff, the Unified Combatant Commands, the Navy, the Marine Corps, the defense agencies, and the defense Intelligence Community.

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Summary

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. Of all the issues that could spark violence between these groups, none is more explosive than the political and legal status of the city of Kirkuk.

Kirkuk is a microcosm of the most significant unresolved issues in post-Saddam Iraq: territorial disputes, division of oil and gas resources, and the power of the regions vis-à-vis Baghdad. Until political, legal, and constitutional disputes regarding these issues are settled at the national level, it will be difficult to determine the final status of the city, i.e., whether or not it should be incorporated into the Kurdistan Region.

In the meantime, city residents (especially minority Arabs and Turkomen) struggle with inadequate security, unresolved property disputes, unequal services, and other concerns that exacerbate ethnic tensions. Moreover, leaders in Baghdad and Erbil (the capital of the Kurdistan Region) have occasionally shown signs that they are considering the merits of taking the city by force before the other side does. Even assuming that Iraq's leaders all desire a peaceful settlement, their continued failure to resolve the political issues fueling the Kirkuk dispute—fundamental questions regarding federalism, the legal and political status of Kirkuk and other disputed territories, and the allocation of budgets and hydrocarbon resources—raises the likelihood that a local quarrel will boil over into widespread social unrest or even

an armed conflict between Iraqi and Kurdish forces.¹ Many observers would agree with political scientists Liam Anderson and Gareth Stansfeld, who wrote, “the future of Iraq hinges on finding a resolution to Kirkuk’s status that is mutually tolerable to all parties. . . . If no side is willing or able to compromise on Kirkuk, then the issue is destined to end in bloodshed.”²

Kirkuk is not the first ethnically heterogeneous territory to be fought over by different communities. Throughout modern history, governments and ethno-sectarian groups have settled disputes over ethnically mixed cities, regions, and countries through negotiations that established new structures for governance, instituted policies that either promoted assimilation or guaranteed communal autonomy, and defined relationships between the disputed territory and neighboring entities. Efforts to resolve these other conflicts, whether successful or not, can offer insights that may prove valuable in the effort to reach a negotiated solution regarding Kirkuk.

After providing an overview of the Kirkuk dispute, this report examines the academic literature regarding the governance of divided and multiethnic territories and regarding the most challenging aspects of ethno-territorial disputes—ethnic identity, security, sovereignty, and control over land. Next, it looks at agreements that resolved three earlier conflicts over multi-ethnic territories—Northern Ireland and the Bosnian cities of Mostar and Brčko—as well as some of the factors that have prevented Israelis and Palestinians from reaching a negotiated settlement regarding Jerusalem.³ It then applies insights from the litera-

¹ Larry Hanauer, Jeffrey Martini, and Omar al-Shahery, *Managing Arab-Kurd Tensions in Northern Iraq After the Withdrawal of U.S. Troops*, Santa Monica, Calif: RAND Corporation, OP-339-USFI, 2011.

² Liam Anderson and Gareth Stansfeld, *Crisis in Kirkuk: The Ethnopolitics of Politics and Compromise*, Philadelphia, Pa.: University of Pennsylvania Press, 2009, pp. 4, 7.

³ As will be demonstrated, negotiations regarding Jerusalem do not reflect many of the traits that have facilitated successful negotiations in other ethno-territorial conflicts. The absence of these characteristics alone cannot explain why Israelis and Palestinians have failed to reach a negotiated settlement, as disputes over Jerusalem involve a wide range of unique historical, theological, political, economic, and social factors. That said, by serving as a sort of foil to the other three case studies, the situation in Jerusalem helps highlight (through

ture and case studies to the situation in Kirkuk, drawing lessons that could positively shape future negotiations. Finally, it considers steps the United States and other outside parties might take to promote a peaceful resolution of the city's status.

Lessons from Conflict Resolution Literature

Given that ethnic minorities (primarily Arabs and Turkomen) represent roughly half of Kirkuk's population, any settlement that facilitates one group's dominance over the others is unlikely to hold. In conflicts in which the population in each piece of territory is relatively homogeneous but distinct from the other(s), agreements often lead to partition and either independence or autonomy. Because Kirkuk is so heterogeneous, however, and because it is a small enclave surrounded by Iraqi territory, partition is not a feasible solution.

The literature most relevant to Kirkuk's challenges is therefore that related to the sharing of power among interested groups. Where control of a distinct territory is an element of the dispute—often for geostrategic reasons or because a group's ethno-nationalist narrative accords great significance to the land—power-sharing solutions often include the granting of some measure of political autonomy to the area.

Where territorial solutions are infeasible or are by themselves inadequate to address all aspects of the dispute, settlements typically establish power-sharing structures that guarantee representation of minorities in government institutions, enable minorities to veto measures on certain critical issues (such as budgets or electoral reforms), call for proportional representation in the allocation of government jobs, and create an institutionalized dispute-resolution mechanism.

The process of reaching agreement on power-sharing structures can be as important as the content of the proposals. Small steps—confidence-building measures (CBMs) and efforts to reach agreement on minor issues—can create trust and facilitate peaceful coexistence.

their absence) the importance of factors that helped parties to the other conflicts reach agreements.

However, some conflicts are so multifaceted that an all-encompassing “grand bargain” is needed to prevent outstanding issues from undermining a partial settlement.

In many cases, third parties are critical to an agreement; they can help the parties to the conflict reach an agreement by brokering contacts and floating proposals, and they can help enforce agreements by applying political pressure, monitoring compliance, and moderating disputes over implementation. In an extreme form of outside involvement, direct international administration can create an environment conducive to the development of sustainable governing institutions; such a solution requires extensive political and economic support from the international organizations or countries that commit to this sort of “caretaker” arrangement.

Case Studies

Brčko, Mostar, Northern Ireland, and Jerusalem were selected as case studies because they resemble Kirkuk in many respects. Among them:

- Questions of sovereignty and territorial control were critical to all parties’ interests, yet their ethnic composition and geographic location (and, in the case of Jerusalem, religious factors) made formal partition impractical.
- Minority communities sought political, economic, cultural, and physical protections through political institutions, security service reform, and autonomy in (or protections for) cultural affairs.
- The multifaceted nature of the disputes has led grand bargains to be considered and even implemented, yet the repeated deferral (or renegotiation) of contentious issues made grand bargains more difficult to reach.
- Third parties have been actively involved in reaching and (except for Jerusalem) enforcing negotiated settlements.

In examining the ways in which these issues were addressed in negotiated settlements to various conflicts, this report considers

whether the settlements offer lessons that can be applied to discussions regarding Kirkuk. To the extent that the case studies address common challenges in similar ways, it is worth considering whether these commonalities represent best practices in resolving ethno-territorial conflict.

Lessons Learned

The case studies and literature examined in the report offer a range of lessons to leaders (both local and national) of the Arab, Kurd, and Turkoman communities—as well as interested third parties, such as the United States and United Nations (UN). These lessons relate to the substantive issues that should be addressed in a dialogue regarding Kirkuk, the negotiating process, and the effect of political and social dynamics.

Impact of Political and Social Dynamics

1. Fragmentation among representatives of a community can lead to inflammatory “ethnic outbidding” and resistance to compromise, as political figures try to present themselves as better advocates of their communities’ parochial interests than their rivals. Such divisions can empower spoilers and make compromises more difficult. Efforts to encourage community representatives to adopt common objectives or a shared platform may help moderate these trends.
2. The existence of civil society organizations, even at a local level, can help create an environment conducive to negotiations and foster intercommunal ties necessary to sustain political and social collaboration. The creation of such organizations where they do not already exist may make these conditions more likely to emerge.
3. Empowered and representative local political leaders can raise the profile of local interests in national-level policy debates. Their influence may help focus political dialogue on the need

to find concrete solutions to local disputes rather than the continuing advocacy of broad nationalist or ideological narratives.

Substance

1. Minimizing the symbolic importance of territorial control and sovereignty can help the parties focus on their pragmatic interests rather than on intractable nationalistic imperatives.
2. Direct international administration of a territory can help mitigate ethnic tensions and promote interethnic collaboration over time, but it is not a sustainable long-term solution.
3. The chances for successful power-sharing can be improved if newly created political mechanisms (a) allow meaningful participation in government by all groups, (b) protect minority groups' core interests, (c) marginalize obstructionists and extremists, and (d) promote proportional representation in the government apparatus.
4. Ensuring that newly established political mechanisms are able to adapt to future changes—particularly in demographics, economic prosperity, and state capacity—can preserve confidence in newly established political institutions and help prevent future political conflict.
5. Minority groups' sense of security and, therefore, their confidence in a political settlement can be enhanced if they receive some degree of control over community-specific affairs, whether through some form of political autonomy or the ability to influence matters related to culture.
6. All residents' feelings of security can be enhanced if internal security forces (police) are professionalized, demilitarized, depoliticized, and diversified to represent all constituencies.
7. To shape nascent political institutions and processes, parties to a conflict should discuss whether their long-term objective is for communities to shift their identities and loyalties to a single civic entity (assimilation) or to ensure that distinct communities have effective political participation, representation in government, and political/cultural protections (accommodation).

After a settlement is reached, the achievement of these political and social objectives can be advanced through government policies in such areas as education and housing. (In other words, a strategy to promote political assimilation would be undermined by policies that encourage ethnic segregation.) Near-term tensions exacerbated by greater interactions between ethnic groups can be mitigated by policies or government structures (such as separate civil and family law courts) that encourage greater communal autonomy in the cultural arena.

Negotiating Process

1. Before negotiations even start, parties to the conflict must be prepared to make compromises. If they feel that continued conflict will advance their aims more than a peaceful settlement, they are unlikely to be committed to negotiations.
2. Confidence-building measures can help create trust between the parties and, over time, facilitate more substantive negotiations.
3. Because residents of a disputed territory have an interest in finding practical solutions to local problems, progress in pursuing bottom-up solutions could demonstrate that meaningful collaboration is possible and, by alleviating local tensions, provide “breathing space” for national-level officials to resolve strategic challenges.
4. A third party that is widely perceived as both impartial and influential should be actively engaged at a senior level to promote ongoing dialogue among the communities’ leaders.
5. International involvement in an agreement’s implementation could help bridge gaps preventing an agreement, as well as help implement a settlement and build political institutions needed for long-term stability. Direct international administration of a territory—an extreme form of outside involvement—can be effective as a temporary measure, but the parties must still agree on the results that international administration is intended to generate.

6. Widening the range of issues on the negotiating table could mitigate the zero-sum dynamic and help create opportunities for trade-offs, so long as partial progress is not stymied by efforts to secure a comprehensive grand bargain.
7. Deferring especially controversial topics could avoid stalemate in negotiations, though deferrals are more effective in ultimately producing agreement if they include some mechanism to ensure that contentious issues are not put off indefinitely. Tasking a neutral third party to propose solutions to especially difficult topics could eliminate obstacles to discussions while also ensuring that critical issues are addressed.
8. Neighboring ethnic kin-states or regions can play important roles in reaching, implementing, or even blocking an agreement.

Steps to Promote a Settlement for Kirkuk

Third parties have been critical to the settlement of recent ethno-territorial conflicts, including in Iraq, where the United States has played the primary mediation role. In northern Iraq, both Iraqi and Kurdish security forces view the United States as the lynchpin of the tripartite combined security mechanism (CSM), which has fostered cooperation between the two forces and reduced tensions in the region. Given this record of U.S. engagement, and given that the United States is seen as a trusted third party by both Iraqi and Kurdish officials, the United States would likely be the most effective neutral broker.⁴ Though the United Nations' reputation in northern Iraq is poor, it could still play some role in fostering better intercommunal relations.

The United States, the UN, and others in the international community can take a number of steps to create an environment conducive to negotiations and directly facilitate Arab-Kurd talks.

⁴ David C. Gompert, Terrence K. Kelly, and Jessica Watkins, *Security in Iraq: A Framework for Analyzing Emerging Threats as U.S. Forces Leave*, Santa Monica, Calif.: RAND Corporation, MG-911-OSD, 2010, p. 28.

1. *Promote the emergence of local civil society and political leaders.* The State Department and U.S. Agency for International Development (USAID) could place higher priority on (and devote more resources to) municipal governance, political party development, and civil society initiatives in Kirkuk. Local civic groups and political parties that are independent of the major national organizations might be able to reach beyond ethnic constituencies and create dialogue on issues of interest to all Kirkuk residents.
2. *Foster CBMs.* The UN Assistance Mission for Iraq (UNAMI) is well-suited to continue its efforts to develop grassroots-level confidence-building measures and intercommunal dialogue in Kirkuk.
3. *Pursue top-down and bottom-up solutions simultaneously.* While continuing to pressure national leaders to resolve outstanding strategic issues, the United States and other international actors could simultaneously facilitate discussions among local leaders of Kirkuk's communities to address municipal governance, public services, housing, and other local issues. Such grassroots problem-solving could help separate issues of local concern from national debates and reduce local tensions.
4. *Decide whether and how the United States will remain involved in the CSM.* Although the United States withdrew all of its troops from Iraq by December 31, 2011, both U.S. and Iraqi officials have hinted that the Iraqi government may yet request that small numbers of U.S. forces return to Iraq on temporary or short-term training missions; if this comes to pass, U.S. troops could continue building the capacity of Iraqi and Kurdish units engaged in the CSM. Alternatively, a Kirkuk-based U.S. diplomat—either a State Department civilian or a military officer affiliated with the Embassy's Office of Security Cooperation—Iraq—could serve as a liaison to the CSM. Such an approach would make the CSM, for all practical purposes, a bilateral Iraqi-Kurdish mechanism, however. Determining the form of U.S. involvement (if any) would enable planning to

begin for the continuation of CSM initiatives or for a suitable substitute.

5. *Designate a special envoy.* Arab-Kurd-Turkoman discussions regarding Kirkuk would likely advance if the United States designated a senior-level envoy who has high-level support in Washington to play an active facilitation role. Such an official would have greater ability to facilitate discussions, identify potential compromises, and keep a negotiating process moving than the previous U.S. envoys for Arab-Kurd issues—career diplomats who served one-year terms and were subordinate to the U.S. ambassador.

Iraqi and Kurdish leaders can also take steps to reduce ethnic tensions and facilitate substantive discussions about the city's future.

1. *Demilitarize Kirkuk.* Iraqi and Kurdish leaders have unofficially agreed to demilitarize Kirkuk city, with Iraqi Security Force units stationed south of the city and Kurdish units north of it. Institutionalizing this de facto arrangement would demonstrate commitment on both sides to avoiding a clash over Kirkuk.
2. *Insulate local security institutions from ethnicity.* The Kurdistan Regional Government could be encouraged to transition all security responsibilities from the Kurdish *asayesh* to the multi-ethnic Kirkuk municipal police, which would benefit from an extensive police training and professionalization program.

