Creating political space to resolve inter-communal tensions in Kirkuk, Iraq
Submission to the USIP Competition "Case Studies in Peacebuilding"

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Introduction

Kirkuk Governorate has been a focal point of significant tensions in Iraq since the 2003 US-led intervention. Substantial oil reserves, strained relations between Kirkuk's Arab, Kurdish, Turkoman and Chaldo-Assyrian communities, and the broader power struggle between Arabs and Kurds over Kirkuk's future status place Kirkuk at the intersection of larger interests both inside and outside of the country. Kirkuk has nevertheless been largely neglected by the international community. At the time of the engagement described in the following case study, there had been little or no dialogue between the principal communities since 2003, and divisions (including violence) had caused them not to meet, trust to wane, and the stresses and risks of the situation to mount.

It was deemed important in this context to seek to create safe political space for parties to convene, establish contacts and confidence, and bridge differences, as well as to assist leaders to orient themselves to peaceful co-existence. A small, independent group of outside experts accordingly agreed to design and facilitate in 2008-09 a consultative dialogue between political representatives of the four communities, focused not on the difficult topic of Kirkuk's status, but instead on matters of governance building from shared experience and common interests. Though initiated and facilitated by a non-official third party, without a formal mandate, the engagement was 'Track I' (according to prevailing conflict resolution typologies), involving exclusively political leaders and official decision-makers.

Broadly, the case illustrates an iterative 'process' which effectively combined space creation, knowledge transfer, peer-learning, problem-solving around specific issues, normative development and facilitated mediation. The central question treated is whether structuring multi-party dialogue around a process of directed learning, in this case regarding policy issues and governance options, can be an effective approach to change perceptions and promote accord. Critical process challenges to be addressed include: participant selection (ensuring engagement of key parties); implementation/follow-through (setting a timetable and 'choreography' for implementation of potential agreements); and managing differences in expectations, interests and relative power of participants. Successful approaches include: how to identify key issues, and facilitate/mediate discussion thereon; how to create space for such discussion to evolve into actual negotiations; and how to create opportunities for peer-learning to enable parties to arrive at a common position.

Background

Kirkuk has been among Iraq's most intractable problems. A diverse province and city with three main ethnic groups—Arabs, Kurds, and Turkoman—who all have different tales of suffering and entitlements to tell, Kirkuk is also beset by problems well beyond the control of its citizens and their representatives. Because of its oil and gas reserves, controlling Kirkuk, or preventing someone else from doing so, has major resource implications. Control is also symbolically important for all three of its main ethnic groups, but especially so for Kurds who have come to see Kirkuk as 'their Jerusalem'. Politically, the future of Kirkuk is, like those of the other internally disputed territories of Iraq, tied up with the full implementation of Iraq's 2005 constitution, which, in its Article 140, stipulates normalisation (i.e., reversal of Arabisation), a census and a referendum "in Kirkuk and other disputed territories to determine the will of their citizens" (concerning the status of these territories, i.e., whether they are to become part of the Kurdistan region). The future status of Kirkuk has thus become a major bone of contention between Kurds and Arabs in Iraq as a whole, and has become entangled in two other disputes—over a federal hydro-carbons law and constitutional reform.

Beyond Iraq, Kirkuk matters to Turkey[1], which allegedly fears that a Kirkuk that is part of the Kurdistan Region would further encourage Kurdish separatism in Iraq and the region as a whole,[2] including Turkey.

Apart from potentially explosive local dynamics, Kirkuk has become a symbol of the contentious nature of the broader Iraqi political process and has become entangled in a protracted bargaining process between Arabs and Kurds. The main dimensions of this process are constitutional reform, the governance of Iraq's oil and gas reserves, and the resolution of territorial disputes. Kirkuk, in a sense, marks the essence of these unresolved problems: a disputed territory of enormous symbolic significance to Arabs, Kurds, and Turkoman alike, it is strategically significant because of the presumed 13% of Iraq's hydrocarbon reserves concentrated in the province, and determining its political status within Iraq and its internal governance arrangements goes to the heart of the 2005 constitution and some of the reforms proposed to it. Kirkuk has thus become a highly significant pawn, and prize, in the wider confrontation between Arabs and Kurds in Iraq. This has led to a marginalisation of all local communities in Kirkuk, and to their instrumentalisation by the power brokers in Baghdad and Erbil. What is more, the international community has largely come to accept this structure, and endorsed and facilitated a process in which the future status of, and governance arrangements in, Kirkuk are negotiated between Baghdad and Erbil. Local input from Kirkuk into this process is at best marginal.

