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## **THE TERRITORIAL CONFLICT BETWEEN THE CENTRAL IRAQI GOVERNMENT AND THE KURDISTAN REGIONAL GOVERNMENT**

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Ten years ago, on 9 April 2003, live TV pictures documented an act symbolising the collapse of a dictatorship. Using an armoured recovery vehicle, the soldiers of a brigade of the 3<sup>rd</sup> Infantry Division of the U.S. Army toppled a six metre bronze statue of Saddam Hussein. In December 2011 U.S. troops left the country. Yet, all these years later, the political situation in Iraq remains unstable. Although the level of violence has decreased in relative terms, the situation has been exacerbated even further by increasing power struggles. The Kurdish issue has been and remains particularly controversial. The matter has been increasingly affecting development and restructuring processes in the country in many areas.

### **THE ORIGIN OF THE CONFLICT**

The territorial disputes between Iraqi governments and the ethnic Kurds living in the north and northeast of the country (Fig. 1) go back a long way. During the past few decades, these frequently resulted in crises and violent clashes with devastating consequences. Directly after the First World War, this conflict ran its course from 1919 to 1925. During this period, the political landscape in the region underwent a fundamental change. In Paris, the site of the peace negotiations between the victorious powers and the vanquished, the Allies agreed right from the start of the consultations to separate Armenia, Syria, Mesopotamia, Kurdistan, Palestine and Arabia from the Ottoman

Empire. Promises were given to the affected peoples that the development and sovereignty of the respective countries would be realised by means of League of Nations mandates.

In spite of this favourable international constellation, the efforts of Kurdish activists to establish a nation state failed. After the breakup of the Ottoman Empire, the state of Iraq was created; however, its northern borders went far beyond their geographic, historic and ethnic-cultural boundaries[.] – and this is precisely what brought about the problems that this state has with its Kurdish population.

Fig. 1

### Religious and ethnic groups in Iraq



Source: Own presentation based on "Religious and ethnic groups in Iraq", schematic, *BBC News*.

There are multiple and virtually identical historic definitions of Iraq as a geographic entity. It consists of the natural alluvial plain landscape in the Gulf, starting at the seaport of Basra and extending towards the north and northeast. The north-western boundary forms a line between the present-day central Iraqi towns of Hit and Takrit; in the west, this landscape is bordered by the Syrian desert, in

the east by the Tigris and the foothills of the Pushti-Kuh, and in the northeast by the Jabal Hamrin. This area represents a unit, which used to be referred to by the twin names of Sumer and Akkad in former times.<sup>1</sup>

Before the First World War, the area was under Ottoman rule, comprising the two vilayets (large provinces) of Basra and Baghdad in terms of administration. During the war, the UK brought the two vilayets under its control. The fate of the northern areas of the Baghdad vilayet remained unresolved. In the course of the Ottoman constitutional reform in 1878, the vilayet of Mosul with a majority Kurdish population had been established there. After the war, the status of this vilayet under international law turned into a bone of contention between the UK and Turkey. This dispute was subsequently decided in favour of the UK when the Council of the League of Nations on 16 December 1925 agreed on awarding the disputed vilayet to the British mandate territory (i.e. the Kingdom of Iraq) subject to a small number of conditions, which included an extension of the term of the mandate and willingness to take into account the wishes of the Kurds.<sup>2</sup> These wishes were not defined in any great detail. They were subsequently declared to have been fulfilled with references to the recognition of the Kurdish language and the employment of Kurds in state organisations and institutions.

The Commission of the League of Nations had previously considered the geography of these areas extensively in a report for the purpose of examining the Mosul issue. In this report, it concluded that the climatic and topographic features and the history of the name "Iraq" confirmed that the disputed territory, i.e. the vilayet of Mosul, never constituted part of Iraq, nor that it had been a part of Anatolia, as Turkey depicted it. The Commission members also stated that Iraq and the disputed territory unequivocally consisted of three parts that had to be clearly distinguished: Arab Iraq, Jazira and Kurdistan.<sup>3</sup> The League of Nations

1 | See Maximilian Streck, *Die alte Landschaft Babylonien nach den arabischen Geographen. I. Teil*, Leiden, 1900, 1.

2 | See Société des Nations, *Journal Officiel*, Vol. 7, No. 2., Feb 1926, 187-93.

3 | League of Nations, "Question of the Frontier between Turkey and Iraq, Report submitted to the Council by the Commission instituted by the Council Resolution of September 30<sup>th</sup>, 1924", C. 400. M. 147, Geneva, 1925, 25-29, 56 and 86.

report further stated: "If the ethnic argument alone had to be taken into account, the necessary conclusion would be that an independent Kurdish State should be created [...]."<sup>4</sup> The northern borders of the Iraqi state can therefore be attributed to the category of "artificial borders" from a typological perspective. The border was drawn without consideration of the ethnic-cultural and geographic-territorial circumstances, which has been adding fuel to a conflict situation until the present day.