Abbreviations

CBM	confidence-building measure
CIVPOL	civilian police
CSM	combined security mechanism
EU	European Union
EUAM	European Union Administration of Mostar
GFA	Good Friday Agreement
IEBL	inter-entity boundary line
ISF	Iraqi Security Forces
KRG	Kurdistan Regional Government
NATO	North Atlantic Treaty Organization
OHR	Office of the High Representative
PA	Palestinian Authority
UK	United Kingdom
UN	United Nations
UNAMI	United Nations Assistance Mission for Iraq
USF-I	U.S. Forces–Iraq

Introduction

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. Of all the issues that could spark violence between these groups, none is more explosive than the political and legal status of the city of Kirkuk.

Kirkuk is a microcosm of the most significant unresolved issues in post-Saddam Iraq: territorial disputes, division of oil and gas resources, and the power of the regions vis-à-vis Baghdad.¹ Until political, legal, and constitutional disputes regarding these issues are settled, it will be difficult to determine the final status of the city, i.e., whether or not it should be incorporated into the Kurdistan Region. In the meantime, residents (especially minority Arabs and Turkomen) struggle with inadequate security, unresolved property disputes, unequal services, and other concerns that exacerbate ethnic tensions. Moreover, leaders in Baghdad and Erbil—the capitals of Iraq and its Kurdistan Region, respectively—have occasionally shown signs that they are considering the merits of taking the city by force before the other side does.

If left unresolved, disputes over the city could lead to violence, driven either by escalating local tensions or by national political leaders who decide that dramatic moves are needed to end the stalemate. Many observers would agree that “it is no exaggeration to assert that the future of Iraq hinges on finding a resolution to the problem of

¹ Stefan Wolff, “Governing (in) Kirkuk: Resolving the Status of a Disputed Territory in Post-American Iraq,” *International Affairs*, Vol. 86, No. 6, 2010, p. 1372.

Kirkuk's status in a way that is mutually tolerable to all parties. . . . If no side is willing or able to compromise on Kirkuk, then the issue is destined to end in bloodshed."²

The United States, having spent significant amounts of blood and treasure to bring stability and democracy to Iraq, has many interests in resolving the Kirkuk dispute.³ To enable Iraq's continued political and economic development, the United States seeks to prevent the secession of the Kurdistan Regional Government (KRG) and foster solutions to constitutional and legal issues that increasingly integrate the KRG into the Iraqi state. Washington also is eager to promote exploration, drilling, and export of Iraq's oil and gas to generate funds needed for political stability and the economic development of the KRG and Iraq as a whole. In the security sphere, the United States wants to prevent a security vacuum that could be exploited by extremists and avoid unrest that could lead to Turkish or Iranian intervention. Violence in (or regarding) Kirkuk could undermine all of these objectives. Therefore, to create the security and stability needed to achieve these goals, the United States wishes to prevent conflict between Arabs and Kurds.

Kirkuk is not the first ethnically heterogeneous territory to be fought over by different communities. Throughout modern history, governments and ethno-sectarian groups have settled disputes over ethnically mixed cities, regions, and countries through negotiations that established new structures for governance, instituted policies that either promoted assimilation or guaranteed communal autonomy, and defined relationships between the disputed territory and neighboring entities. Efforts to resolve earlier (and ongoing) conflicts, whether successful or not, can offer insights that may prove valuable in the effort to reach a negotiated solution regarding Kirkuk.

Many observers have proposed policy solutions to the Kirkuk dispute, offering specific recommendations regarding how boundaries should be drawn, elections held, power shared, and oil resources

² Liam Anderson and Gareth Stansfield, *Crisis in Kirkuk: The Ethnopolitics of Politics and Compromise*, Philadelphia, Pa.: University of Pennsylvania Press, 2009, pp. 4, 7.

³ Ambassador James Jeffrey and General Lloyd Austin, Testimony Before the Committee on Armed Services, U.S. Senate, February 3, 2011.

divided. Ultimately, however, it is up to the parties themselves to develop the terms of an agreement. Rather than propose solutions, this monograph presents the *types* of solutions and approaches that should be considered in the development of a proposed settlement, drawing on case studies to assess whether measures have been successful in the past and whether they might be of value in resolving the Kirkuk dispute. It also identifies ways in which the United States, the international community, and the parties themselves can facilitate the conduct of negotiations and create an environment that is conducive to a negotiated settlement.

After providing an overview of the Kirkuk dispute, this report examines the academic literature relevant to its most challenging aspects—ethnic identity, security, and sovereignty and territorial control—as well as regarding the governance of divided and multi-ethnic territories. Next, it looks at agreements that resolved three earlier ethno-territorial conflicts—Northern Ireland and the Bosnian cities of Mostar and Brčko—and considers some of the factors that have prevented Israelis and Palestinians from reaching a negotiated settlement regarding Jerusalem.⁴ It then applies insights from the literature and case studies to the situation in Kirkuk, drawing lessons that could shape future negotiations. Finally, it considers steps the United States and other third parties might be able to take to promote a peaceful resolution of the city's status.

Brčko, Mostar, Northern Ireland, and Jerusalem were selected as case studies because they resemble Kirkuk in many respects.

- Their ethnic composition and geographic location (and, in the case of Jerusalem, religious factors) made formal partition impractical.

⁴ As will be demonstrated, negotiations regarding Jerusalem do not reflect many of the traits that have facilitated successful negotiations in other ethno-territorial conflicts. The absence of these characteristics alone cannot explain why Israelis and Palestinians have failed to reach a negotiated settlement, as disputes over Jerusalem involve a wide range of unique historical, theological, political, economic, and social factors. That said, by serving as a sort of foil to the other three case studies, the situation in Jerusalem helps highlight (through their absence) the importance of factors that helped parties to the other conflicts reach agreements.

- Nationalistic rhetoric complicated efforts to resolve practical governance challenges.
- The question of sovereignty was an important element of the dispute, whether for practical or historical/nationalistic reasons.
- Territorial control (separate and apart from sovereignty) was critical to all parties' interests and negotiating positions. (In Northern Ireland, this question manifested itself in the form of involvement in the territory's affairs—rather than control of the territory—by the two parties' ethnic “kin-states,” Great Britain and the Republic of Ireland.)
- Minority communities sought to secure political, economic, cultural, and physical protections in the form of political representation, security service reform, or autonomy in (or protections for) cultural affairs. Minorities' allegations of abuses by ethnically homogeneous security forces exacerbated ethnic divisions and fueled unrest.
- Third parties have been actively involved in negotiating and (except for Jerusalem) implementing settlements.
- The most contentious elements of the disputes were deferred for future resolution. (Questions regarding how to govern Brčko and Mostar were themselves deferred elements of the Dayton Accords.)
- Efforts to resolve local conflicts (over such issues as housing, property, security, and local power-sharing) were complicated by national-level politics.
- The multifaceted nature of the disputes has led “grand bargains” to be considered and even implemented.
- With the exception of Northern Ireland, international administration has been implemented as an interim solution (in the cases of Brčko and Mostar) or spoken of as a potential solution (in the case of Jerusalem).
- With the exception of Northern Ireland, disputes exist regarding residency, property claims, and the political rights of people who previously fled the territory. In Northern Ireland, similar disputes centered on whether residents of Northern Ireland would have political rights in the southern Republic of Ireland.

Of course, although parties to the disputes in Brčko, Mostar, and Northern Ireland reached agreements, Israel and the Palestinian Authority (PA) have yet to agree on a negotiated settlement to Jerusalem. Certainly, the perpetuation of the conflict over Jerusalem cannot be explained solely by the parties' failure to agree on the small number of issues examined here; many other dynamics influence the dispute over a city with such significance to the world's three largest faith communities. That said, the difficulty of resolving conflicts over Jerusalem is illustrated by Israelis' and Palestinians' inability to reach consensus on issues that were critical to agreements in the other three case studies.

Scope Note

In addition to Kirkuk city, the KRG and the central government have been unable to agree on jurisdiction over a number of areas in northern Iraq. The KRG has made unilateral political claims to a great deal of territory outside its formal boundary, including the entire province of Kirkuk, from which large numbers of Kurds were expelled during Saddam Hussein's "Arabization" campaign and to which many Kurds have since returned.⁵ Disputes have arisen when one of the sides has taken steps (or appeared to have taken steps) to change the status quo, such as when Kurds attempted to increase control over enclaves outside the KRG but populated mostly by ethnic Kurds and when Iraqi Security Forces (ISF) moved in the direction of a disputed area.

Although many issues discussed in this report—particularly those related to hydrocarbons—relate to Kirkuk province as a whole, the report focuses primarily on the disputes regarding Kirkuk *city* for four primary reasons. First, constant economic, social, and political interactions between members of different communities make heterogeneous urban areas, in general, particularly volatile.⁶ Second, Kurds, Turkomen, and (to a lesser extent) Arabs ascribe great symbolic impor-

⁵ International Crisis Group, *Iraq and the Kurds: Resolving the Kirkuk Crisis*, Middle East Report No. 64, April 19, 2007, pp. 8–9, especially footnote 58. See also a map of disputed territories claimed by the KRG in International Crisis Group, *Iraq and the Kurds: Trouble Along the Trigger Line*, Middle East Report No. 88, July 8, 2009, p. 30.

⁶ Scott Bollens, "Governing Polarized Cities," discussion draft of presentation to University of Pennsylvania Sawyer Seminar, October 28, 2008, pp. 1–2.

tance to Kirkuk city as a central element of each group's history, culture, and national identity, which elevates its significance above that of other disputed areas. Third, Kurdish leaders have made the status of the city a high-profile political symbol of Kurdish autonomy, asserting that the city should be the capital of the Kurdistan Region; Arab and Turkoman politicians, eager to bind the Kurdistan Region more closely to the central government, have opposed any measures that hint at greater independence from Baghdad. Fourth, as a result, although any of the disputed areas could experience intercommunal violence or a conflict between Kurdish and Iraqi security forces, these factors make Kirkuk city the place where interethnic conflict is likely to have the greatest effect on Iraq's internal affairs.

Kirkuk

Kirkuk—like Jerusalem—was once a relative backwater of the Ottoman Empire, with a small, ethnically mixed population. The discovery of oil in the early 20th century, however, attracted large numbers of Arab and Kurdish settlers who established ethnically homogeneous neighborhoods in the city.¹ Over the following decades, as Iraq's rulers changed, ethnic affiliation became a source of conflict.² Turkomen's status declined with the end of Ottoman sovereignty over the area and the influx of Arab and Kurdish economic migrants, and hundreds of Turkomen were massacred in July 1959 by pro-communist Kurds.³ Kurds and Turkomen suffered discrimination, expulsion, and even massacres under Saddam Hussein, who instituted a policy of "Arabization"; Arabs faced similar consequences after Saddam's overthrow, when Kurdish militias seized new territory and instituted a "Kurdification" policy.

The conflict between Arabs, Kurds, and Turkomen in Kirkuk does not stem from "ancient hatreds" but is rather a manifestation of

¹ Sean Kane, *Iraq's Disputed Territories: A View of the Political Horizon and Implications for U.S. Policy*, Peaceworks Paper No. 69, Washington, D.C.: U.S. Institute of Peace, March 2011, p. 22. Oil was discovered at Baba Gurgur, just north of Kirkuk, in October 1927. See James Bamberg, *The History of the British Petroleum Company: Volume 2—The Anglo-Iranian Years, 1928–1954*, Cambridge, UK: Cambridge University Press, 1994, p. 157.

² A. C. Hepburn, *Contested Cities in the Modern West*, Hampshire, UK: Palgrave MacMillan, 2004, p. 193.

³ Reuters, "Fighting in Iraq Said to Continue," *New York Times*, July 21, 1959, p. 1. See also "Order Reigns After Battle in Iraqi City," *Spokane Daily Chronicle*, July 21, 1959; and "Iraqi Air Force Planes Hit Communist Rebel Positions," *Press-Courier*, July 21, 1959.

competition for political control, resources, and territory over the past 100 years. Periodic ethnicity-based atrocities have reinforced and escalated intercommunal hostility.⁴ As a result, the conflict is often characterized by references to historical narratives and nationalist symbolism, with Arabs, Kurds, and Turkomen calling for redress of historical wrongs and restoration of an era in which Kirkuk was “theirs.”⁵ Iraqi President Jalal Talebani, for example, has called the city “the Kurdish Jerusalem,”⁶ and KRG President Massoud Barzani has asserted that “Kirkuk is the symbol of the suffering of the Kurdish people.”⁷

The current dispute over Kirkuk centers on whether the city should be placed under the Kurdistan Regional Government’s jurisdiction or left outside the KRG’s boundaries. The resolution of Kirkuk’s status—a question that touches on federalism, territory, ethnic nationalism, and control over billions of dollars in energy resources—will have sweeping political, economic, and social implications for the country as a whole. If the KRG gains control of Kirkuk, its oil and gas revenues would contribute significantly to the development of the Kurdistan Region and empower the KRG to pursue its priorities independently of Baghdad. In contrast, if the central government continues to exercise jurisdiction over Kirkuk and its resources, the resulting state-controlled mechanisms to manage and allocate hydrocarbon resources will integrate the KRG more thoroughly into the Iraqi state.⁸

⁴ Thomas S. Szayna, ed., *Identifying Potential Ethnic Conflict: Application of a Process Model*, Santa Monica, Calif.: RAND Corporation, MR-1188-A, 2000, pp. 12–13.

⁵ Anderson and Stansfield, 2009, p. 6.

⁶ Rawya Rageh, “Iraq Tensions Rise over Kirkuk,” *Al-Jazeera*, April 17, 2011. See also Raber Younis Aziz, “Talebani Criticized for Designating Kirkuk ‘Jerusalem of Kurdistan,’” *aknews.com*, March 9, 2011.

⁷ Robin Wright, “Kurdish Eyes on Iraq’s Future,” *Los Angeles Times*, November 24, 2002.