In turn, this centralisation of the Kirkuk settlement process has led local communities increasingly to rely, and become dependent, upon their patrons outside Kirkuk. Arabs have aligned themselves with Baghdad, Kurds must seek support in Erbil, and Turkoman depend highly on help from Ankara. As local communities rely on external sponsors, the latter, in turn, have invested much of their own political capital by committing themselves to particular 'solutions' of the Kirkuk dispute. This makes local bargaining over power-sharing arrangements more complex and increases the opportunity for spoilers to derail, or at least delay, meaningful local compromise.

On the Kurdish side, this is further complicated by the rivalry between KDP and PUK and by the emergence of a third major Kurdish political party, Gorran, which, while it failed to obtain any seats in Kirkuk in the 2010 parliamentary elections, split the Kurdish vote enough to reduce the overall number of seats won by Kurds. On the other hand, the strong support that the predominantly secular Shi'a alliance, Iraqiya, received in the 2010 polls indicates a potential convergence of Arab and Turkoman interests, as well as a hardening of their opposition to a referendum and subsequent inclusion of Kirkuk into the Kurdistan region. With Baghdad and Ankara equally opposed, and Washington more concerned with rapid exit and a modicum of at least short-term stability afterwards,[3] the balance of power over Kirkuk has gradually, but decisively shifted away from the Kurds.[4]

Local, national, regional, and international factors and dynamics thus combine in a near-perfect storm of conflicting interests, mismatched capabilities, and diverging agendas. In all this, the fate of local Kirkukis

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[1] On the role of Turkey, cf., among others, Bülent Aras, "Turkey, Northern Iraq and Kirkuk", *Foreign Policy Bulletin* 5(2007): 6-9; Philip Giraldi, "Turkey and the Threat of Kurdish Nationalism", *Mediterranean Quarterly* 19(1)2008:33-41; International Crisis Group, *Turkey and Iraqi Kurds: Conflict or Cooperation?* (Middle East Report N°81), Brussels: International Crisis Group, 2008; Robert Olson, "Relations among Turkey, Iraq, Kurdistan-Iraq, the Wider Middle East, and Iran", *Mediterranean Quarterly* 17(4)2006: 13-45; Robert Olson, "Turkey's Policies Toward Kurdistan-Iraq and Iraq: Nationalism, Capitalism, and State Formation", *Mediterranean Quarterly*, 17(1)2006: 48 – 72; Thanos Veremis, "The transformation of Turkey's security considerations", *The International Spectator: Italian Journal of International Affairs* 40(2): 75 – 84.

[2] Cf. Ted Galen Carpenter, "Middle East Vortex: An Unstable Iraq and Its Implications for the Region", *Mediterranean Quarterly* 20(4):22-31.

[3] Brendan O'Leary has emphasised the need for a responsible American exit that ensures a sustainably stable Iraq after August 2011. Cf., e.g., Brendan O'Leary, "Departing responsibly", *Dissent* 56 (2): 30-35. Available http://www.dissentmagazine.org/article/?article=1406. Accessed 19 March 2010.

[4] The Kurdish position in Iraq as a whole has been further weakened by the decreasing share of seats that Kurds have gained over three electoral cycles (January and December 2005, March 2010): from a total of 77 seats in January 2005 (with 75 seats going to the main PUK-KDP alliance list, and 2 to a rival party), to 58 seats in December 2005 (with 53 seats going to the main PUK-KDP alliance list and 5 to one rival party), to 57 seats in a significantly enlarged parliament in March 2010 (with 43 seats going to the main PUK-KDP alliance list, and 8, 4, and 2 to other Kurdish parties). Kurdish political power in Baghdad has thus been weakened both in terms of seats commanded in the Council of Representatives and in terms of intra-Kurdish party-political divides.

has become a peripheral distraction at best and an unwelcome inconvenience at worst. This is all the more unfortunate as local initiatives over the past three years have shown some promise in preventing Kirkuk from becoming engulfed in sectarian warfare. An agreement was reached between political representatives of Kirkuk in December 2007 on governance arrangements, they committed themselves further to genuine cooperation and power-sharing in the Dead Sea Declaration of December 2008 and again in the Berlin Accords of April 2009, the latter including a specific agreement on the distribution of senior posts in the provincial administration as mandated under Art. 23 of the Provincial Elections Law. While these agreements remain essentially unimplemented and while local governance arrangements are at best part of a broader solution of the problems of Kirkuk, they are nonetheless significant indicators that Kirkuk need not remain an intractable problem, let alone that it should become the death knell of a democratic Iraq.