## KURDISTAN AS PART OF THE KINGDOM OF IRAQ

Although the Arabs gained a relatively extensive territory thanks to the clever political manoeuvring of the British, they could not actually foresee who they were acquiring as neighbours to the north: an ethnic group that saw no reason to submit quietly to rule by a neighbouring people. King Faisal I, who had already made a point of not using the term "Kurd" or "Kurds" in his coronation speech on 23 August 1921 in Baghdad,<sup>5</sup> also avoided the word "Arabs" in his speech before the Iraqi parliament on the occasion of the formation of the seventh Iraqi cabinet on 26 July 1925 – a full six months before the decision by the League of Nations. Instead, he spoke of "our nation" (six times) and of northern "territories", "boundaries" and "districts". He stressed "the defence of Iraq's unity" and that any ideas likely to cause a split among the Iraqis would be cracked down on.<sup>6</sup> The King took pains to afford the Kurds within the future borders of his state appropriate attention by avoiding emphasising any ethnic-nationalist character for his kingdom.

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Iraq devised plans for the future based on the given situation, taking into account various possible scenarios. One of the first consequences of incorporating the vilayet of Mosul into Iraq was that this consolidated the new British administrative divisions. In the Ottoman era, the vilayet of Mosul consisted of three sanjaks: Mosul, Kirkuk and Sulaymaniyah. The city of Kirkuk, which formed the centre of

4 | Ibid., 57.

5 | See speech by King Faisal I in: Abdul-Razzaq Al-Hasani, *The History of the Iraqi Cabinets (Arabic)*, 7<sup>th</sup> ext. edition, Vol. 1, Bagdad, 1988, 66-68.

6 | The text is available in full in: *ibid.*, Vol. 2, 8-11.

the vilayet of Sharazur prior to 1878, was divided by the British back in 1918. They split off four to five qaza (districts) (Rawanduz, Erbil, Koy Sanjaq, Salahiya and Raniya) to form Erbil.

Fig. 2

**The administrative boundaries of the northern parts of Iraq with possible boundaries of the Directorate of Education for Kurdistan (Kirkuk, Erbil and Sulaymaniyah)**



Source: Own presentation.

In 1925, the year of the decision by the League of Nations, there were signs of a positive development insofar as the Ministry for Education divided the country into five Directorates of Education. The Directorate of Education for Kurdistan was based in the city of Kirkuk, and its territory included Erbil and Sulaymaniyah.<sup>7</sup> The officials in charge in Baghdad arrived at this acknowledgement of the geography and identity of those territories beyond the Hamrin Mountains, and particularly Kirkuk and its surrounding area, without any coercion (Fig. 2). This is remarkable for

7 | Middle Euphrates: based in Hilla, comprised Karbala, an-Najaf and ad-Diwaniya. Basra came under an-Nasiriya, Alemara. Diyala, Kut, al-Ramadi were combined under Baghdad. Mosul was a separate directorate.

two reasons: On the one hand, because it illustrates how these areas were identified as well as named along ethnographic lines in Baghdad at that time. On the other hand, this event represented a symbolic act, which highlighted the authority of the newly founded kingdom with a message: Kurdistan is becoming part of Iraq and its identity is being recognised.

But Kurdish integration into the new state never reached a satisfactory level. This was mainly due to the politics conducted by the elitist governing class, which was predominantly of Arab origin and Sunni. There were thus a significant number of actors in the new state whose aims did not coincide with furthering development and integration for all citizens with their different languages and religious affiliations. This is illustrated by the example of the education sector. The architect of policy in this area refused to establish teacher training colleges in the Arab-Shiite town of Hilla and in the city of Mosul, where large parts of the population were Christian, to prevent the other ethnic groups from taking advantage of such an education – and the Shiites and Christians were specifically referred to in this connection.<sup>8</sup> No such institution of higher education was set up in Kurdistan either.

Shortly afterwards, matters took a turn that proved to be calamitous for the Kurds. The start of oil production at Baba Gurgur near Kirkuk in 1927 set off a critical phase during which circumstances pushed matters continuously in a negative direction in the medium and long term. Those in power were increasingly motivated by economic interests and they proceeded to remove Kurds from the key roles in Kirkuk.<sup>9</sup> That time also saw the first signs of a policy of state-controlled creeping Arabisation in certain parts of the

8 | See the memoirs of the architect of this policy Sati' al-Husari, which were published in 1967 in Beirut. This man was a confidant of King Faisal I. Al-Husari had already supported Faisal during his time in Syria. Neither Faisal nor al-Husari were native Iraqis.

9 | This becomes obvious upon examining the appointments to the office of provincial governor in Kirkuk province: During the 37 years of the monarchy, this position was awarded to only five persons of Kurdish origin for just seven years, despite the predominance of Kurds amongst the population in the province. See also: Jabbar Kadder, *Contemporary Kurdish Matters: Kirkuk – Al-Anfal – The Kurds and Turkey* (Arabic), 2006, 45.

province. This took place during the times of the monarchy until 1958. After the proclamation of the republic, this policy was pursued much more forcefully.