⁸ Control over oil revenues is seen as critical to Arab efforts to solidify central government control and Kurdish aspirations to achieve greater autonomy (and perhaps eventually independence). As an April 2010 RAND report asserts, “[f]or Kurds, autonomy in oil policy is symbolically, and substantively, central to the viability of their regional government and, through the 17 percent revenue share, tangible proof that ethnic Kurds benefit from being part of a federal Iraqi state. For Arabs, a national strategy for oil and gas is similarly synonymous with the viability of the state, and Kurdish refusal to cooperate contributes to fears of

Current frictions are caused principally by Iraqi leaders' manipulation of nationalist sentiment for political advantage, which in turn makes a peaceful resolution of Kirkuk's status less likely.⁹ Nationalism frequently drives an "all or nothing" approach to conflict resolution, which makes compromise difficult. Conflicts based on identity "are less amenable to rational calculations of costs and benefits," writes political scientist Barbara Walter. "[C]ombatants fighting over issues tied to their identities will have greater difficulty reaching a compromise settlement than those fighting over more negotiable political or economic issues."¹⁰ If Iraqi leaders were to focus on concrete policy and governance challenges instead of nationalist demands and declarations, negotiators would be better able to offer (and generate support for) compromises, which could lead to mutually acceptable solutions.

Failure to resolve questions of federalism that are central to the Iraqi polity—specifically, the division of power, territory, and resources between the central government and the regions—has exacerbated these tensions.¹¹ Iraqi leaders have been unwilling or unable to reach agreement on critical constitutional questions that must be addressed if Kirkuk's status is to be settled. Kirkuk is a venue in which these broader national debates are playing out.

Because Iraqi political parties have failed to develop a national legal framework to govern Iraq's hydrocarbon resources, control over northern Iraq's oil fields—the largest of which lies, in part, directly under

Kurdish separatism and a reminder of tenuous Iraqi sovereignty in the north." See Charles P. Ries, "Arab-Kurdish Tension over Oil Policy: What Are the Issues? And, What to Expect in Government Formation Bargaining?" Santa Monica, Calif.: RAND Corporation unpublished research, April 2010, pp. 7–8. Not publicly available.

⁹ David C. Gompert, Terrence K. Kelly, and Jessica Watkins, *Security in Iraq: A Framework for Analyzing Emerging Threats as U.S. Forces Leave*, Washington, D.C.: RAND Corporation, 2010, p. 53.

¹⁰ Barbara F. Walter, *Committing to Peace: The Successful Settlement of Civil Wars*, Princeton, N.J.: Princeton University Press, 2002, p. 12.

¹¹ According to energy expert Raad Alkadiri, "[a]s long as the issue [of federalism] remains unresolved, it will continue to be a source of deep instability, far more so than the ethno-sectarian divisions that have traditionally been regarded as the principal source of violence in the country. See Raad Alkadiri, "Oil and the Question of Federalism in Iraq," *International Affairs*, Vol. 86, No. 6, 2010, p. 1328.

Kirkuk city—is secured through control of the territory above them. Territorial control over Kirkuk is thus, in the absence of a resource-sharing agreement, a highly lucrative asset worth fighting over.¹² If Iraqi leaders were to pass a hydrocarbons law that allocates responsibility for managing oil and gas resources and divides the income from their sale, the status of Kirkuk’s land could be resolved separately from that of its oil; without billions of dollars at stake, it should be easier to reach a negotiated settlement on the city’s status.

Security is an especially important issue for residents of the city, and the security services’ perceived pro-Kurdish bias is a significant irritant in intercommunal relations. Kurds see the presence of Kurdish internal security services (*asayesh*) as a measure that will help prevent a federal takeover or another massacre or mass expulsion of Kurds.¹³ Arabs and Turkomen, however, see the *asayesh* as hostile forces that abuse non-Kurds, institutionalize Kurdish dominance, and actively advance Kurdish interests at their expense.¹⁴ Polling conducted by U.S. Forces—Iraq (USF-I) in early 2011 showed that 88 percent of Kurds in Kirkuk province trust or strongly trust Kurdish *peshmerga*, and 87 percent trust or strongly trust the *asayesh*; in contrast, more than three-quarters of Kirkuk’s Arabs and Turkomen distrust the Kurdish security forc-

¹² The city and province of Kirkuk together have 12 percent of Iraq’s oil reserves—as much as 15 billion barrels out of Iraq’s proven reserves of 115 billion barrels. See Henri J. Barkey, *Preventing Conflict over Kurdistan*, Washington, D.C.: Carnegie Endowment for International Peace, 2009, p. 16. See also International Crisis Group, *Oil for Soil: Toward a Grand Bargain on Iraq and the Kurds*, Middle East Report No. 80, October 28, 2008, p. 19. The Kirkuk “supergiant” oil field alone contains approximately nine billion barrels of commercially recoverable reserves. See Michael Knights with Ahmed Ali, *Kirkuk in Transition: Confidence Building in Northern Iraq*, Washington Institute for Near East Policy, Policy Focus #102, April 2010, p. 8. By not creating a political and legal environment in which the north’s oil can be extracted and exported, it is estimated that the central government forgoes \$3 billion per year in potential revenues and the KRG forgoes \$620 million per year. (Estimates are based on the assumptions of 100,000 b/d production and a price of \$100 per barrel.) The KRG has entered into contracts with a number of small energy firms—a step that Baghdad vehemently opposes—but the legal uncertainty has kept the major international oil companies from investing to date. See International Crisis Group, 2008, p. 25.)

¹³ Knights, 2010, p. 34.

¹⁴ Knights, 2010, pp. 20, 28–30, 36. See also Richard A. Oppel, Jr., “Kurdish Control of Kirkuk Creates a Powder Keg,” *New York Times*, August 19, 2008.

es.¹⁵ Kirkuk's roughly 7,000-member municipal police force is multi-ethnic¹⁶ and thus perceived by residents as being more evenhanded.

Baghdad and Erbil have agreed to keep their armed forces outside the city limits, though both sides have troops nearby; elements of the Iraqi Army's 9,000-strong 12th Division operate just south of the city, and the Kurdish 10th Peshmerga Brigade is based just north and east of it.¹⁷ These units' absence from the city itself precludes either side from preventing an outbreak of ethnic violence, and the municipal police have limited ability to contain large-scale unrest. As a result, extensive or prolonged violence between the Arab, Kurdish, and Turkoman communities could easily spiral out of control.

To support maximalist negotiating positions in a territorial dispute that both Arab and Kurdish parties see as zero-sum, Iraq's national leaders present questions of internal boundaries and revenue-sharing as emotionally charged, nationalistic issues. Iraq's national-level elites thus have a vested interest in perpetuating divisive rhetoric that portrays each ethnic community's interests in Kirkuk as being diametrically opposed by the others'. At the local level, however, Kirkuk's residents are eager to work out solutions that improve their living conditions and improve the quality of local governance. The United Nations Assistance Mission for Iraq (UNAMI), in its April 2009 report on disputed areas, wrote that "the locals are more focused on the 'day-to-day aspects of normalization' than the grand bargains being pursued at the national level. . . . Local groups are focused on housing and economic opportunity rather than Kirkuk's oil or symbolic status."¹⁸ National leaders,

¹⁵ U.S. Forces-Iraq (USF-I/J2/A&P), "Security Perceptions of Kirkuk's Arab, Kurdish, and Turkoman Populations," June 20, 2011, p. 3.

¹⁶ Liam Anderson, "Power-Sharing in Kirkuk: Conflict or Compromise?" paper prepared for a conference on Globalization, Urbanization, and Ethnicity, Ottawa, December 3–4, 2009, p. 15.

¹⁷ "Kurds Move to Upend the Status Quo in Kirkuk," NPR.org, March 30, 2011. See also "Kirkuk and Khanaqin on Alert," *Kurdish Globe*, January 22, 2009.

¹⁸ Knights, 2010, p. 38. Joost Hiltermann, a Kurdish expert at the International Crisis Group, echoed this analysis, writing that though "Kirkukis themselves desperately want a negotiated, peaceful and consensual solution," what they want "in the meantime [is] dramatic improvements in their living conditions through effective governance and reconstruc-

“who are perceived as complicating the [Kirkuk] issue and using it to serve their own agendas,”¹⁹ pay little attention to these types of local issues, and they have mostly excluded local community leaders from discussions on the city’s fate.

This is a significant omission given that the debate over who controls Kirkuk and its resources has implications for who will *govern* a city of 900,000 people—roughly half the population of the province as a whole.²⁰ Arab, Kurdish, and Turkoman communities are so intermingled in Kirkuk city that disputes over perceived discrimination, lack of opportunities, or discrepancies in service delivery could catalyze an intercommunal conflict that draws in Iraqi and Kurdish security forces and destabilizes the country. If residents’ daily needs are met, they may be less likely to focus on ethnic divisions and less vulnerable to nationalist rhetoric.²¹ Solutions to local governance challenges—intercommunal power-sharing at the municipal level, police legitimacy, resolution of property disputes, and the establishment of schools that teach in minority languages—must be developed to manage local tensions before they explode.

In the absence of policies that address these contentious issues, civil society organizations could help build trust among Arab, Kurdish, and Turkoman communities, thereby helping to contain tensions and even undertake grassroots efforts to address local problems. But few civil society organizations exist in Kirkuk—or even elsewhere in the Kurdistan Region—that are independent of the two leading Kurdish parties,²² and thus few are able to bring members of different ethnic groups together to advance shared interests.

A potentially complicating factor is each ethnic group’s interest in maintaining ties with their ethnic “kin-state” or region—the

tion.” See Joost Hiltermann, “Iraq: Everyone Wants a Piece of Kirkuk, the Golden Prize,” *The National*, February 26, 2009.

¹⁹ Knights, 2010, p. 37.

²⁰ Wolff, 2010, p. 1369.

²¹ Discussion with senior Iraqi official, May 18, 2011.

²² Kamal Said Qadir, “Iraqi Kurdistan’s Downward Spiral,” *Middle East Quarterly*, Vol. XIV, No. 3, Summer 2007, pp. 19–26.

KRG for Kurds, the Iraqi central government for Arabs, and Turkey for Turkomen. The challenge associated with this dynamic is ensuring that these entities play productive roles instead of manipulating events in Kirkuk or using the suffering of their local “kin” as justification for unilateral actions or for reneging on their commitments.²³

Turkey has the potential to play constructive or counterproductive roles in northern Iraq, and the management of the Kirkuk dispute will help determine which course of action Turkey pursues. Because of its own restive Kurdish minority population, the Turkish government is vehemently opposed to the emergence of an independent Kurdish state; Ankara has made clear that the KRG’s occupation or annexation of Kirkuk, which Turkey sees as a precursor to Kurdish independence, would trigger a significant Turkish response.²⁴ To encourage Turkey to contribute positively to northern Iraq’s political and economic development, efforts to settle the status of Kirkuk will need to include some steps to accommodate Turkey’s interests.

²³ Knut Vollebaek, High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe, has asserted that formal documents defining how states can support their ethnic kin elsewhere can mitigate suspicions and engender cooperation—an approach that played a critical role in the Northern Ireland Good Friday Agreement. Knut Vollebaek, Welcoming Remarks, Round Table on the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations and Their Implementation in the Region of Central and Eastern Europe, Vienna, February 16, 2010, pp. 2–3.

²⁴ Barkey, 2009, p. 8. See also Bill Park, *Turkey’s Policy Towards Northern Iraq: Problems and Perspectives*, Adelphi Paper No. 374, Abington, Oxon: Routledge for the International Institute for Strategic Studies, 2005, pp. 19–20, 24, 34.

Approaches to Resolving Ethno-Territorial Disputes

A large body of academic and policy literature lays out a variety of approaches that have been used to resolve past ethno-territorial disputes. These include the creation of political power-sharing mechanisms, the granting of territorial and cultural autonomy, and protection of minority group interests.

Territorial Compromise

In ethnic and sectarian conflicts, territory is often closely linked to group identity; enormous symbolic importance is attached to the locations where the group's history transpired, where its holy sites may be located, and where the group at one point exercised power and dominated the culture (or, alternatively, where it suffered at the hands of another group). When conflicts involve land that has acquired such significance, it is often the case that "the symbolic attachment of territory comes to the forefront in political decision-making."¹ Productive negotiations over such territory therefore require that leaders set aside symbolism and focus on concrete goals, interests, and potential trade-offs.²

¹ David Newman, "Real Spaces, Symbolic Spaces: Interrelated Notions of Territory in the Arab-Israeli Conflict," in Paul F. Diehl, ed., *A Road Map to War: Territorial Dimensions of Ethnic Conflict*, Nashville, Tenn.: Vanderbilt University Press, 1999, pp. 27–28.

² Newman, 1999, pp. 27–28.

When neither party to a conflict is strong enough to capture all disputed territory by force, a settlement or peace agreement often divides disputed territory through *partition* or the granting of some form of *autonomy*. The partition of British India into predominantly Muslim and Hindu homelands caused hundreds of thousands of deaths and the displacement of millions of people while leaving in India a substantial Muslim minority and, even so, failed to resolve the status of disputed borders in Kashmir.

In many cases, such as Kashmir, partition simply reshapes and perpetuates an ethno-territorial conflict, creating new minorities in need of protection as the territory under dispute is sliced into ever smaller pieces. The partition of Ireland in 1921 created a self-governing, peaceful and democratic southern Ireland; however, it left the north ethnically divided and transformed the local Catholic community, which had been part of an island-wide sectarian majority, into a powerless minority. The struggle for Irish self-determination thus continued in a different form.

Autonomy ensures that minorities are able to participate in political institutions and offers opportunities to protect and advance minority cultures. A group can be granted some degree of *territorial autonomy* or self-government over a defined area, such as a region or a province in which many members of the group reside. Examples include Scotland, Spain's Basque Country, and Iraq's Kurdistan Region, to which certain powers have devolved.³ *Nonterritorial autonomy* can be granted by allowing each community to select its own representatives or manage certain aspects of its affairs regardless of where its members reside. A notable historical example is the Ottoman millet system, in which non-Muslims had significant autonomy over cultural and religious matters.⁴ Self-governing structures can also be based on a *combination of territo-*

³ Scholar Stefan Wolff defines five categories of territorial self-governance: confederation, federation, autonomy (self-rule within an otherwise unitary state), devolution, and decentralization. See Stefan Wolff, "Territorial Approaches to Conflict Resolution in Divided Societies," in Stefan Wolff and Christalla Yakinthou, eds., *Conflict Resolution: Theories and Practice*, London and New York: Routledge, 2011.

⁴ Stefan Wolff, *Disputed Territories: The Transnational Dynamics of Ethnic Conflict Settlement*, Oxford, UK: Berghahn Books, 2003, pp. 210–211.

rial and nonterritorial autonomy, in which matters of common concern to residents of a defined geographic area are handled by an entity with territorial jurisdiction, and minority communities are granted autonomy over specific issues, such as education or culture. Belgium, for example, has granted limited autonomy to both its geographic regions and its ethnic communities. Although the federal government and parliament address matters of concern to all Belgians, the regional governments and parliaments of the Flemish, Walloon, and Brussels–Capital Regions have authority over certain issues in their respective territories, and Community Commissions representing Flemish-, French-, and German-speakers address cultural, educational, and linguistic matters for each language group no matter where in Belgium its members live.⁵

Although autonomy offers advantages to regions and minority groups, central governments often see autonomy as a precursor to secession and fear that other ethnic groups or regions will chip away at state powers by pursuing similar measures.⁶ During constitutional negotiations in Iraq, Arab leaders expressed these precise concerns in opposing Kurds' efforts to secure greater autonomy from Baghdad.