<u>Key Parties</u>
The population of Kirkuk is composed of three major ethnic groups—Arabs, Kurds, and Turkoman. The relative size of these population groups can only be estimated at the moment as no reliable census has been conducted since 1957. The UN currently estimates the total population of Kirkuk at just over 900,000 people.[5] Of these, just over half are estimated to be Kurdish, Arabs and Turkoman constitute roughly 35% and 12% of the population, and other communities around 1%.[6]

Part of the problem in Kirkuk today is that over time its population has significantly shifted as a result of Saddam Hussein's Arabisation campaign which involved the 're-districting' of Kirkuk (i.e., the detachment of several districts from Kirkuk governorate), the expulsion of Kurds and, albeit to a lesser extent, Turkoman, and the settlement of Arabs, primarily Shi'a from the south of Iraq. These historic injustices have been recognised legally in the post-Saddam period. Initially, Article 58 of the Transitional Administrative Law of 2004 (TAL) provided that the "Iraqi Transitional Government … shall act expeditiously to take measures to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region…", and it mandated both the return of those previously displaced and the resettlement (out of Kirkuk) of those transplanted there under the Saddam regime. Article 58 also provided for a referendum on the final status of Kirkuk, albeit only after addressing past wrongs, conducting a census and passing a permanent constitution. The 2005 constitution reaffirmed the provisions of Art. 58 of the TAL, and set a deadline for the conclusion of this process by 31 December 2007.

From this, further problems arose. Return migration of Kurds is seen by Arabs and Turkoman in Kirkuk as an attempt by Kurdish elites in Erbil to influence the outcome of a future referendum, while Kurds view especially Arab hostility to the return process as simply a continuation of Arabisation policies. While Kurdish return migration is not universally popular among all Kirkuk Kurds either, with some of them fearing a deterioration of inter-ethnic relations, Kurds in Kirkuk and the Kurdistan Region are more or less unanimous in their condemnation of the delay in the referendum process under Art. 140 of the Iraqi constitution.

All three communities in Kirkuk thus have very different narratives of past and present suffering and injustices, narratives, moreover, in which the respective other communities are more often than not perpetrators rather than fellow victims. Grievances based in past victimisation, the experience of consequential deprivation, and the expectation of continuing and potentially intensifying discrimination have informed each community's agenda of demands regarding the status of Kirkuk in Iraq and governance arrangements in the province.

To Arabs, the idea of Kirkuk joining the Kurdistan Region is completely anathema and synonymous with future discrimination and marginalisation. Even a Kirkuk outside the Kurdistan Region but one that

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[5] Inter-agency Information and Analysis Unit, Kirkuk Governorate Profile, http://www.iauiraq.org/reports/GP-Kirkuk.pdf (accessed 19 March 2010).
[6] Election results from the 2010 parliamentary elections confirm this partially, inasmuch as Kurdish parties obtained just over half of all votes cast.

becomes a region itself is viewed with suspicion across the Arab spectrum as the very substantive powers of self-governance that regions enjoy under the 2005 constitution combined with the fact of a Kurdish majority population in Kirkuk do not bode well from an Arab perspective. Hence, Arabs strongly advocate for a Kirkuk governorate with only the limited powers foreseen under the Provincial Powers Act (Law 21/2008) and for internal power-sharing arrangements that ensure the equal distribution of seats in the (provincial) assembly and of senior posts in the administration on an equal basis between Arabs, Kurds, and Turkoman. While Arabs, in terms of their share in Kirkuk's population do not gain anything material themselves, they can ensure that Kurds are limited in their control of Kirkuk's institutions.

Kurds, on the other hand, in their majority consider Kirkuk an inalienable part of the historic and geographic Kurdish region and point to Article 140 of the 2005 constitution that prescribes a referendum on the future status of the province. Denying Kirkuk a referendum is seen not only as unjust but also as a betrayal of a compromise accepted by the Kurds. Baghdad's procrastination on the referendum date and modalities is therefore not, from a Kurdish perspective, an encouraging sign. Having said that, local Kurds in Kirkuk (as opposed to the Kurdistan Region) are by no means unanimous in their advocacy of a particular status. Representatives of all Kurdish factions accept the need for meaningful power-sharing arrangements to be put in place in Kirkuk, and are generally prepared to make rather substantial concessions to Arabs and Turkoman along those lines. As far as Kirkuk's future status is concerned, Kurdish views are more diverse. While local KDP and PUK officials preserve, at least on the face of it, unanimity on the question of a referendum and the desirability of Kirkuk joining the Kurdistan Region, Kurds not tied into the party hierarchies or in fact unaffiliated with either PUK and KDP have shown greater flexibility. While they, too, oppose the continuation of the status quo, they are less wedded to the idea of Kirkuk becoming part of the Kurdistan Region, but rather advocate a Kirkuk region with close links to either Baghdad or Erbil, but controlled by neither.