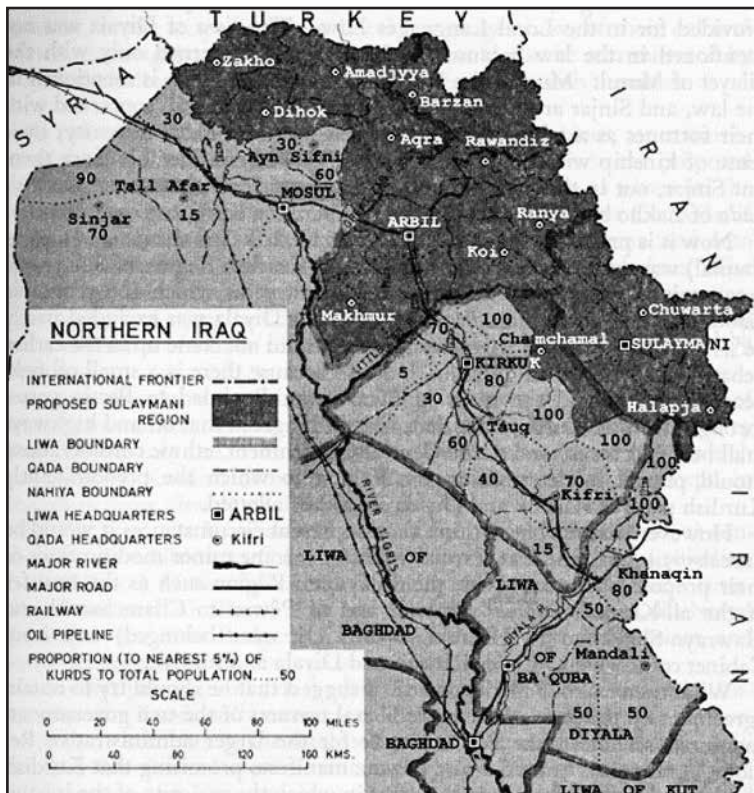
Damaged Iraqi T-55 tank in 1991: Despite great losses in the Second Persian Gulf War, Baghdad remained unyielding in its negotiations with the Kurdish side. | Source: United States Marine Corps.

### **THE TERRITORIAL DISPUTE BETWEEN 1958 AND 2003**

After the July coup by the so-called Free Officers of 1958, Kurdish teachers submitted a memorandum to the authorities, in which they applied for the re-establishment of the directorate for education for Kurdistan in order to further education. The Commander of the Second Iraqi Division stationed in Kirkuk, Nadhim Tabaqjali, who was known for his radical Arab nationalist leanings, rejected this application and called attention to the “dangers of a geographic determination” contained in the memorandum of the Kurdish teachers in a memorandum to the military intelligence services on 9 September 1958. He pointed out that the “incorporation of Kirkuk province into the Kurdish Directorate of Education [...] masks the desire to control the oil”. This clear change of course by some officials in Iraq increasingly became something of a state doctrine where the Kurdish issue was concerned.

The euphoria following the fall of the monarchy in July 1958, which entailed remarkable constitutional changes, did not even last three years. The constitution recognised the dual ethnic structure of Iraq. But the whole of Iraq was simultaneously defined as part of the Arab fatherland. In September 1961, further armed hostilities broke out between the rebellious Kurds and the central government.

Fig. 3

**The region in 1967**

Source: C. J. Edmonds, "The Kurdish War in Iraq: A Plan for Peace", in: *The Journal of the Royal Central Asian Society* (now: *The Royal Society of Asian Affairs*), Vol. LIV, London, 1967, 10-23, 17 (revised by Erik Prüter), used in: Awat Asadi, *Der Kurdistan-Irak-Konflikt*, Verlag Hans Schiler, Berlin, 2007, 201.

While the two Generals Arif I and Arif II were in power (February 1963 to July 1968), the government side showed some willingness to allow the Kurds a degree of self-administration. But their plan excluded Kirkuk, Khanaqin



and Sinjar and the surrounding area from the proposed autonomous region. They even avoided use of the term Kurdistan for the region.

In July 1968, several generals, who felt committed to Arab nationalist ideals, took power under the leadership of General al-Bakr, paving the way for the Arab Socialist Baath Party to take over. This new Iraqi leadership concluded a peace agreement with the Kurdish side led by Mustafa Barzani in March 1970. According to this agreement, Kurdish autonomy was to be implemented in 1974. But the political discussions and negotiations during that year ultimately failed because of the Kirkuk issue, as the Baath government was not willing to accept integration of this province into the Kurdish autonomous region. It seems that Baghdad considered no price too high to prevent that. The Iraqi government settled its differences with the Shah of Iran, who was providing generous military aid to the Kurds, and accepted the redrawing of the border in the Shatt al-Arab in line with Iranian wishes in the so-called Algiers Accord of 1975. This agreement would, however, not survive the fall of the Shah for any length of time. Because one of the main objectives of the war Saddam Hussein waged against Iran (1980-1988) was to annul the above-mentioned border agreement. This First Persian Gulf War entailed heavy losses; it was followed in 1990 by the Second Persian Gulf War, which brought even greater losses. Despite these colossal, self-initiated conflicts, the central government in Baghdad remained unyielding in its negotiations with the Kurdish side. Particularly where the Kirkuk issue was concerned, the government's attitude became ever more entrenched.<sup>10</sup>