Power-Sharing Arrangements

Where such territorial solutions as partition or autonomy are not feasible, parties often seek nonterritorial solutions focused on shared roles in governance. Many settlements have established some form of power-sharing regime that ensures the effective political representation of minority groups and protects minority cultures in an effort to prevent domination by the majority group.

Power-sharing arrangements often involve a number of elements.

⁵ Belgian Federal Government, "The Powers of the Communities," undated-b. See also Belgian Federal Government, "The Federal Authorities," undated-a; Belgian Federal Government, "The Regions," undated-c; and Brussels Capital Region, "Community Institutions in Brussels," undated.

⁶ Peter Harris and Ben Reilly, eds., *Democracy and Deep-Rooted Conflict: Options for Negotiators*, Stockholm: International Institute for Democracy and Electoral Assistance, 1998, pp. 161–167.

- First is *guaranteed representation* in the executive and legislative branches of government to ensure that each group has influence on policymaking and legislation. Such arrangements could allocate certain positions to specific groups (e.g., Lebanon), rotate designated positions among groups (e.g., the Bosnian presidency), or establish co-equal decisionmakers (e.g., Northern Ireland's two First Ministers) or collective decisionmaking bodies (e.g., Iraq's Presidency Council under the transitional arrangements, which has since expired).
- Second, *minority groups are granted some form of veto* over decisions to protect their critical interests. Although the minority's ability to block action on an issue could create gridlock, it could also encourage groups to collaborate and develop centrist, mutually satisfactory solutions.
- Third, power-sharing arrangements typically call for *proportionality* in the allocation of government jobs—particularly in the civil service, police, and military—to give minorities “a permanent voice within the structures of the state”⁷ and thus prevent their marginalization in government administration.⁸
- Fourth, power-sharing agreements often call for an *institutionalized dispute resolution mechanism*, such as an appeal to an outside arbitrator or the requirement that a referendum be held to consider especially contentious issues (such as future changes to the arrangement).
- Fifth, an uncommon form of power-sharing—one that typically resolves a territorial conflict between two external powers with little regard for the territory's governance—is government in condominium, in which two external powers share sovereignty or control over the territory in question. Because of the complexity of joint governance, it is “[o]ften used as measures of last resort

⁷ Caroline A. Hartzell and Matthew Hoddie, *Crafting Peace: Power-Sharing Institutions and the Negotiated Settlement of Civil Wars*, University Park, Pa.: Pennsylvania State University Press, 2007, p. 29.

⁸ Ulrich Schneckenner, “Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict,” *Journal of Peace Research*, Vol. 39, No. 2, March 2002, pp. 204–205.

when efforts to resolve territorial disputes through negotiation have failed.”⁹ The most successful condominiums have been those in which the sovereigns permitted almost total self-government, such as in the Principality of Andorra and the Bosnian city of Brčko. Condominiums in which both sovereigns exercised extensive control, such as in the New Hebrides, have often failed miserably.

Power-sharing arrangements are inherently unstable; they can collapse as a result of mistrust, changing socioeconomic conditions, or the divisive actions of extreme nationalist groups. However, political scientists have identified several factors that improve the durability of such pacts.

- The longer the violent conflict, the more likely it is that the resulting settlement will endure, as community leaders often conclude that a continued drawn-out struggle would harm their groups’ interests more than a negotiated settlement.¹⁰
- Because ethno-territorial conflicts typically involve disputes in multiple areas—including politics, land, economics, the use of force, cultural rights, and natural resources—multifaceted power-sharing agreements are more stable.
- The involvement of an outside party contributes to a long-lasting power-sharing agreement. Third parties can help parties reach an agreement in the first place by brokering contacts and offering incentives to make a deal. They can also help enforce an agreement by pressuring parties to live up to their commitments, verifying compliance, and moderating disputes over implementation.¹¹

⁹ Joel H. Samuels, “Condominium Arrangements in International Practice: Reviving an Abandoned Concept of Boundary Dispute Resolution,” *Mich. J. Intl. Law*, Vol. 29, No. 728, Summer 2008.

¹⁰ Caroline A. Hartzell and Matthew Hoddie, “Institutionalizing Peace: Power Sharing and Post-Civil War Conflict Management,” *American Journal of Political Science*, Vol. 47, No. 2, April 2003, p. 322.

¹¹ Hartzell and Hoddie, 2003, p. 321. See also Hartzell and Hoddie, 2007, pp. 88–89; and Walter L. Perry et al., *Withdrawing from Iraq: Alternative Schedules, Associated Risks*,

- Policies that encourage the political, economic, and social integration of minorities—for example, through egalitarian education and housing policies—make ethnicity less relevant, thereby reducing the chance that discrimination will contribute to future conflict in the long term.¹²

Power-sharing arrangements do have their down sides,¹³ however, and if such a system is to achieve its objectives, these challenges must be addressed early in the process of developing the terms of a settlement.

- Power-sharing systems keep ethnicity as the primary driver of politics and society, making it difficult to create a common civic identity that transcends group affiliation.
- They can undermine the democratic principle of “one person, one vote,” as they often give minority groups outsized influence to prevent their marginalization. Minorities’ disproportionately high representation or share of resources can generate resentment among other groups, particularly if minorities use the tools granted them to protect their interests in a manner perceived as being obstructionist.
- Their assignment of specific roles and levels of representation to each community makes it difficult for the political system to adapt to changing circumstances. An agreement on proportionality can be undermined by future demographic change; locking in ratios leads to frustration within the group whose population rises, whereas accommodating change causes resentment in the slower-growing group that loses representation in government.¹⁴

and Mitigating Strategies, Santa Monica, Calif.: RAND Corporation, MG-882-OSD, 2009, p. 71.

¹² Wolff, 2003, p. 18

¹³ Donald Rothchild and Philip G. Roeder, “Power Sharing as an Impediment to Peace and Democracy,” in Philip G. Roeder and Donald Rothchild, eds., *Sustainable Peace: Power and Democracy After Civil Wars*, Ithaca, N.Y.: Cornell University Press, 2005, pp. 36–40. See also Walter, 2002, p. 167.

¹⁴ Wolff, 2003, p. 33.

- Consociational systems can easily be manipulated by extreme nationalists, whose divisive rhetoric makes compromise more difficult, and by elites, who seek to maintain their positions by excluding competing representatives of their own communities.
- Finally, they can be inefficient and cumbersome, as the need to secure support from multiple communities often results in paralysis or in innocuous decisions that generate little opposition. Arrangements that establish similar government structures in each community (e.g., for language-specific education) create duplicative and costly bureaucracies.

Other Influences on Solutions to Ethno-Territorial Disputes

Theoretical literature examines many issues that affect the feasibility of solutions to ethnic and territorial conflict. Three are particularly relevant to Kirkuk and the case studies under consideration: civil society, the role of elites, and the role of outside parties.

Civil Society

Civil society organizations facilitate contacts along shared interests and thus create an environment in which grassroots solutions to local problems can be developed. However, a robust civil society, particularly if it consists of formal organizations that are multiethnic and mass-based (rather than elite-based), can also inoculate a society against politicians' polarizing nationalist rhetoric; the trust and mutual understanding generated by institutionalized cross-communal contacts are stronger than political elites' efforts to drive a wedge between communities. Not surprisingly, the absence of such organizations leaves communities isolated from each other and thus enhances politicians' ability to exploit mistrust and raise tensions.¹⁵

¹⁵ Ashutosh Varshney, *Ethnic Conflict and Civic Life: Hindus and Muslims in India*, New Haven, Conn.: Yale University Press, 2002, p. 285.

Civil society groups that merely bind members of a single community closer together do little to promote stability; in fact, they reinforce a community's identity as distinct from that of other groups and thus facilitate further mobilization along communal lines. As political scientist Ashutosh Varshney writes, "intercommunal engagement leads to the formation of what might be called institutionalized peace systems. Engagement, if only intracommunal, is often associated with . . . institutionalized riot systems."¹⁶

Civil society organizations are often very local in scope. In Northern Ireland, the existence of intercommunal civil society groups in one locality helped moderate ethnic tensions and prevent bloodshed even as nearby communities with no civil society experienced ethnic violence.¹⁷ Thus, irrespective of whether a multiethnic civil society exists throughout a nation or region, communities can mitigate the chances of violence in their own areas by establishing local civil society groups.

Role of Elites

Power-sharing arrangements tend to entrench small groups of elites as the designated representatives of each community. However, communities are not monolithic, and, over time, challengers promote alternative visions—some more moderate, some more extreme. Given that politicians' constituents in an ethnicity-based power-sharing system are ethnic kinsmen, political elites who wish to maintain their positions have incentives to take increasingly extreme nationalist positions to outflank more extreme challengers and marginalize moderates as inadequate advocates of their communities' interests. This process of "ethnic outbidding" raises ethnic tensions and hinders compromise.¹⁸

¹⁶ Varshney, 2002, p. 46.

¹⁷ Varshney, 2002, pp. 39, 298–299. Varshney cites a study of three ethnically mixed Greater Belfast neighborhoods with civil society organizations. Clubs in two of the areas were entirely segregated, and these communities experienced frequent violence in the 1960s and 1970s; the third, which had a wide range of clubs, sports teams, and social groups that were integrated, experienced little violence. See John Darby, *Intimidation and the Control of Conflict in Northern Ireland*, Dublin: Gill and MacMillan, 1986.

¹⁸ Rothchild and Roeder, 2005, pp. 41–42. This dynamic is particularly acute when no single party represents a community; political scientist Donald Horowitz has written, "where

Many theorists thus assert that successful power-sharing requires a cadre of moderate political elites who are able to mobilize a sufficiently large number of moderates that they do not have to engage in ethnic outbidding. However, in the immediate aftermath of a conflict, when ethnic tensions are still high, the emergence of a large population willing to compromise is unlikely unless many residents have grown weary from a drawn-out conflict.¹⁹

Role of Third Parties

Outside parties often play important roles in both the negotiation and implementation of agreements to end ethno-territorial conflicts. They can advance a settlement by facilitating communication between the parties, managing the negotiation process, and creating incentives (both positive and negative) to encourage constructive participation.²⁰ Once an agreement is reached, third-party guarantees that both sides will uphold their commitments enable political leaders to make concessions that would otherwise render them vulnerable to exploitation by the other party or to dissenters within their own communities. A study of negotiations to end civil wars that took place between 1940 and 1992 led political scientist Barbara Walter to conclude that guarantees provided by third parties are the most important factor in determining whether parties to a civil war can reach and successfully implement a negotiated agreement.²¹

Although third parties can be crucial catalysts to a settlement, they also have a “process bias” that can distort negotiations. Since outside mediators are focused on reaching an agreement rather than the

there is no intra-ethnic party monopoly, ambitious compromises across group lines are vulnerable to flank claims of a sellout.” See Donald Horowitz, “Explaining the Northern Ireland Agreement: The Sources of an Unlikely Constitutional Consensus,” *British Journal of Political Science*, Vol. 32, No. 2, April 2002, p. 214.

¹⁹ Timothy D. Sisk, *Power Sharing and International Mediation in Ethnic Conflicts*, Washington, D.C.: U.S. Institute of Peace, 1996, pp. 117–118. See also Harris and Reilly, 1998, p. 143.

²⁰ Walter, 2002, pp. 13–14.

²¹ Walter, 2002, p. 3.

agreement's terms, facilitators run the risk of forcing an unsustainable settlement upon the parties or of pushing an artificial timetable.²²

²² Sisk, 1996, p. 94.

Case Studies

Brčko¹

Background

The 1995 Dayton Peace Accords that ended the war in Bosnia and Herzegovina formally divided the country into two subnational entities—the Federation of Bosnia and Herzegovina and the Republika Srpska—separated by a so-called inter-entity boundary line (IEBL). The Accords called for a binding arbitration process to resolve the IEBL's placement in the strategically crucial Brčko municipality in northeastern Bosnia.² In deciding the boundary line, a three-person arbitration tribunal would determine whether the municipality would be part of the Federation or the Republika Srpska.

The map drawn at Dayton left the Brčko area as the only connection between the eastern and western halves of the Republika Srpska. At the same time, the Brčko area encompassed an important transportation route and economic zone for the Federation. In addition to these

¹ One co-author of this report, Laurel Miller, was closely involved in the Brčko arbitration process; some of the material in this section is drawn from her personal knowledge.

² General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 2: Agreement on Inter-Entity Boundary Line and Related Issues, Article V: Arbitration for the Brčko Area, 1995. A municipality (*opština*, in the local language) is an administrative subdivision *not* equivalent, as the translated term might suggest, to a town or city. Brčko city, as well as outlying areas, was included within the Brčko municipality.

strategic and economic interests, the Federation feared that the loss of Brčko would be seen as rewarding Serb-inflicted ethnic cleansing. The status of Brčko was thus a territorial dispute that—as with most issues in Bosnia after the war—was fraught with ethnic tensions. In the early years following Dayton, Brčko was widely considered the mostly likely flash point for renewed violence.

The arbitration tribunal decided in March 1999 that Brčko municipality would be an independent district under the sovereignty and authority of the Federation of Bosnia and Herzegovina. Under the decision, the district's territory technically belongs simultaneously to both entities under a condominium arrangement, but in practice its affairs are controlled by neither entity. Despite concerns over the durability of the decision, the Brčko settlement stands as a successful example of a compromise solution to an ethno-territorial dispute, forged with significant international involvement in the settlement process and implementation phase.

Relevance to Kirkuk

The tribunal's decisions, and the implementation of them with guidance and direction from an internationally appointed supervisor, had a number of elements that could inform an approach to resolving Kirkuk.

- *Under a compromise arrangement regarding control of the territory, neither side “lost” to the other.* The tribunal's Final Award established a self-governing, autonomous territory—the Brčko District of Bosnia and Herzegovina—in which the legal authority of both entities was suspended. In legal terms, the territory within those boundaries would be held in condominium by both entities simultaneously, though neither would play a role in administering it. This compromise allowed the practical questions of governance to take precedence over rhetoric regarding sovereignty.