The position of the different Kurdish factions is further shaped by two other considerations. Adding Kirkuk to the Kurdistan Region will inevitably affect the balance of power between the two main Kurdish parties, the PUK and KDP. While the KDP at the moment is the stronger of the two within the Kurdistan Region, adding the strongly pro-PUK province of Kirkuk to the electoral equation in regional elections is likely to shift this balance in favour of the PUK. A further factor that potentially militates against an uncompromising stance of the Kurds on 'recovering' Kirkuk is the strategic partnership that has grown between Erbil and Ankara. Not only is Turkey one of the main foreign investors in the Kurdistan Region, but potentially also an important evacuation route for its considerable oil and gas reserves, thus providing access to international markets that is not controlled by, or dependent upon, Baghdad. The question for the Kurds, therefore, is whether Kirkuk is more important to them than their relationship with Turkey, especially as there is also strong resistance to the idea of incorporating Kirkuk into the Kurdistan Region in Baghdad (and hence the need for potentially costly concessions on other fronts) and locally in Kirkuk (and hence the possibility of future instability and insecurity in an enlarged Kurdistan Region).

The smallest among Kirkuk's three main communities are the Turkoman, who can point to many instances in their distant and more recent past when they have suffered at the hands of both Arabs and Kurds. Hence, Turkoman are wary of domination from either Baghdad or Erbil and have advocated to date for a strong Kirkuk region in which they are protected qua power-sharing arrangements against discrimination and political exclusion. All three of the major communities accept the need for special measures to protect the smaller minorities in Kirkuk and include them in the political process of the province.

Results

Three formal 'consultations', bringing together approximately two dozen representatives of Kirkuk's principal communities and political parties, were convened from May 2008 to April 2009. Given the highly contentious nature of the question of Kirkuk's status, and the fact that it would be determined largely (if not entirely) by powers in Baghdad and Erbil, the approach to the consultations was to assist the people of Kirkuk to live together and govern Kirkuk whatever its future status. The basic premise was that Kirkuk is – and will remain – diverse and mixed, and that inter-communal issues must therefore be addressed, and the sooner they are addressed the better. It was accordingly decided to promote dialogue and confidence-

building and to build and enhance the parties' capacity to understand key issues of good governance in complex, plural societies.

Expert presentations and working groups were used to facilitate problem-solving vis-à-vis selected issues identified by participants as clear priorities, notably power-sharing and forms of decision-making/voting, and the use of languages. The core elements of power-sharing, their practical implementation, including the distribution of senior positions in the provincial government and civil service, and related challenges were explored in detail. Exercises among working groups were structured to enable participants to better appreciate the views and interests of others and realise more clearly governance challenges and possible solutions, *inter alia*, degrees of influence and control over matters affecting particular communities. Valuable learning and gradually developing confidence in each meeting encouraged continuing follow up, with a progressively deepening discussion of issues, norms, decision-making processes and policy options – all with a view to more effective governance.

Participants were carefully selected by an Iraq expert with extensive contacts in Kirkuk, on the basis of proportional representation, decision-making power and influence. Power dynamics within the group, according to elected positions and the relative power and influence of the different communities and political parties, required special consideration. Expectations, prior knowledge and understanding, interest levels and attention varied, but adjustments were made in each consultation to ensure the presence of key parties and active involvement of all groups, while a core group of key individuals was maintained throughout.

Working in a multi-party setting with limited resources, as a small, independent group of outsiders with limited funds and no political backing, and a concomitant inability to influence key outside players was a trade-off and risk. To achieve the greatest impact within existing constraints, it was agreed to focus on the key actors in Kirkuk, with a limited number of invitations. Including or influencing key 'fourth parties' in Baghdad, Erbil and Ankara (not to mention Washington) was beyond the parameters of the engagement and, in some cases, the capacity of the conveners. Discretion, impartiality, flexibility and the unique substantive knowledge of the expert group were considerable strengths to compensate the limitations.