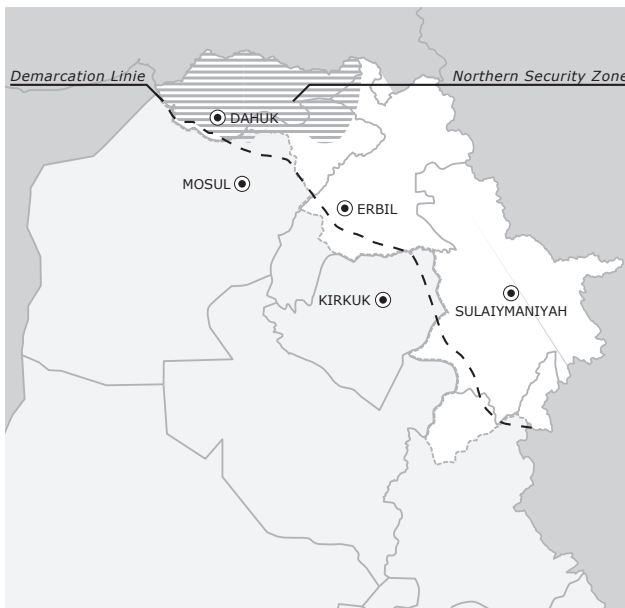
The definitive territorial demarcation of the autonomous region of Kurdistan has thus always been one of the main issues under dispute in negotiations between the Kurdistan leadership and the Iraqi government. The territory

10 | This attitude is illustrated by a rather odd statement on Kirkuk made by a high-ranking Iraqi politician. Tariq Aziz, the former Iraqi Vice President, advised the Kurdish negotiating team in blunt terms in 1991 as follows: "We know that this is a Kurdish area; but we are only granting you [the Kurds] one right in relation to it, namely that of weeping when you cross this area." Nouri Talabany, *The Kirkuk region and the attempts to change its national reality* (Arabic), 2<sup>nd</sup> edition, s.l., 1999, 18.

governments were willing to recognise as Kurdistan always fell short of the expectations held by the Kurdish side, particularly after 1963. One should not neglect to mention that a policy of Arabisation was pursued on a large scale in some areas of Kurdistan from as early as 1970, particularly in Kirkuk province. The most drastic measure in this connection was performed in January 1976, when the Baathist rulers issued decisions through the so-called "Revolutionary Command Council" that reduced the territory of Kirkuk province from 19,543 km<sup>2</sup> to 7,559 km<sup>2</sup> by assigning three districts of this province – with majority Kurd populations – to the neighbouring provinces. The policy of Arabisation was pursued even more fervently in subsequent years until 2003.

Fig. 4

#### The demarcation line



Source: Own presentation, based on "Kurdistan – 1995", Global Security.org, <http://globalsecurity.org/military/world/war/kurdistan-maps.htm> (accessed 23 Jul 2013).

After the Second Persian Gulf War, Iraq experienced revolts by the Kurds in Kurdistan and by the Shiites in the south of the country. By October 1991 at the latest, the disputed territory was effectively split off, with a demarcation line

established along the north-eastern part of Iraq (Fig. 4). Until the fall of the regime on 9 April 2003, there had been no sign that Baghdad was considering altering its course in the border dispute with the Kurds.

### THE BORDER CONFLICT AFTER 2003

From its inception up until 2003, all tentative approaches to resolve the Kurdish issue stalled and did not progress from violent confrontation. However, the armed hostilities since 1991 had reconfigured the balance of power to produce a situation where a centralist state was no longer feasible in Iraq. This meant that things would take a different turn after a new upheaval. And this did indeed occur subsequent to the fall of the regime. The new functionaries in Baghdad read the signs of the times and – albeit in part reluctantly – embarked on a path towards federalisation of the political system in order to heal the wounds inflicted by the monopolisation of power by the Sunni Arabs since the early days of the state and take into account the changed circumstances relating to the Kurdish issue.

It seems that after the regime had been brought down by allied troops led by the USA on 9 April 2003 the new actors in Baghdad considered the peace process a prerequisite to resolving the Kurdish conflict. One cannot be certain as to whether this change in direction was due to a well-thought-out decision made by a majority of Arab Iraqis on the basis of a cost and benefit analysis or a hasty decision taken in stormy times. Initially, a peaceful transformation of the Kurdistan-Iraq conflict took place, which represented the beginning of a fundamental change.

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During the post-Saddam era, the border dispute became a matter dealt with by the provisional constitution on 4 March 2004. The provisions of Article 53 A of the interim constitution<sup>11</sup> indicate that the “military demarcation” of 19 March 2003 determined the respective official areas of influence of the conflicting parties, Iraq and the Kurdistan Region. The article states: “The Kurdistan Regional Government is

11 | See the full text of the provisional constitution: The Coalition Provisional Authority (CPA), <http://iraqcoalition.org/arabic/government/TAL-arabic.html> (accessed 18 Jul 2013).

recognized as the official government of the territories that were administered by the government on 19 March 2003 in the governorates of Dohuk, Arbil, Sulaimaniya, Kirkuk, Diyala and Neneveh. The term 'Kurdistan Regional Government' shall refer to the Kurdistan National Assembly, the Kurdistan Council of Ministers, and the regional judicial authority in the Kurdistan region."<sup>12</sup> This decision was made at a time when the Iraqi army had long been disbanded and, unlike the leadership in Kurdistan, the new officials in power in the Iraqi capital, who were of Arab ethnicity, had no armed forces to maintain rule over the affected areas, i.e. the zones now set forth under the law.

The definition of the official zones of influence of the conflicting parties did not take into account either the old provincial boundaries of the country or the natural geography, the historic arguments or the ethnic makeup of the population; instead, it was based exclusively on the status at the time before the allies had started military action against Saddam Hussein's regime. The date of 9/10 April 2003 would have suited Kurdish interests better, because from that time onwards virtually all areas claimed by the Kurds were firmly under their control and allied troops did not enter these areas until later.