- *All parties understood that integration was a critical objective.* The Final Award stated clearly that “the basic concept is to create a single, unitary multi-ethnic democratic government.”³
- *International oversight of a territory can help mitigate ethnic tensions and promote interethnic collaboration over time.* International actors’ supervision of implementation of the district allowed political institutions promoting integrated, multiethnic governance to take root. It was critical, however, that the district’s international overseers received extensive resources and significant political support from the international community.
- *International involvement and leverage was essential to the settlement process and the degree of success that has been achieved.* The parties pre-committed themselves (in the Dayton Accords) to a result that an internationally appointed arbitrator (as the presiding officer of the tribunal) could control; the international supervisor appointed to oversee implementation had direct authority “to promulgate binding regulations and orders”⁴; a contingent of U.S. military forces remained in the Brčko area for several years after the Final Award;⁵ and implementation was backed with significant international resources and political support, particularly from the United States.

The role of the international supervisor was particularly important. In its First Award, the tribunal called for an interim supervisor for Brčko to be appointed and charged with developing local, multiethnic governing institutions,⁶ and it granted the supervisor power to promulgate binding regulations and orders. The tribunal also charged the supervisor with overseeing reforms to various aspects of public life, such as educational curricula, intended to preserve Brčko’s multiethnic character.

³ *Final Award of the Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brčko Area*, March 5, 1999, para. 36.

⁴ *Arbitral Tribunal for the Dispute over the Inter-Entity Boundary in the Brčko Area*, February 14, 1997, para. 104(I)(B)(1).

⁵ A U.S. combat brigade was stationed at Camp McGovern, just south of Brčko.

⁶ *Arbitral Tribunal*, 1997, paras. 95, 104.

In addition, 15 years after the Dayton Accords, the international tribunal remains empowered to ensure that the parties fulfill their obligations. The tribunal maintains the authority to modify the Final Award until such time as the High Representative of the international community in Bosnia declares the Final Award fully implemented. The tribunal warned in its Final Award that noncompliance by one of the entities could lead it to place the district territory within the exclusive control of the other entity.⁷

Furthermore, in addition to continuing the international supervisory regime, the tribunal's Supplemental Award gave the supervisor the additional power to remove obstructionist public officials from office⁸—a step that helped encourage the moderation of nationalist rhetoric and collaboration between the two sides.

- *The presence of an impartial military force with the ability to put down large-scale unrest helped prevent ethnic disputes from exploding into violence.* Brčko's first international supervisor asserted that nearby U.S. troops "intimidated spoilers and communicated the authority of the international community" and were thus "critical to his ability to fulfill the Final Award Mandates."⁹
- *Though the district's statute (effectively, its constitution) has few references to ethnic power-sharing, it calls for occupants of senior policy-making positions to reflect the composition of the population.* Brčko leaders have informally worked out a power-sharing formula that reflects the postwar demographics, though some fear that their informal agreements will not outlive international supervision.
- *The district's statute protects minority interests in the legislature* by requiring that passage of legislation on certain issues receive affir-

⁷ *Final Award*, 1999, para. 68.

⁸ *Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brčko Area, Supplemental Award*, March 15, 1998, para. 24.

⁹ Hans Binnendijk, Charles Barry, Gina Cordero, Laura Peterson Nussbaum, and Melissa Sinclair, "Solutions for Northern Kosovo: Lessons Learned in Mostar, Eastern Slavonia, and Brčko," Washington, D.C.: National Defense University Center for Technology and National Security Policy, Defense and Technology Paper No. 34, August 2006, p. 48.

mative votes from at least one-third of district assembly councilors from each major ethnic group.¹⁰

- *The Final Award prevented violent efforts to capture control of Brčko* by excluding both entities' military, police, and other security forces from the district.¹¹ For the same reason, it also prohibited district residents from serving in either entity's military.¹²

Mostar

Background

Mostar was the scene of intense fighting during the war in Bosnia, principally between Muslim and Croat forces. Like Brčko, Mostar was one of the few multiethnic areas after the war, shared and contested principally by Croats and Muslims.¹³ The war left the city of Mostar (within Mostar municipality) divided by a line that ran through the city center. Mostar is the only city in Bosnia with a majority Croat population,¹⁴ and Croat secessionists regard it as their capital.

The central postwar issue in Mostar has been how the ethnic communities can share power while protecting minority interests. Croats have sought governance and electoral arrangements that would allow them to translate their demographic strength into political dominance, and Muslims have sought a consensus-based system—positions that are the reverse of those pursued at the national level in Bosnia, where Muslims have the demographic advantage and Croats are the smallest of the main ethnic groups.

The international community was intensively involved in efforts to reunify and reintegrate Mostar, though these efforts have met with

¹⁰ Statute of the Brčko District of Bosnia and Herzegovina, Articles 33a and 47.

¹¹ *Final Award*, 1999, paras. 40–42.

¹² *Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brčko Area, Annex to Final Award*, August 18, 1999, para. 1.

¹³ F. Bieber, "Local Institutional Engineering: A Tale of Two Cities, Mostar and Brčko," *International Peacekeeping*, Vol. 12, No. 3, Autumn 2005.

¹⁴ Bieber, 2005.

considerably less success than international efforts in Brčko. The European Union Administration of Mostar (EUAM) was created in 1994 to facilitate the postconflict transition, restore infrastructure in the heavily damaged city, establish administrative structures, and bring the Croat and Muslim communities together. The international community remained deeply involved in Mostar, in various guises, until July 2010, when the Office of the High Representative (OHR) in Bosnia—which opened its Mostar regional office in early 1997—closed the office as part of its standing-down across the country.

In early 1996, the EUAM put in place an interim statute for the city of Mostar, which radically decentralized the city and laid out weak power-sharing arrangements.¹⁵ The interim statute required that the mayor and deputy mayor of the citywide administration be of different ethnicities (in practice, Croat and Muslim) and rotate frequently and specified a fixed number of seats for the ethnic groups in the city council. In addition, ethnic group vetoes were permitted. International actors intended the complex electoral framework to ensure cross-ethnic consociational practices, but this did not happen.¹⁶

Unlike in Brčko, where the Final Award attempted to minimize ethnic divisions and integrate the city, ethnic separation was the foundation of the “interim” solution put in place in Mostar. The interim statute divided the city into six “city-municipalities” based entirely on ethnicity and the lines of control that existed at the end of the conflict, as well as a central zone that was supposed to be administered directly by a citywide administration.

Ten years later, the city and its government institutions remained divided along ethnic lines, with duplicative “bloated, inefficient” institutions in the city-municipalities and a central administration that “performs virtually no tasks useful to the citizens or for the func-

¹⁵ Marc Weller and Stefan Wolff, “Recent Trends in Autonomy and State Construction,” in Marc Weller and Stefan Wolff, eds., *Autonomy, Self-Governance and Conflict Resolution: Innovative Approaches to Institutional Design in Divided Societies*, London and New York: Routledge, 2005, p. 269, where it is noted that autonomy arrangements meant to separate conflict groups do not produce integration and stabilization of fragmented societies.

¹⁶ Beiber, 2005.

tioning of the City.”¹⁷ In September 2003, the High Representative appointed an international Commission for Reforming the City of Mostar to address “the need for a comprehensive settlement concerning the future institutional organization of the City of Mostar” and “to complete the establishment of Mostar as a unified city organized in a way that promotes efficiency in the delivery of services to citizens, ensures the collective rights of the constituent peoples and promotes the fundamental rights of all citizens.”¹⁸

In 2004, to improve dysfunctional governance and power-sharing arrangements, the High Representative imposed a new statute (based on the commission’s recommendations) that directed the unification of the city into a single administrative unit and toned down rigid power-sharing arrangements.¹⁹ The new statute still contained multiple consociational elements. Muslims lost the city-municipalities, which they favored, but gained a guaranteed share of seats in the city council (with the total number of seats no longer being fixed); Croats gained formal unification of the city. Supermajority requirements for adoption of the budget and other sensitive matters and ethnic veto rights were included to protect minorities.²⁰ City-municipalities were converted into territorially based electoral units with a limited degree of autonomy related to decisions on public spending—a political compromise resulting in inefficient spending.

Relevance to Kirkuk

Several elements of the experience in Mostar could usefully inform approaches to Kirkuk.

¹⁷ Commission for Reforming the City of Mostar, “Recommendations of the Commission, Report of the Chairman,” December 15, 2003, p. 14.

¹⁸ Commission for Reforming the City of Mostar, 2003, p. 9.

¹⁹ Office of the High Representative, “Decision Enacting the Statute of the City of Mostar,” No. 183/04, January 28, 2004.

²⁰ International Crisis Group, *Bosnia: A Test of Political Maturity in Mostar*, Europe Briefing No. 54, July 27, 2009, p. 10.

- *Efforts to create postwar governance arrangements for Mostar began with institutionalization of the status quo*, which reflected ethnic cleansing during the war. The starting point for postwar governance was thus based on the divisions caused by conflict rather than any interest in shared power. This severely hampered the effort to create effective governance.
- *Perpetual negotiation of implementation issues prevented progress.* The process of attempting to normalize public life in Mostar has been marked by continual negotiation; international actors brokered more than 30 major agreements by 2000. These agreements constantly revisited the same basic set of issues—including return of refugees and displaced persons, unification of police, and unification of budgets and institutions—thus hindering progress on other issues
- *International involvement contributed to progress, but it was not a panacea.* In some respects, the intensive international involvement in Mostar may have helped perpetuate weak governance, as Mostar's leaders came to expect the international community to rescue them from their failures to compromise.²¹
- *The creation of ethnic enclaves created duplicative administrative systems and led to inefficient governance based on narrowly defined interests.* The six “small and unnatural administrative units” operated as “virtual fiefdoms,” with little of the coordination called for in the interim statute.²² Croat and Muslim officials who were supposed to work together instead worked in parallel, and all the important public institutions were divided on ethnic lines, including in health care, education, fire protection, city transportation, and sewage.
- *Despite the application of tremendous international resources for one small area, deep political and social divisions remain.* Administrative unification of the city in 2004 has improved governance somewhat and forced political leaders of different ethnicities to

²¹ International Crisis Group, 2009, p. 2.

²² Commission for Reforming the City of Mostar, 2003, pp. 13, 52.

work together to some extent.²³ But no political party or leader shows interest in integrating the city. Schools remain almost entirely segregated.

Northern Ireland

Background

The long-standing conflict over Ireland has centered on Great Britain's efforts to maintain control of the island and Catholics' desires for greater political freedoms. In 1920, Ireland was partitioned into 26 southern counties, which were granted effective independence in 1921 and formal independence in 1949, and six northern counties, which remained in the United Kingdom. Catholics in Ireland's six northern counties chafed under the dominance of Protestant Unionists. Protestants occupied a privileged position; their interests were promoted by the British government; they received more comprehensive services from the government; and they faced little discrimination in employment, housing, and other matters. Perhaps most importantly, Protestants' security was guaranteed by the British Army and the heavily militarized, overwhelmingly Protestant Royal Ulster Constabulary,²⁴ Northern Ireland's police force, which acted with little accountability.²⁵

²³ Telephone discussion with official of the Office of the High Representative in Sarajevo, Spring 2011.

²⁴ John McGarry, "The Politics of Policing Reform in Northern Ireland," in John McGarry and Brendan O'Leary, eds., *The Northern Ireland Conflict: Consociational Engagement*, Oxford, UK: Oxford University Press, 2004, pp. 371–376, 403. See also BBC News, "Police Reform in Northern Ireland," March 8, 2001.

²⁵ The Patten report, which addressed the police reform issues, stated that the police "have been identified by one section of the population not primarily as upholders of the law but as defenders of the state. . . . In one political language they are the custodians of nationhood. In its rhetorical opposite they are the symbols of oppression. Policing therefore goes right to the heart of the sense of security and identity of both communities and, because of the differences between them, this seriously hampers the effectiveness of the police service in Northern Ireland." See The Independent Commission on Policing for Northern Ireland, *A New Beginning: Policing in Northern Ireland* (a/k/a "The Patten Report"), London: H.M. Stationery Office, 1999, p. 2.

After an extended outbreak of violence that culminated in the “Bloody Sunday” massacre, Britain abolished the 50-year-old Parliament of Northern Ireland (Stormont) and imposed direct rule. For the next two decades, Northern Ireland’s powerless community leaders could more effectively influence London’s policies (and build up bases of power within their constituencies) by highlighting ethnic divisions. Community leaders were thus incentivized to foster division rather than cooperation.²⁶ Communities themselves were isolated from one another; the population was divided into ethnic enclaves, and virtually no cross-communal civil society organizations existed. Because identity politics so dominated the public sphere, nationalist rhetoric sidelined the mundane work of governance²⁷; debate focused more on past injustices than on future public policies.

Political elites in Northern Ireland were fragmented, with some groups in each community favoring some form of power-sharing and others refusing to compromise. As a result, no single Nationalist or Unionist leader could credibly make or fulfill commitments on behalf of his entire community. Furthermore, the high degree of political mobilization among the public compelled political elites to follow their constituents’ views rather than propose productive but unpopular compromises.²⁸ In such an environment, politicians of all stripes engaged in extensive ethnic outbidding to demonstrate their commitment to advancing their communities’ parochial interests.

By the late 1990s, the public had tired of seemingly endless violence, and both Protestants and Catholics pressured their leaders to reach a peace agreement.²⁹ In 1998, after almost a century of political conflict and violence that led only to stalemate, leaders from both communities concluded that a negotiated settlement would advance their interests more than continued violence. They agreed upon a comprehensive power-sharing agreement, called the Good Friday Agreement

²⁶ Bollens, 2008, p. 11.

²⁷ Bollens, 2008, p. 11.

²⁸ Brendan O’Leary, “The Limits to Coercive Consociationalism in Northern Ireland,” *Political Studies*, Vol. 37, 1989, pp. 577–578.

²⁹ Wolff, 2003, p. 222.

(GFA), which set the stage for an autonomous and mostly peaceful region. In creating arrangements for power-sharing, proportionality, minority protections, and limited communal autonomy, the GFA established a classic consociational structure with provisions to moderate extremism and facilitate the emergence of centrist political voices.

Relevance to Kirkuk

The GFA offers potential lessons for how both parties to an ethno-sectarian conflict can share power locally while also protecting minority rights, insulating communities from future political or demographic change, and establishing constructive ties to outside ethnic kin-states.