Within these parameters, the aims of the consultations – to create space, build confidence, bridge differences, and assist leaders to orient themselves to peaceful co-existence – were exceeded. Two achievements were of particular significance. In the Dead Sea Declaration of December 2008, participants expressed a shared commitment to ten important points of governance, including implementation of the principle of power-sharing and of the constitutionally provided formula for use of official languages in Kirkuk. In the Berlin Accord of April 2009, participants committed themselves to implementing the Dead Sea Declaration, outlined principles and specific steps to implement power-sharing in public employment, and provided a model for future treatment of other Declaration provisions. Both developed organically, the former negotiated by the participants themselves on the margin of the second consultation, and the latter as a result of mediation by the group of experts in the third. Other achievements of note included:

- Return of Turkoman parties to a fully participant Provincial Council, in principle contributing to better working of a key governing body, or at a minimum, better representation. This was in fact an unintended consequence of the process;
- Knowledge transfer, including various learning moments, e.g., regarding Turkoman language demands and a clarification of constitutional provisions for official languages, "qualified" voting, and "autonomies" as one form of dividing or sharing powers;
- Some specific problem-solving, e.g., around the management of linguistic diversity;
- Normative development, notably the Dead Sea Declaration and Berlin Accord;
- Development of a "Kirkuk voice" on larger issues – deepening democratic development; and
- Overall, at least among the target group, a reduction of tensions.

Each of these accomplishments was a direct result of the positive disposition, and on some points, hard work, of the participants, and a source of broadly (if not unanimously) shared satisfaction. As such, each constituted, and in the case of the Berlin Accord clearly illustrated, a step in building trust and confidence,

and reflected the development of a shared vision around some crucial issues. Nearly all results were both framed and informed by the directed learning activities which had enabled some new thinking around old issues.

Conclusion: Lessons Learned

The transition, particularly in complex, plural societies, from authoritarian rule to democracy requires trust and confidence, technical knowledge and methods, and learning. Structuring a political dialogue around a process of directed learning proved an effective approach to change – and create new and shared – perceptions and promote accord among representatives of Kirkuk's principal ethnic communities on various levels, including a significant formal agreement in the form of the Berlin Accord.

A number of outsider actions enabled and sustained forward progress and helped ensure a successful outcome. In the first consultation, an elicitive exercise allowed participants to determine, through anonymous individual lists of priorities, the central issues around which the discussions that followed would be structured. Consolidation by the facilitators of the lists reinforced the fact of multiple shared interests and identified initial points of convergence – as well as various particular interests of each community. Subsequent 'training' sessions led by members of the expert group used the identified issues to explore key questions of governance in practice, including representation, participation, decision-making, and specific mechanisms and institutions of power-sharing. The sessions enabled joint reflection on options, lessons and concrete procedures. A process of facilitated peer-learning complemented the training component, with break-out groups led by selected participants – backstopped by the outside experts – serving as problem-solving sessions, e.g., matching priority issues with decision-making processes and discussing how to share positions in government. This created space for discussion to evolve into actual negotiations and enabled parties to arrive at a common position. Areas of agreement emerged, and it was evident that most issues do not divide along ethnic lines.

In broad terms, the orchestration of an iterative process which enabled and built upon these component parts proved highly effective. Input of participants was sought to shape the agenda in advance of each meeting, which encouraged ownership of the process and ensured the content reflected specific interests and needs. The initial two consultations built confidence among participants and between them and the mediator team, and the high-level policy presence in the third and final consultation – hosted at the *Bundesrat* in Berlin by the State Secretary of the German Federal Foreign Office – created 'pressure' to achieve something.

At the same time, the case illustrates the challenge of follow-through and implementation of an agreement in the absence of a clear implementation timetable and sufficient political backing, including from international actors, for it. Though the process led to the Dead Sea Declaration and culminated in a successful mediation of the Berlin Accord, both agreements thus remain partially unimplemented. At the same time, although no formal decision was taken regarding follow-up, the gap between parties in Kirkuk had clearly narrowed, and the agreements reached established a useful basis for further talks among the participants and selective implementation of some of the provisions agreed in the Dead Sea Declaration and the Berlin Accord. Perhaps the most significant and enduring legacy of the process that led to these two agreements has been that many of the participants in this Kirkuk dialogue are still talking, and that gloomy predictions of Kirkuk as a trigger of renewed civil war in Iraq remain unfulfilled.