## **TOWARDS CONSTITUTIONAL CONFLICT RESOLUTION**

The course of action for resolving the territorial conflicts between the government side in Baghdad and the Kurds is enshrined in Article 58, the most extensive article of the transitional law. The provisions of this article consist of three basic parts.<sup>13</sup> In the first part (A), the Iraqi Transitional Government and the responsible authorities are called upon to take measures to remedy the injustice caused by the previous regime's practices. This unjust policy is described in the article, which states that it manifested "in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals" and "forcing migration" as well as "settling individuals alien to the region" etc. According to the provisions, there will be restoration, compensation as well as partly voluntary repatriation.

12 | Ibid.

13 | See *ibid.*

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The article refers exclusively to the policy of “oppression” of the former regime without any mention of earlier governments. This is in contrast to the origins of the conflict and to the events of contemporary history, as the Kurdistan issue is older than the Iraqi state. Presumably, the Kurdish negotiating team did not insist that the historic background to the Kurdistan-Iraq conflict be addressed explicitly in the Iraqi constitution. In view of the trauma of the Saddam-Baath rule, the Kurds probably brushed over the past as a gesture of goodwill to facilitate the shaping of the joint future and a new start.

Paragraph B of Article 58, which refers to the provincial boundaries of the country, states: “The previous regime also manipulated and changed administrative boundaries for political ends. The Presidency Council of the Iraqi Transitional Government shall make recommendations to the National Assembly on remedying these unjust changes in the permanent constitution. In the event the Presidency Council is unable to agree unanimously on a set of recommendations, it shall unanimously appoint a neutral arbitrator to examine the issue and make recommendations. In the event the Presidency Council is unable to agree on an arbitrator, it shall request the Secretary General of the United Nations to appoint a distinguished international person to be the arbitrator.”<sup>14</sup>

The changes made to provincial boundaries by the Saddam Hussein dictatorship were not reversed – contrary to all statements pertaining to “remedying these unjust changes”. Other arrangements are being considered for them, namely submitting recommendations to the National Assembly. That would also mean the populations of the affected areas would be kept entirely excluded from decision-making processes, exactly as was the case in the past when the presidential decisions on moving the boundaries were made.

If “recommendations to the National Assembly” means the Iraqi parliament would vote on the acceptance or rejection of the recommendations, this would not bode well for the disadvantaged side, i.e. the population of Kurdistan or the

14 | Ibid.

Kurds. As the Kurds make up a minority of the country's population as a whole, it is highly unlikely that they could ever achieve a majority in the Iraqi National Assembly. Even if voting in Iraq were to take place in a single constituency, as was the case during the 2005 elections, the Kurds would be unlikely to win more than 25 per cent of the seats. Accordingly, the Kurds need to rely on support from the Arab side to realise their interests.

Another problem for the Kurdish side arises from the provisions of a different article, namely Article 53 Paragraph B, which states that the boundaries of the 18 provinces would remain without change during the transitional period.<sup>15</sup> The main purpose of this paragraph is to prevent any moves towards a referendum by statutory means. Considering these provisions, it is important to begin now to investigate the mechanisms that would be involved in "arbitration" by a representative of the United Nations. Will the proceeding follow the same course as the resolution of the conflict between the UK and Turkey in the case of the vilayet of Mosul or will the opposing parties make a decision on the matter at a later date?

The wording of Paragraph C of Article 58 is as follows: "The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent consti-

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tution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories."<sup>16</sup> This paragraph illustrates that a potential referendum will take place later than anticipated. A referendum will not be conducted until all the previously mentioned measures have been completed, i.e. until "normalisation" has taken place and the provincial boundaries have been settled. One can assume the wording "consistent with the principle of justice" will cause controversy in the future. Because any future decision can be objected to simply by making reference to this principle. There also remains the question on how to deal with the referendum in the first place. This applies in particular to

15 | Cf. *ibid.*

16 | *Ibid.*

Kirkuk province. Will voting take place in a single constituency throughout the province or in several constituencies? Would a subsequent split be acceptable or not?

Article 58 was adopted with some additions to the “permanent” constitution, which was voted on by a referendum on 14 October 2005. Article 140 states that the executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law. It further stipulates that the responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law would be extended and continue to apply to the executive authority elected in accordance with the Constitution so that it would be accomplished in full. The article also specifies the steps to be taken: “[...] (normalisation and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31<sup>st</sup> of December 2007”.<sup>17</sup>

Specifying a deadline for the completion of all measures (even if this may have been done on the insistence of the Kurdish side) was in actual fact a mistake or a miscalculation in terms of feasibility. This was a mistake because the capabilities and options of the new leaders at the helm in Iraq had been overestimated. The necessary substructure was not in place. People had hardly bargained for the unexpected detours and obstacles they would face along the way and that were very difficult to overcome. The new wave of violence, which cost dozens of lives every day in many parts of the country, even generated fears that the entire Iraqi state would go into a slow terminal decline. In addition, the great majority of those in positions of authority in Iraq did not have the political will to implement this article.<sup>18</sup>

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17 | The full text of the Iraqi constitution: Iraqi National Assembly, <http://parliament.iq/manshurat/dastoreng.pdf> (accessed 18 Jul 2013).