- *Power-sharing mechanisms exist at all levels of government.* Power is shared in the executive branch by a First Minister and a Deputy First Minister from the other community, who run for office and govern jointly. The two run as a joint ticket, and their election requires 50 percent of registered Catholics and Protestants, as well as a majority of the Assembly—requirements that encourage centrist views that appeal to voters in both communities. The legislature is also designed to promote moderation. To be passed, measures require a “sufficient consensus”—majorities of both Unionist and Republican legislators—making extremist bills unlikely to succeed.³⁰ Legislative elections are organized under a system that drives candidates to appeal to voters from both constituencies—a dynamic that encourages centrist positions.³¹
- *Police reform—particularly steps to promote integration—was critical to the agreement.* Political scientist John McGarry has asserted that “Northern Ireland’s experience shows how the issue of policing reform”—essentially the need for an unbiased security force—“cannot be easily separated from other aspects of politi-

³⁰ It should be noted that the requirement for dual majorities could paralyze the legislature if collaboration ever breaks down.

³¹ The GFA called for a system of proportional representation with a single transferable vote. See BBC News, “Picking Portfolios: How It Works,” March 13, 2007.

cal settlements.”³² The independent commission created to study police reform called for measures to make the police more representative of the population, including greater sectarian diversity and sufficient decentralization to reflect community priorities and sensitivities.³³

- *The GFA includes many provisions to protect minority rights* by protecting residents from police abuse, providing for security, mitigating the two communities’ fears, moderating ethnic nationalism, and creating constructive manifestations for Protestants’ and Catholics’ desires to strengthen ties with the United Kingdom (UK) and Ireland, respectively.
 - The GFA protects both groups against future political change, requiring that integration into the Republic of Ireland or measures to increase autonomy from Great Britain be supported by a majority in both communities.³⁴
 - The GFA alleviated fears about demographic change—particularly the Protestant concern that their political representation will shrink because of greater population growth among Catholics and the corresponding Catholic concern that their political representation could be “locked in” by the agreement and thus fail to keep up with population growth.³⁵
 - The GFA provides for communal autonomy in cultural spheres, calling for the existence of both integrated and segregated schools (receiving equal funding) and promoting the use of Gaelic.

³² McGarry, 2004, pp. 402–403.

³³ Bronagh Hinds and Quintin Oliver, *Iraq: Learning Lessons from Northern Ireland*, United Nations Office for Project Services, 2008, pp. 14–17. See also McGarry, 2004, pp. 402–403.

³⁴ Brendan O’Leary, “The Nature of the Agreement,” in John McGarry and Brendan O’Leary, eds., *The Northern Ireland Conflict: Consociational Engagements*, Oxford, UK: Oxford University Press, 2004, pp. 277–278.

³⁵ Power-sharing agreements must be flexible enough to accommodate demographic change without eliminating protections for minorities (including new minorities). Scholar Stefan Wolff noted that “Once numerical proportions between the consociation partners change, so, too, do their shares in government, civil service, funding, etc. The group losing out in the process may see this as unacceptable.” See Wolff, 2003, p. 33.

- The GFA institutionalized links to both communities' kin-states (Great Britain and the Republic of Ireland), which—given the centrality of ethnic identity to the conflict—were seen as each community's political protector, the source of its cultural heritage, and its national homeland. The GFA created formal mechanisms to involve the UK and Ireland in Northern Irish affairs³⁶ and granted Northern Irish residents individual political rights (including citizenship) in both countries. The fact that individuals lived in a distinct piece of territory, therefore, no longer inhibited their ability to participate in the affairs of their kin state—thereby minimizing the importance of sovereignty and territory.³⁷

A number of procedural steps during the GFA negotiations helped the parties conclude an agreement by overcoming obstacles also present in northern Iraq.

- Because of tense relations between the two sides (and internal divisions within each side), *outside facilitators—the United Kingdom, the Republic of Ireland, and the United States—were critical to the continuation of negotiations.* A U.S. special envoy, former Senator George Mitchell, mediated the talks, while Great Britain and Ireland helped isolate spoilers and pressure negotiators to make concessions and implement their commitments.

³⁶ Two such mechanisms are of note. First, to balance Northern Ireland's remaining in the (Protestant) UK, the GFA established a North-South Council to foster closer cooperation on north-south issues between the Republic of Ireland and Northern Irish Catholics. The GFA similarly accommodates Protestant desires to strengthen Northern Ireland's formal ties to the UK by creating a British-Irish Council in which all UK-devolved governments (Scotland, Wales) and insular dependent territories (Jersey, Guernsey, Isle of Man) can discuss common policies, thus reinforcing that Belfast is an integral part of the United Kingdom. See Bollens, 2008, p. 12; and O'Leary, 2004, p. 276.

³⁷ Hinds and Oliver, 2008, p. 12. See also Nurcan Özgür-Baklacioglu, "Dual Citizenship, Extraterritorial Elections and National Policies: Turkish Dual Citizens in the Bulgarian-Turkish Political Sphere," in Osamu Ieda, ed., *Beyond Sovereignty: From Status Law to Transnational Citizenship?* Sapporo, Japan: Hokkaido University, 2006, p. 558.

- *The parties deferred an especially controversial topic that threatened to derail talks—police reform—to enable progress on other issues, but they ensured that it would be addressed.* However, they tasked an independent commission to recommend reforms within 16 months³⁸ to ensure that the issue was not deferred indefinitely.³⁹ The parties had deferred a contentious issue once before, in late 1995, when the parties could not agree on the fundamental question of whether decommissioning would occur before or during negotiations. They referred the question to an International Body on Decommissioning, which would recommend corrective measures; the implementation of its recommendations was to be supervised by a subsequent independent commission.
- *Confidence-building measures (CBMs) helped overcome mistrust.* CBMs such as the promise of police reform and paramilitaries' disarmament and renunciation of violence encouraged compliance and provided reassurances of each party's commitment to a negotiated settlement.
- *Because the Northern Ireland conflict was such a multilayered dispute—and because narrowly focused negotiations would make concessions more apparent—the agreement that ultimately resolved the conflict was a wide-ranging “Grand Bargain” that addressed political, social, economic, cultural, and security-related dis-*

³⁸ The GFA was signed on April 10, 1998, and called for a report by “Summer 1999.” See Annex A of the GFA.

³⁹ Steps were also taken to insulate Northern Ireland's nascent political institutions from especially politically charged decisions. Most notably, the GFA created an independent commission to adjudicate Protestant groups' requests to parade through Catholic neighborhoods—an annual phenomenon that had led to repeated conflicts over the years. See Hinds and Oliver, 2008, p. 14. Similarly, the GFA connected Northern Ireland's new institutions in ways that would prevent spoilers from undermining the political system. The fates of the two First Ministers, for example, are intertwined; if one leaves his post for any reason, the other must leave as well, and a new election is held. Thus, extremists in either community are unlikely to benefit from toppling the other community's leader. Similarly, the North-South Council is linked to the Assembly; if Catholics try to undermine the Assembly, where they are in the minority, the North-South Council, which advances all-Ireland issues, collapses too. See O'Leary, 2004, pp. 273–274.

putes.⁴⁰ Yet in doing so, it did not require that either side close off options regarding whether to remain in the UK or merge with Ireland, which meant that neither side had to concede its long-term national aspirations as part of the settlement.

More than a decade after the Good Friday Agreement was signed, considerable challenges remain. Political parties still rely primarily on sectarian support, and considerable economic discrepancies still exist between Catholic and Protestant communities, which remain geographically segregated. Although the GFA did not eliminate tensions between the Catholic and Protestant communities, it ended sectarian violence and enabled the parties to manage the conflict, mitigate its consequences, and get on with the practical business of governing.

Jerusalem

Background

Jerusalem has long been a multiethnic city in which local populations lived together with little conflict. After the influx of Jews to Palestine in the early 20th century and the end of the British Mandate, wars between the new State of Israel and its Arab neighbors displaced thousands of Palestinian Arabs while unifying Jerusalem under the control of a Jewish state. Although the ongoing conflict involves questions of self-determination, governance, the status of holy sites, and a range of other complex issues, the issue that underlies all of these disputes is physical and administrative control over the city, which lies at the core of the Jewish and Palestinian Muslim national identities.

For the past century, identity politics has pervaded virtually every aspect of the conflict over Jerusalem, particularly the status of (and access to) Jerusalem's holy sites, control over the Old City, and the role of Israel's security services. The city's population is divided into ethnic enclaves; West Jerusalem is mostly Jewish, and East Jerusalem is pri-

⁴⁰ O'Leary, 2004, pp. 281–284.

marily Arab.⁴¹ As a result, virtually no civil society organizations exist to bring Arabs and Jews together. In addition, Israel has solidified its physical control over the city's territory through policies that encourage Jewish settlements, commerce, and construction,⁴² as well as physical barriers and checkpoints that physically exclude Palestinians from areas of the city.

Jerusalem's politics is dominated by Jewish residents. Though Palestinians have had the right to run for city office and vote in municipal elections since 1967, most choose not to do so.⁴³ Not surprisingly, therefore, municipal policy is significantly influenced by ethnicity.⁴⁴

National politics greatly influence debates regarding Jerusalem, which Israel has declared is its capital. Although the Israeli political system is dominated by two primarily secular parties, a plethora of smaller parties are organized around ethnicity, national origin, and reli-

⁴¹ Although small numbers of Jews have settled in Arab East Jerusalem and in the Old City's Muslim Quarter, they have done so primarily to stake territorial claims rather than to integrate into Palestinian neighborhoods.

⁴² A 2007 World Bank report stated, "There is evidence that the application of zoning and planning provisions and the enforcement of building regulations is discriminatory in the Palestinian areas of East Jerusalem compared with that in Israeli neighborhoods. See World Bank, *Movement and Access Restrictions in the West Bank: Uncertainty and Inefficiency in the Palestinian Economy*, May 9, 2007, p. 11.

⁴³ Only 2 percent of Palestinians in Jerusalem voted in the city's 2008 mayoral election. See Tim McGurk, "Jerusalem Votes in a Secular Mayor," *Time*, November 12, 2008. No Palestinians currently serve on the city council.

⁴⁴ "Israeli policies were limited and directed to mainly serve spatial/demographic domination of Jewish Jerusalem." See Rami Nasrallah, "Jerusalem: The Lost City—The Impact of the Israeli Territorial and Demographic Policies on Jerusalem and Its 'Palestinian Residents,'" *Conflict in Focus*, Issue 14-15, Bi-Monthly Bulletin, Amman, Jordan: Regional Centre on Conflict Prevention, Jordan Institute of Diplomacy, August/October 2006, pp. 10–12. It is also worth noting that East Jerusalem receives a disproportionately small percentage of city funds and services. "Despite housing 33% of the city's residents, East Jerusalem is allocated just 12% of the municipal budget. The most basic services, such as rubbish collection and road maintenance, are sporadic or absent in east Jerusalem." See Mick Dumper and Wendy Pullan, "Jerusalem: The Cost of Failure," Chatham House Briefing Paper, MENAP BP 2010/-03, February 2010, p. 8.

gion.⁴⁵ Because these small parties can make or break a coalition government, their leaders have every incentive to dial up extremist rhetoric to extract maximum concessions from those trying to establish (or maintain) a coalition. As a result, extremist figures who promote the interests of narrow ethnic, national, and religious constituencies have great influence over both policy and popular sentiment. Israeli Arabs have little presence or influence in Israeli politics. Only ten Arabs currently serve in the 120-member Knesset⁴⁶; not only are they unable to advance the interests of their communities, but some have been disciplined by their colleagues for expressing unpopular views seen as hostile to Israel.⁴⁷

Police and security forces are widely seen as supportive of Jewish interests in Jerusalem, and Palestinians have long leveled accusations of bias and harsh treatment. Soldiers and police in the city are far from representative of the population; the number of non-Jews in the Israel Defense Forces and police nationwide is miniscule.

Although territorial control is important, Israel and the Palestinian Authority both place enormous emphasis on sovereignty over territory. Israel views territory as the cornerstone of its national security strategy, a means of minimizing the effect of unfavorable demographic change, and, in some cases, a theological imperative. Successive Israeli governments have asserted that Jerusalem—which, unlike the West Bank and Gaza, it quickly annexed after the city’s capture in 1967—“is and will remain the capital of the State of Israel, undivided, under exclusive Israeli sovereignty.”⁴⁸ For its part, the PA asserts that “[f]or centuries, Jerusalem has been the political, administrative and spiritual

⁴⁵ Sephardic and Ashkenazi Jews are represented by the Shas and United Torah Judaism parties, respectively; Russian immigrants are represented by the Israel Beitenu party; religious Zionists are represented by the National Union party; and the ultra-orthodox vote for Shas and United Torah Judaism, as well as several smaller parties.

⁴⁶ Israeli Knesset website, “Search Knesset Members,” undated.

⁴⁷ Jonathan Lis, “Arab MK Stripped of Further Parliamentary Privileges for Role in Gaza Flotilla,” *Haaretz*, July 18, 2011. See also Yanir Yagna and Jonathan Lis, “Israeli Arab MKs Face Growing Wave of Death Threats,” *Haaretz*, June 8, 2010.

⁴⁸ “The Status of Jerusalem,” website of the Ministry of Foreign Affairs of the State of Israel, March 14, 1999.

heart of Palestine.”⁴⁹ Such historical and religious overtones have made the concept of “sovereignty” over Jerusalem far more significant than a mere assertion of legal jurisdiction.

Over the years, Israel has made concessions regarding control of territory even when it was unwilling to sacrifice sovereignty. Immediately after Israel’s capture of East Jerusalem from Jordan, for example, Israel allowed the day-to-day management of the *Haram al-Sharif* (the site of the Dome of the Rock and the al-Aqsa Mosque, from which the Prophet Mohammed is believed to have ascended to Heaven) to remain in the hands of the Jordanian-dominated and -funded *waqf* while refusing to cede its claim to sovereignty over the site.⁵⁰ Similarly, the Oslo Accords contained provisions for the Palestinian Authority to exercise control of areas in the West Bank even while such areas remained under Israeli sovereignty. These developments demonstrate that it is possible to separate the legal (and emotional) concepts of sovereignty or jurisdiction, as well as the strategic imperatives of national security, from the exercise of governance and territorial control.⁵¹

To remove the question of sovereignty as a source of conflict, some proposed solutions have suggested denying sovereignty to both

⁴⁹ Palestinian Liberation Organization Negotiation Affairs Department, *Negotiations Primer*, Ramallah: PLO, 2011, p. 14. The PA stakes a clear claim to sovereignty over Jerusalem rather than just mere territorial control in the document (p. 20) by writing that “[b]eyond ensuring our *sovereignty* over East Jerusalem, we will consider a number of solutions. . . .” (emphasis added).