18 | “... fatally for the Kurds, it was staffed at all levels by bureaucrats who were increasingly hostile to Kurdish designs on Kirkuk” was how Liam Anderson and Gareth Stansfield described a further dilemma for the Kurds. Liam Anderson and Gareth Stansfield, *Crisis in Kirkuk. The Ethnopolitics of Conflict and Compromise*, Philadelphia, 2009, 169.

## **THE GOVERNMENT PROGRAMME OF MALIKI'S FIRST CABINET**

The Iraqi Prime Minister Nuri al-Maliki drew upon the negative experiences made by his predecessor Ibrahim Jaafari as political lessons, and began by making concessions to the Kurds. In May 2006, the newly elected head of government took up the cause of implementing Article 140. In item 22 of its government agenda, the cabinet undertook to implement Article 140 of the constitution, which is based on Article 58 of the interim constitution. The steps to be implemented in the three phases were specified: "normalization and census and a referendum in Kirkuk and other disputed territories." The programme further stated that after its formation the government would undertake the steps necessary for the normalisation measures, "including the reintegration into Kirkuk province of the districts and sub-districts that belonged to it originally." In the same agenda item, three dates were set for the implementation of the three phases. 29 March 2007 was specified for the first phase. The census phase was to start on 31 July 2007, and the last phase – the referendum – was then to take place no later than 15 November 2007.

But this did not mean that Maliki was correct in everything he was planning. It was questionable as to whether the reintegration of the severed districts of Kirkuk is and remains part of his remit under the constitution. Article 58 B states that these matters are the responsibility of the Presidency Council. In fact, Maliki did not take any discernible action to pave the way for the reintegration of the severed districts into Kirkuk, contrary to his programme objective. He could at least have motivated his parliamentary party to submit a corresponding bill in the National Assembly, but he did not.

It was not until much later that Maliki himself addressed the matter in public. French TV stations and RMC conducted an interview with the Iraqi head of government in April 2009. Early on in the interview, Maliki refuted the allegation made by the Kurdish side that he was not enamoured with Article 140, and he pointed out that it was he who had set up the committee for the implementation of Article 140 and funded it with 600 million U.S. dollars. Maliki continued:



"I told them [the Kurds] that this article will never produce solutions because it is worded in such a way that it will not end in a clear outcome."<sup>19</sup> In his interview, Maliki proposed the following approach: "First: the determination of boundaries; secondly, normalisation of the solutions for the inherited problems as well as restitution of rights to people from whom they had been withdrawn."<sup>20</sup> Only then, said Maliki, should a census and a referendum take place.

In fact, the deadlines for the implementation of Article 140 passed without the government having presented any tangible results. As early as 31 December 2007, an expert commission on Article 140 appointed by the Council of Ministers had submitted its recommendations relating to the problems concerning the provincial boundaries. The contents of this report have not yet come to light. Nor have the reports submitted by UNAMI (United Nations Assistance Mission for Iraq) so far, the objectives of which included bridging the gap between the opposing points of view of the conflicting parties, been able to make any great impact as things stand.

### **THE NEW CHALLENGES**

A significant number of the opponents of Article 140, including many Arab Sunnis and the Shiites under as-Sadr, had boycotted the first free parliamentary elections in January 2005 as well as the entire political process and had not been involved in the wording of the permanent constitution.<sup>21</sup> However, these forces did take part in the Decem-

19 | See excerpts from the interview on the official website of the Iraqi government: Republic of Iraq, The Committee for the Implementation of Article 140 of the Constitution of Irak, <http://com140.com/paper.php?source=akbar&mlf=interpage&sid=240> (accessed 18 Jul 2013).

20 | Ibid.

21 | Anderson and Stansfield wrote the following in this context: "Implementing 140 according to the specified time line would have required the dedicated cooperation of all entities involved in the process, and the problem for the Kurds was that even those factions that were not adamantly opposed to 140 had few incentives to devote the necessary time and resources to implementing a procedure that remained deeply unpopular among the broader Arab population in Iraq. It was a classic no-win situation for most Arab politicians involved in the process (including Prime Minister al-Maliki), and so the easiest option was to do nothing." Anderson and Stansfield, n. 18, 171-72.

ber 2005 elections, and they entered the Iraqi National Assembly in remarkable numbers. The tide had thus turned yet again. The ranks of those in Iraq opposed to this article increased rapidly. First signs of this trend reaching a peak appeared back in January 2008, i.e. just a few days after the deadline for the implementation of Article 140 had elapsed. Encouraged by the obvious determination of this strong movement, some 150 representatives of the Iraqi National Assembly signed a communique at the beginning of 2008, which called for this article to be rescinded.

An account of the progress made on the implementation of the provisions of Article 58 of the interim constitution (respectively Article 140 of the permanent constitution) by June 2008 makes for sobering reading.

Even after the involvement of the UN, hardly any headway had been made in bridging the gap between Baghdad and Erbil, as well as between those involved in the conflict at a local level, sufficiently to facilitate a dialogue

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that would produce tangible results in the long term. Matters were exacerbated by the fact that not all persons in authority showed themselves to be entirely reliable. Many even made great efforts to defer the provisions of this course of action for a settlement or to deactivate them altogether. This is illustrated by the events of 22 July 2008, the day that saw the will of the majority of the Iraqi people being expressed. On this day, the Iraqi parliament passed a bill on the holding of provincial elections. The election bill included a section on "multi-ethnic" Kirkuk province, according to which the future provincial parliament of Kirkuk was to represent the three major sections of the population in the province (Kurds, Arabs and Turkmen) in equal numbers. Each of these was to receive 32 of the seats. The remaining four per cent were to be assigned to the minority Christians and Mandaean. That would have resulted in the Kurds losing their majority in the provincial government as they would have dropped from 26 to 15 seats. There was no comparable section in the bill for the other multi-ethnic provinces of the country, such as Mosul, Salahaddin, Diyala as well as Baghdad.