⁵⁰ Eleven days after Israeli forces captured East Jerusalem, Minister of Religious Affairs Zerah Warhaftig asserted, “There is no doubt that the Jewish people has the right to the Temple Mount, for it is the Holy of Holies of the Jewish people.” See David E. Guinn, *Protecting Jerusalem’s Holy Sites: A Strategy for Negotiating a Sacred Peace*, Cambridge, N.Y.: Cambridge University Press, 2006, p. 66. In contrast, King Hussein of Jordan sidestepped questions of sovereignty by asserting that only God has sovereignty over holy sites; man is just charged with managing them. See Guinn, 2006, p. 152.

⁵¹ In another example in which questions of sovereignty and territory were sidestepped in favor of practical governance solutions, Israeli Prime Minister Yitzhak Rabin pursued a proposal under which Jerusalem would be an open city divided into Jewish and Arab neighborhoods with autonomy over specified local issues and a unified municipal government that could make decisions only with the consent of both the Israeli and Palestinian governments. The proposal emphasized mutual consent at the city level and autonomy at the neighborhood level while removing the contentious question of territorial boundaries from the equation.

sides and placing Jerusalem under international administration as a so-called *corpus separatum* (separate entity). However, the Israeli government has refused to cede control of its territory or citizens to an international entity, and it has taken the position that “there is no basis for a ‘*corpus separatum*’ status for Jerusalem.”⁵²

Countless proposed peace deals have suggested dividing the city in some way or placing it under some form of international jurisdiction. Yet to divide the city, the two sides would still have to solve disputes regarding what falls on each side of the line and thus address control over holy sites, infrastructure, and the like. Splitting the city into Jewish and Palestinian portions would create an unwieldy and inefficient management structure that would inevitably—given varying levels of economic support available—fail to eliminate the discrepancies in quality of life that feed interethnic tensions.

Relevance to Kirkuk

Even though Israel and the Palestinians have failed to agree on a solution for Jerusalem, several lessons relevant to Kirkuk can be learned from efforts to solve the dispute.

- *Rhetoric that emphasizes historic (or theological) claims to territory is an obstacle to negotiations that seek concrete solutions to practical, present-day governance challenges.* Even if leaders could reach an agreement, the emotions generated by such rhetoric make it difficult for leaders to justify compromises to their constituents.
- *The dominance of one group in the security forces is a significant irritant in interethnic relations.* Even if a political settlement regarding Jerusalem could be reached, it would be continually undermined if Palestinians were subject to the jurisdiction of security forces with little Palestinian representation.
- *Neither party has yet concluded that the benefits of compromise outweigh the continued costs of stalemate.*⁵³ As a result, negotiations

⁵² “The Status of Jerusalem,” 1999.

⁵³ It could be argued that both Israeli and Palestinian leaders have been committed to a negotiated settlement regarding Jerusalem, just not at the same time.

over Jerusalem have repeatedly broken down and been suspended for years at a time.

- *Confidence-building measures, which could have helped institutionalize ongoing dialogue, were never fully embraced by the parties.* Most CBMs were created and facilitated by outsiders, with little commitment from either side.
- *Extensive international involvement in negotiations have had limited effect because outside mediators have often been more committed to negotiations than the parties themselves.* By taking the burden of finding a solution off Israeli and Palestinian leaders, the involvement of outside mediators may have actually reduced the parties' commitment to negotiations and thus prolonged the conflict.
- *Negotiations often break down before getting to deferred "final status" issues.* Though Israel and the PA have concluded agreements on a variety of measures, they have failed to reach an agreement on Jerusalem in part because the city has always been deferred as a "final status" topic. Unless Israel and the PA decide to negotiate a settlement to Jerusalem before other issues are settled—essentially, to take it out of the "final status" category—it appears unlikely that any arrangement will be reached for quite a while.

Lessons for Kirkuk and How They Can Be Applied

The academic literature and foregoing case studies shed light on a number of substantive issues that are integral to the Kirkuk stalemate. They also offer insights into negotiation processes that could help Kirkukis and Iraqi leaders overcome procedural obstacles to a negotiated settlement.

Substantive Issues

Sovereignty and Territorial Control

The case studies suggest the value of finding solutions that minimize the importance of territorial control and formal sovereignty. Territory has enormous emotional and religious importance in Jerusalem, and the status of disputed territory was central to Irish Republican nationalism and to both sides in the Brčko dispute. The Brčko settlement resolved the zero-sum contest over territory by establishing a condominium, and the Northern Ireland agreement created a mechanism to protect all sides from the consequences of political and demographic change, thereby minimizing the importance of territorial control.

These developments suggest that, to remove nationalistic motivations from the equation as much as possible, parties to the Kirkuk dispute may wish to de-link the emotionally laden concept of sovereignty from the pragmatic elements of territorial control; for example, an agreement between Baghdad and Erbil could address the management of hydrocarbon resources and each entity's ties to its ethnic kin in the city without reference to which side "owns" the city. Establishing

Kirkuk as a *corpus separatum*, which would deny sovereignty to both sides, or as a condominium, in which sovereignty is shared, would take these issues off the table, though the sides would still need to decide how to administer the city fairly.

The Good Friday Agreement also minimized the importance of territorial control by encouraging government policies that promote equality in legal treatment, housing, jobs, etc. Rather than focus on whether the KRG or the central government has jurisdiction over Kirkuk, therefore, it may be fruitful for Kirkuk negotiators to consider the implementation of policies that promote equal treatment and civic integration no matter how the city's status is ultimately resolved. Such a governance-focused approach may be particularly productive given that Kirkuk residents are more interested in government assistance with their daily concerns than with such grand concepts as sovereignty.

One critical distinction between Kirkuk and the four case studies, of course, is that in the case studies, no party's economic prosperity would be dramatically affected by control over a specific piece of territory. In Kirkuk, territorial control confers greater (and potentially exclusive) access to enormous oil and gas resources underneath the city. However, a hydrocarbons agreement that focuses on each side's practical interests—the degree of control over these resources and the income derived from them—would enable both sides to advance their economic interests without having to resolve the thorny question of territorial jurisdiction.

Power-Sharing

The most effective arrangements in the case studies developed mechanisms for sharing political power, protecting minority interests, minimizing the influence of obstructionists and extremists, and seeking proportional representation in the government apparatus, while developing constructive provisions for addressing the impact of future demographic change.

Three of the case studies—Brčko, Mostar, and Northern Ireland—involved multiple forms of power-sharing to ensure that government is representative of and accessible to all groups. Arrangements

in Brčko and Northern Ireland have led to the moderation of obstructionist and extremist influences.

The case studies illustrate two different ways of addressing the challenges associated with future demographic change. The GFA minimizes its political ramifications by offering protections to both sides, whereas Israel addresses its disadvantageous demographic position through policies that disproportionately encourage settlement, construction, and economic activity by its side. The former approach contributed to the settlement of the Northern Ireland impasse, and the latter arguably prolongs conflict in Jerusalem.

The absence of a census is perhaps the greatest practical—not to mention political—obstacle to implementing power-sharing arrangements in Kirkuk. Nevertheless, the establishment of local-level power-sharing structures, however imperfect, could go a long way toward mitigating interethnic tensions and improving the lives of all city residents. If such political institutions are to be pursued even while national politicians continue debating larger issues, political and communal leaders might try to agree on levels of representation for each community in government entities that would be revisited after a designated period of time. In this way, local government institutions that are representative of the population could begin work and develop legitimacy even while contentious issues such as the census remain unresolved.

Autonomy

In Brčko and Northern Ireland, entities with significant degrees of territorial autonomy were established. In the political sphere, the District of Brčko was established as a self-governing entity, and the GFA granted Northern Ireland self-rule. In contrast, Jerusalem—as the capital of the State of Israel—is fully integrated into the Israeli political apparatus.

In the cultural and educational arena, agreements in Mostar and Northern Ireland gave minority populations extensive autonomy in the cultural sphere. However, although such provisions helped protect minority rights, they likely contributed to the failure of efforts to promote integration. Israel, in contrast, offers few protections for minority groups outside the religious sphere.

It is often noted that one significant obstacle to granting Kirkuk political autonomy, particularly at the provincial level, is that doing so will set a precedent that might encourage Iraq's Shi'a-dominated provinces to seek a similar special status. But there are multiple examples of countries with asymmetrical arrangements, in which certain areas of the country have powers and competencies that are more substantial than those of other areas. Scotland and Northern Ireland enjoy greater powers than Wales, for example.¹ The case studies therefore do not suggest that special arrangements for Kirkuk would necessarily create a status to which other regions of Iraq would be entitled.

Political Elites and Ethnic Outbidding

The fragmentation of political elites in Northern Ireland and Israel led politicians to engage in divisive ethnic outbidding to better claim the mantle as the most vociferous advocate for their communities' narrow parochial interests. In such an environment, those few politicians willing to propose risky compromises would have been unable to deliver their communities anyway. In Northern Ireland, this changed as the population became increasingly eager to end the conflict²; extremist parties became more marginalized, enabling centrists to lead rather than follow popular opinion.

Multiple Iraqi parties claim the right to speak for their kinsmen in Kirkuk, and they have every incentive to continue divisive rhetoric to strengthen their standing within their nationwide constituencies and stake out bargaining positions for eventual negotiations on Kirkuk and other matters. Local elites may be more willing and able to moderate rhetoric, and they are more likely to succeed in leading Kirkuk's residents to accept compromises. If local elites can be strengthened vis-à-vis the national parties and if they are given more of a voice in discussions over Kirkuk's fate, they may be better able to promote a negotiated settlement that addresses the interests of Kirkuk's residents,

¹ Stefan Wolff, "Complex Power-Sharing and the Centrality of Territorial Self-Governance in Contemporary Conflict Settlements," *Ethnopolitics*, Vol. 8, No. 1, March 2009, p. 30.

² Wolff, 2003, p. 222.

which would reduce the chance that interethnic violence would erupt in the city.

Security

Among the most important elements of any peaceful settlement—because it literally represents life or death for minority communities—is the question of security. To be seen as legitimate, security forces must be representative of the population, be transparent and accountable, and avoid advancing one group's or party's agenda.³

The Brčko Final Award Annex addressed security concerns by forbidding the presence of either entity's security forces (military or police) in the District, preventing District residents from serving in either military, and creating a multiethnic police force. In Northern Ireland, where police reform was the most contentious issue in peace talks, the GFA chartered an independent commission to develop ways in which the force could be professionalized, demilitarized, depoliticized, and made representative of the people. In Jerusalem, in contrast, Palestinians see Israeli security forces as reinforcing state control and implementing state policies rather than protecting their safety and rights.

Currently, security in Kirkuk is dominated by Kurds. The municipal police are well respected and ethnically diverse,⁴ but Kurds nevertheless constitute the largest group on the force. Roughly 42 percent of police officials are Kurds, with the remainder split more or less evenly between Turkomen (27 percent) and Arabs (29 percent).⁵ The Kurdish *asayesh* is seen by Arab and Turkoman residents as biased and abusive. Both of the armed forces on the outskirts of Kirkuk—the 4th Iraqi Army Division and the 10th Peshmerga Brigade—are sufficiently well armed and trained to crush violent unrest; however, either's entrance into the city would lead to a crisis that itself could lead to fighting.

Iraqi and Kurdish leaders should agree to make the municipal police force more ethnically balanced and allow it to establish clear pri-

³ McGarry, 2004, p. 402.

⁴ Discussion with senior Iraqi official, May 18, 2011.

⁵ Correspondence with USF-I official, November 28, 2011.

macy in the city. Three steps would be required to do so. First, Baghdad and Erbil should institutionalize their existing (but unofficial) agreement to demilitarize Kirkuk city; currently, ISF units stay to the south of the city and Kurdish units remain to the north and east. Formalizing this *de facto* arrangement would demonstrate commitment on both sides to avoiding an armed clash over Kirkuk. Second, they should agree to insulate local security from ethnicity. The KRG should be encouraged to transition all security responsibilities from the *asayesh* to the municipal police; such a measure would be a significant confidence-building measure to reassure Arabs and Turkomen that local security forces will no longer be charged with advancing the interests of the KRG and the two dominant Kurdish parties. Third, Kirkuki leaders should encourage the municipal police force to increase minority representation among senior leaders and the officer cadre. An international police training and professionalization assistance program would help increase the effectiveness and the legitimacy of the multi-ethnic, local force.

Until the municipal police increase their capacity and legitimacy, however, ethnic disputes could spiral into levels of violence beyond what the police force can control. As in Brčko and Mostar, an outside armed force—an international peacekeeping mission or a continuing U.S. military presence after 2011—could potentially help contain violence in Kirkuk in the near term. Unfortunately, there is little appetite in the international community for a United Nations (UN) peacekeeping or civilian police (CIVPOL) mission in Iraq, and Western regional security organizations such as the North Atlantic Treaty Organization (NATO) and the European Union (EU) remain heavily involved in Afghanistan and taxed by extensive assistance to Libyan rebels. Furthermore, many countries have already deployed troops to Iraq and ended their involvement there as a result of domestic political pressures; few would be willing to send their armed forces back.

Although multinational military missions are thus unlikely to materialize, the existing combined security mechanism along the disputed boundaries in northern Iraq has already helped keep a lid on tensions between Arabs, Kurds, and Turkomen and could be extended in some form. The United States withdrew all of its troops from Iraq

by December 31, 2011, but both U.S. and Iraqi officials have hinted that the Iraqi government may yet request that small numbers of U.S. forces return to Iraq on temporary or short-term training missions; if this comes to pass, U.S. troops could continue building the capacity of Iraqi and Kurdish units engaged in the CSM. As the CSM demonstrated, it is not necessary for third parties to “send massive numbers of peacekeeping troops to coerce compliance from the participants”; what is necessary is “that the troops they do send must be convincing.”⁶ A renewed U.S. military presence in northern Iraq, and particularly around Kirkuk, would be seen as convincing.

Dispute Resolution Process

The Roles of Third Parties

Outside mediators in the conflicts examined have played several roles in negotiations. First, they have been instrumental in driving the parties to conclude an agreement. The United States, UK, and Ireland were all critical to convincing Republicans and Unionists to negotiate. Parties to the Brčko conflict agreed to have an international tribunal resolve the territorial dispute.

However, outside involvement is not a panacea. International involvement in Mostar was relatively unsuccessful in putting in place functional governance arrangements. Similarly, although third parties have helped Israel and the PA reach some agreements, Israeli and Palestinian leaders frequently resist outside pressure to make compromises or even to meet. Furthermore, third parties, as outside entities, cannot force an agreement until the parties’ leaders are ready to negotiate.

Baghdad and Erbil have successfully negotiated with each other before, but Arab and Kurdish leaders do not appear ready to compromise on Kirkuk and related issues, as they continue trying to shape the environment through political machinations and other indirect means. Both sides have an interest in finding solutions; both want to realize revenues from oil exports and resolve questions of federalism once and

⁶ Walter, 2002, p. 166.

for all. The two sides will likely begin negotiations once they feel they have staked out sufficiently strong claims or when they are driven to find a solution by outside events, such as ethnic violence or the need to increase oil revenues.