The Kurdish representatives did not attend the vote; nor did the representatives of the Supreme Council for Islamic Revolution of Iraq (SCIRI), headed by Al-Hakim, and the two representatives of the Iraqi Communist Party. Supported by his Vice President Adel Abdul-Mahdi, President Jalal Talabani used his veto for the first time and sent the bill back to the chamber.

**A considerable number among the Shiites were not willing to ensure the political support that the Kurds expected from them. The alliance was purely a means to "secure power".**

22 July 2008 was also the day on which a rift appeared in the alliance between the Shiites and the Kurds. A considerable number among the Shiites were not willing to ensure the political support that the Kurds expected from them. This was because the hopes of those who had entered into the Kurdish-Shia alliance continued to look to a pro-Kurdish future in Kirkuk, in contrast to the intentions of those who had obviously regarded the alliance with the Kurdish parliamentary party purely as a means to "secure power".<sup>22</sup>

A few days after the July event, there were first signs of military tension in Diyala between the new Iraqi armed forces and the Kurdish military units stationed there. This escalation, which was only narrowly defused by the withdrawal of the latter from the area, illustrated that the central government saw itself in a position to begin curtailing the military presence of the Kurds outside the region of Kurdistan and possibly end it altogether. Shortly before the regional elections in the Kurdish areas of Iraq, the Iraqi Prime Minister even called the conflict involving the ethnic

22 | This applies first and foremost to the up-and-coming al-Da'wa party. On 12 Nov 2012, Sami al-Askari, a spokesman for the State of Law Coalition headed by Maliki, gave an interview to a programme of the TV channel *al-Sumaria*, in which he made the following stark statement: "Talk of a Shiite-Kurdish alliance is a lie. There are some Shiites who are under an illusion as regards this alliance. It did exist during opposition times, but ended after the fall of the old regime." *al-Sumaria*, <http://www.alsumarianews.com/ar/iraq-politics-news/-1-51031.html> (accessed 18 Jul 2013). Al-Askari was in fact not alone with this statement. A week later, another politician of the Maliki coalition confirmed this assessment in the newspaper *Asharq Al-Awsat* published in London (19 Nov 2012). Such statements also provide irrefutable proof that at least one influential faction on the Shiite side wishes to treat the Kurds in a similar manner to the previous regime.

groups “one of the most dangerous problems that the Iraqi government is dealing with”.<sup>23</sup>

The head of government had not paid a visit to the region of Kurdistan since he had taken office. This finally happened at the beginning of August 2009, at the instigation of President Talabani. Masoud Barzani had just been confirmed in his role as Kurdistan’s President with 70 per cent of the votes in the regional elections. Maliki and Barzani had avoided meeting for an entire year. In spite of all the economic and political interdependencies and all the warm words spoken during the Maliki visit, at least at the joint press conference where the Iraqi head of government affirmed his commitment to the constitution, the rivalries and discrepancies persisted.

The first census in 22 years to be carried out in Iraq was postponed in August 2009. The Baghdad newspaper *Al-Sabah* quoted the Iraqi Minister of Planning Ali Baban as saying that although the technical prerequisites were in place, “apprehensions and reservations due to the political development in Kirkuk and Mosul caused us to postpone [the census]”.<sup>24</sup> Many Arabs and Turkmen opposed a census on the grounds that the regional Kurdistan administration had settled 400,000 Kurds [sic!] in Kirkuk.

The incipient demographic changes in favour of the Kurds from 2004, particularly after the return of many displaced persons and refugees, led to accusations by a number of Arab movements in Iraq that the Kurds were engaged in a Kurdistanisation of the region. The Arabs tend to neglect the fact that a policy of Arabisation had been practiced in these areas for some 75 years (1928-2003).<sup>25</sup>

Postponing the census produced further complications not long afterwards. This came to light during the debate in October 2009 about the impending parliamentary elections

23 | “Maliki: Verhältnis mit Kurden als Gefahr für den Irak”, *Die Presse*, 24 Jul 2009.

24 | “Volkszählung verschoben”, *Hamburger Abendblatt*, 18 Aug 2009.

25 | Since the start of oil production in the Baba Gurgur fields of Kirkuk in 1927, there was a gradual Arabisation of these areas, whose population was not originally Arab. This policy was effectively continued at different levels of intensity until the fall of the Saddam Hussein regime in 2003.

scheduled for January 2010, when a dispute broke out among the parliamentary parties about registered voters and statistics in Iraq. Until new elections, hardly any progress was made in line with Article 58 B and C in the political arena. There were not even signs of coming anywhere near completion of the first phase of the course of action to settle the conflict, i.e. normalisation.