Second, outside mediators in each of the case studies helped implement agreements. The UK and Ireland both made significant commitments that made the GFA palatable to both Unionists and Republicans. In Brčko, the international supervisor was given strong powers, NATO troops (Implementation Force/Stabilization Force) provided the security needed for nascent institutions to take root, and the tribunal retained jurisdiction even after the Final Award.⁷ In Mostar, after ten years of minimal progress in reuniting the city, the High Representative intervened decisively to compel at least formal reunification. Outside entities have supported the implementation of some Israeli-Palestinian agreements (none regarding Jerusalem); in the Oslo II Agreement, for example, the parties agreed to establish a multinational Temporary International President in Hebron to monitor security in the city.

In Brcko, perhaps equally as important, the outside facilitator had the power to impose significant penalties for noncompliance. The tribunal asserted the extraordinary authority to transfer the city “entirely out of the territory of the non-complying entity and plac[e] it within the exclusive control of the other.”⁸

In Kirkuk, the UN has had little success in bringing either community to the table and is even less likely to have the clout needed to enforce a settlement. In contrast, the United States was integral to the negotiations that developed Iraq’s Transitional Administrative Law and, later, its constitution, and a U.S.-led combined security mechanism (CSM) has helped defuse tensions between Iraqi and Kurdish security forces. Although the United States will not have any legal authority to force Baghdad and Erbil to implement an agreement (along the lines of what the Brčko tribunal asserted), the significant amount of assistance, training, equipment, and investment that the United States provides

⁷ *Final Award*, 1999, para. 67.

⁸ *Final Award*, 1999, para. 68.

may give it sufficient influence to pressure both parties to fulfill whatever obligations they agree to assume. The United States may thus be well positioned to facilitate talks regarding Kirkuk.

In the meantime, U.S. efforts to promote a solution to Kirkuk would be helped if Washington were to designate a Special Envoy for Arab-Kurdish Issues. The State Department has previously assigned senior career diplomats as special envoys charged specifically with mitigating Arab-Kurd tensions. However, with only one year (or less) in this role, they were ill-positioned to manage these tensions over time. Furthermore, as embassy-based advisors to the U.S. ambassador, they had insufficient clout to initiate discussions or push for compromises on significant policy questions. Arab-Kurdish-Turkoman discussions regarding Kirkuk (and other regional issues) would likely advance if the United States designated a senior-level envoy who has high-level support in Washington to play an ongoing, active role. Such an official would have greater ability to facilitate discussions, identify potential compromises, and keep a negotiating process moving. Military commanders, bureaucrats, and local- or provincial-level officials might be less likely to take provocative unilateral actions if they could be held responsible for derailing talks backed by high-level support.

International Administration

Direct international administration of a territory is an even more robust form of outside enforcement of a settlement. The enormous expense and effort required to establish an international administration makes it extremely difficult to secure political support for such an initiative.

There is currently no violent conflict or power vacuum in Kirkuk that would justify the internationalization of the city, and the states that would be most likely to provide the resources for an international administration—the United States and members of the EU and NATO—are suffering the effects of a global recession and are war-weary after almost a decade in Iraq and Afghanistan.

Timelines

In the face of deadlock, the imposition of a timetable may push parties to an agreement, though deadlines can work both ways. The establish-

ment of a time frame did help push the Brčko arbitration and the Good Friday Agreement toward completion, though deadlines were missed along the way. In Kirkuk, however, anticipation of the 2007 deadline for normalization and a census led both sides (especially Kurds) to create “facts on the ground” by encouraging immigration and selectively resolving property disputes. Establishing a deadline for resolving Kirkuk’s challenges might encourage the same behavior once again.

Deferral of Contentious Issues as “Final Status” Issues

Examination of the four conflicts suggests that it is best not to defer controversial disputes without a mechanism to ensure that they are not put off indefinitely. Northern Irish negotiators set aside the most contentious issue, police reform, but tasked an outside commission to recommend solutions by a certain date. When the Dayton Accords failed to resolve Brčko’s status, the parties agreed to binding arbitration to ensure that solutions would be developed. In Israel, in contrast, problems implementing agreements on other issues prevented Israel and the PA from ever getting to their “final status” talks, ensuring that the issues most central to the conflict went unresolved.

The status of Kirkuk was left unresolved as a sort of “final status” issue in Iraq’s constitutional negotiations. In large part to conclude negotiations on other issues, the parties agreed on a solution for Kirkuk—normalization, followed by a census and a referendum—and even set a deadline to keep the process on track. Disputes about how to implement the solution, however, caused deadlines to be missed, and the city’s status remains unresolved today. This experience demonstrates that even concrete goals and strict timetables are not always sufficient to resolve the most contentious issues.

“Grand Bargains”

Concessions on emotional issues are difficult in ethno-territorial conflicts, though they often become acceptable if concrete, identifiable gains are made in exchange. This dynamic often requires that a wide range of issues be available for trade-offs in a so-called “grand bargain.” The Good Friday Agreement was just such a grand bargain. The intrac-

tability of the Jerusalem stalemate suggests that the solution to the Israeli-Palestinian conflict lies in a similar one.

Disputes over Kirkuk involve such a wide range of issues—some with nationalist resonance and some (like hydrocarbon revenues) that are eminently practical—that it seems well suited for an all-encompassing deal. Furthermore, both Erbil and Baghdad have generally taken the position that “nothing is agreed to until everything is agreed to,”⁹ which suggests that they will consider a potential settlement only if it is comprehensive. That said, resolution of smaller-scale issues could both build the trust needed to negotiate a grand bargain and reduce tensions that could derail comprehensive negotiations if they explode.

Bottom-Up Versus Top-Down Solutions

Academic literature and the case studies selected suggest that 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.

In Northern Ireland, the GFA offered solutions to both sides’ strategic concerns on power-sharing, each community’s ties to ethnic kin-states, and the territory’s future political status. However, the parties would likely have walked away from the table if the agreement had failed to address such local governance issues as policing, cultural protections, and equal opportunity related to jobs, housing, and education. The Brčko arbitration was itself the solution to the strategic question of who would “get” the territory, but the arbitration determined governance arrangements to be implemented at the local level. In many ways, the current stalemate over Kirkuk is akin to the debate over Jerusalem, in that both disputes remain focused on seemingly intractable strategic issues. Governance and policy solutions cannot be pursued without breaking the stalemate on these broader disputes.

In the absence of a national-level agreement regarding federalism, sovereignty, and oil, opportunities may exist to pursue local governance solutions. While continuing to pressure national leaders to resolve out-

⁹ Kane, 2011, pp. 3, 69.

standing strategic issues, the United States and other international actors could simultaneously facilitate discussions among leaders of Kirkuk's communities to address municipal governance, the provision of services, housing, and other local issues. If it is true that "Kirkuk residents appear to believe that their issues might be resolved more quickly if they were delinked from the broader strands of the Arab-Kurdish conflict,"¹⁰ they will be motivated to develop local solutions to local challenges. Such grassroots problem-solving efforts could help separate issues of local concern from national debates and, by reducing interethnic tensions, give national politicians political space to resolve outstanding strategic disputes.

Confidence-Building Measures

CBMs have been employed in a wide range of contexts to build bridges between adversaries. CBMs in a multiethnic city such as Kirkuk, where Arabs, Kurds, and Turkomen engage with each other constantly,¹¹ have the potential to create institutionalized cross-communal linkages that can help moderate disputes arising from continuous interaction.¹²

Third parties have undertaken extensive efforts to develop CBMs in Kirkuk. U.S., Kurdish, and Iraqi security officials agree that the combined security mechanism has greatly improved trust between the parties and helped prevent conflict. (It is not clear, however, if the CSM will be sustainable in the wake of the U.S. military withdrawal from Iraq.) UN-sponsored CBMs have had limited effects to date, though they may serve as a foundation for more ambitious collaboration.

Civil Society and Local Leadership

Efforts to develop an institutionalized and multiethnic civil society in Kirkuk will help reduce ethnic tensions and separate local issues from

¹⁰ Knights, 2010, p. 37.

¹¹ Discussion with Iraqi official, May 18, 2011.

¹² "[M]any immediate and existential foundations of inter-group conflict frequently lie in daily urban life and across local ethnic divides. . . . [T]he economic pull of the city means that urban areas will frequently contain contestable faultlines between ethnic, religious, and/or linguistic groups." See Bollens, 2008, pp. 1–2.

divisive national debates. Civil society organizations can create cross-communal ties that reduce tensions if they attract participation from multiple ethnic groups. Grassroots-level confidence-building measures and initiatives promoting intercommunal dialogue in Kirkuk have had some success, though efforts have been minimal. In part, this is because (as in Jerusalem and most of Northern Ireland), the few civil society groups that do exist in the Kurdistan Region are dominated by single ethnic groups, making them more effective at mobilizing the population along ethnic lines than across them.

However, just because civil society is weak regionally does not mean that it cannot be fostered in Kirkuk city. Research in Northern Ireland demonstrated that formal multiethnic civil society groups can help moderate ethnic tensions and prevent violence even if they exist only at a local level.¹³ A robust civil society can also develop a cadre of local community leaders with the standing to influence policy debates. Strong civil society groups can thus amplify local voices and wrest some control of political issues from national political leaders.

The UN Assistance Mission for Iraq, which has undertaken many of the local-level CBM initiatives, is ideally suited to support CBMs and the development of multiethnic civil society groups through its agencies that focus on women's rights, children, labor issues, and other cross-communal interests. The State Department and U.S. Agency for International Development, in addition to promoting civil society initiatives, may wish to place higher priority on the development of local political parties that are independent of the major national organizations; more effective local leaders may be better positioned to reach beyond ethnic constituencies and create dialogue on issues of interest to all Kirkuk residents.

¹³ Darby, 1986.

Can Outside Actors Facilitate a Solution for Kirkuk?

Arab and Kurdish leaders appear to be at a stalemate over Kirkuk. Although they continue to rehash arguments over constitutional provisions that have proven ineffective in resolving the city's status, Iraqi and Kurdish security forces deployed outside the city eye each other warily, and extremists have taken advantage of the security vacuum to launch a wave of violent attacks. In such an environment, just the existence of negotiations could have a potentially calming effect on Arab-Kurdish tensions.¹ Not only could they provide a vehicle for airing ongoing disputes, but representatives of all sides—particularly officials in government and the security services—would be less likely to spark a conflict if they believe that there is some prospect of resolving the conflict through negotiation.

As the case studies and academic literature have demonstrated, third parties have been critical to the settlement of recent ethno-territorial conflicts, and Iraq is no different. U.S. officials helped broker discussions that led to the Transitional Administrative Law and, later, Iraq's constitution. In northern Iraq, both Iraqi and Kurdish security forces viewed the United States as the lynchpin of the tripartite combined security mechanism, which fostered cooperation between the two forces and reduced tensions in the region. To defuse tensions over the *asayesh's* long-term detention of Arab and Turkoman prisoners throughout the KRG, the U.S. military and Kirkuk Provincial Recon-

¹ Of course, extremists could use negotiations as a platform to express inflammatory views, but the widespread desire among Kirkukis to resolve the conflict will likely prevent such rhetoric from resonating any more than it does already.

struction Team bolstered the capabilities of the Kirkuk city criminal courts, which led to speedier (and more reliable) trials and the release of more than 250 prisoners.²

Given this record of U.S. engagement, and given that the United States is seen as a trusted third party by both Iraqi and Kurdish officials, the United States would likely be the most effective neutral broker.³ The governor of Kirkuk province, Najmaldin Karim, asserted in June 2011 that “the U.S. Army is the only force that gets respect and has the ability to impose its will on others. Also, it deals in a neutral way with all political personalities.”⁴

The State Department is continuing to play an active role in resolving Arab-Kurd disputes. The U.S. Embassy in Iraq has established a branch office in Kirkuk whose top priority is to mitigate and mediate Arab-Kurd and provincial-national tensions; other priorities include “strengthening the capacity of provincial institutions in key flashpoint locations . . . [and] providing platforms for the United Nations Assistance Mission to Iraq.”⁵ Though a redeployment of U.S. troops would require a new agreement between the United States and Iraqi governments, the Departments of State and Defense are considering whether

² Knights, 2010, pp. 34–35.

³ Gompert, Kelly, and Watkins, 2010, p. 53. No doubt, some Arab and Turkoman Iraqis would reject the notion that the United States could serve as a neutral mediator given Washington’s two decades of support for Kurdish autonomy. At the end of the first Gulf War, the United States effectively barred Saddam Hussein’s army from northern Iraq, establishing no-drive and no-fly zones and conducting a humanitarian mission (Operation Provide Comfort) to assist Kurdish refugees. Over the following two decades, a de facto U.S. security umbrella enabled the two Kurdish parties to establish an autonomous zone whose relative success and prosperity prepared Kurdish leaders to argue persuasively for a formal recognition of Kurdish autonomy in the post-Saddam era. It is somewhat ironic that, after facilitating Kurdish self-government for 20 years, the United States is now working diligently to ensure that the KRG fully integrates into an Iraqi state governed from Baghdad. Insights on this dynamic were provided by a USF-I official in an email to the authors, June 12, 2011.

⁴ Marwan Ibrahim, “US Troops Should Stay in Iraq: Iraqi Governor,” *Agence France-Presse*, June 15, 2011.

⁵ U.S. Department of State Office of the Inspector-General, “Report of Inspection: Compliance Follow-Up Review of Embassy Baghdad, Iraq,” Report No. ISP-C-11-08A, October 2010, p. 11

a Kirkuk-based U.S. diplomat—either a State Department civilian or a military officer affiliated with the Embassy’s Office of Security Cooperation—Iraq—could serve as an effective liaison to the CSM.⁶

The United Nations could play some role, but its reputation in northern Iraq is poor. First, the UNAMI report on disputed territories failed to meet the expectations of any of the parties, undermining the UN’s credibility as an effective mediator. Second, few Iraqis trust the UN because of widespread corruption in the Saddam-era oil-for-food program and a popular belief that the UN was easily manipulated by Saddam.⁷ Third, should some military or police presence be needed to enforce an agreement, the UN is not likely to authorize a peacekeeping or CIVPOL mission in Iraq.⁸

⁶ RAND interview with senior State Department official, Washington, January 13, 2012.

⁷ International Crisis Group, 2008, pp. 11–13, especially footnote 67.

⁸ Gompert, Kelly, and Watkins, 2010, p. 53.

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