Amongst all these correlated circumstances there was one further new aspect affecting the country's innumerable conflicts. The remit of the Article 140 Committee had come to include central and southern Iraq. Those areas too had experienced politically motivated shifts in provincial boundaries, probably against the interests of the Shiite majority in Iraq. The idea that this interplay of circum-

**Unlike the presence of Sunnis in the area of Kirkuk, that of the Shiite Arabs is much more recent and very probably linked closely to the waves of state-controlled Arabisation measures.**

stances favoured mainly the realisation of Shiite interests is plausible on account of the following three factors: First, a substantial majority of the Arab Sunnis remained disengaged from the political process in 2005, and their involvement in the process to devise the new constitution was therefore very limited.<sup>26</sup> Secondly, unlike the presence of Sunnis in the area of Kirkuk, that of the Shiite Arabs is much more recent and very probably linked closely to the waves of state-controlled Arabisation measures. This suggests that this group would have been the first to be affected by any repatriation of newcomers. Thirdly, one cannot rule out the possibility that the creation of the new provinces in the Baath era had been to support the Sunnis and that the Shiite side had attempted to consider and accept changes in the provincial boundaries only if they would actually be able to benefit from them.

## THE 2010 ELECTIONS

Just under seven years on from the fall of the regime, voters went to the polls again on 7 March 2010. The main reason this had become necessary was a major rift in the

26 | The composition of the 55-strong constitutional committee reflected the presence of the parties in parliament. The United Iraqi Alliance comprising the Shiite blocks sent 28 members, the Kurdistan Alliance 15. Only two Arab Sunni representatives made it onto the committee, which also included the only representative of the Turkmen Front in the National Assembly. *Anderson and Stansfield, n. 18, 134.*

Shiite block. The secular al-Iraqiya list, a Shiite-Sunni alliance led by former Prime Minister Iyad Allawi, became the strongest force with 91 of a total of 325 seats. The "State of Law Coalition" of the incumbent Shiite Prime Minister Nuri al-Maliki gained 89 seats. The other Islamist Shiite coalition, the National Iraqi Alliance (NIA), gained 70 seats, and the Kurds won 57 seats in total.

As had been expected, no one group that had been elected to the Assembly was capable of forming a government by itself. The country experienced yet another serious crisis. The breakthrough came thanks to a remarkable political initiative by the Kurdistan leadership, which resulted in the so-called Erbil Agreement, which was signed by all main political movements of the country. The Iraqi National Assembly subsequently convened on 11 November 2010 and elected Osama Al-Nujaifi (from the al-Iraqiya list) the new Speaker of Parliament. Jalal Talabani and Nuri al-Maliki were confirmed in their respective posts of President and Head of Government. The two Shiite blocks had united in the meantime.

With the elections the balance of power had shifted. The practical purposes of the most important elements of the Erbil Agreement were to facilitate a national partnership in government and to initiate crucial and fundamental political and economic reforms. However, these intentions and plans would not be followed by any substantive policies for a long time.

The political process subsequently experienced some detrimental developments. A few days after the last U.S. troops left Iraq, the Iraqi Vice President Tariq al-Hashimi (an Arab Sunni) was accused in Baghdad of having been involved in terrorist activities and in attacks on members of the security forces as well as on Shiite pilgrims. Al-Hashimi found refuge in Kurdistan. Since that time, the quantitative mismatch between the parliamentary party headed by Maliki and al-Iraqiya was so great that the political process threatened to completely break down once again.

The government crisis since the start of 2012, ostensibly triggered by the failure to implement the Erbil Agreement satisfactorily, deepened steadily. It did not take very long

**Barzani's speech on the occasion of the Kurdish New Year's celebrations 2012 marked the official end of the Kurdish reticence and the start of open criticism of the government of Nuri al-Maliki.**

before a more critical note entered the relationship with the leadership of Kurdistan. Barzani's speech on the occasion of the Kurdish New Year's celebrations on 20 March 2012 marked the official end of the Kurdish

reticence and the start of open criticism of the government of Nuri al-Maliki. Barzani, generally known for his restraint, voiced some embittered criticism of the Baghdad government and referred to a referendum on Kurdistan's independence in the absence of change more openly than ever before. The Kurdish politician expressed his disappointment with the way power was being monopolised in Baghdad by "a small number of people" and summarised the conflict with Baghdad in two points: The Arab-Kurdish partnership had become meaningless as the constitution was being infringed continuously, and agreements were not being adhered to.

Masoud Barzani began by referring to the conflict relating to Kirkuk and other disputed territories: "They keep evading, while we show greatest flexibility and patience." The region's President further stated it was impossible for the Kurds to give up pursuing the settlement of this issue "because this matter is more than a question of principle to us". In his speech, Barzani went on to criticise the fact that the central government had not provided funding for the Peshmerga units for over five years and to affirm the legality of the oil contracts of the regional government with the foreign companies.

Asked for his response to these serious allegations, Nuri al-Maliki said at a press conference that Barzani's explanations had represented his personal opinion and that the solutions would be arrived at on the basis of the constitution: "Those who deviate from the constitution resort to such problems and provocations." Baghdad and Erbil have been accusing each other of breaches of the constitution for some time,<sup>27</sup> exacerbating the political crisis even further.

27 | Well-respected politicians such as Iyad Allawi also accuse Nuri al-Maliki not only of failures in the realisation of the reforms but also of breaches of the constitution. According to the constitution, the appointment of ministers or their deputies, their political advisers and chief executives, leaders of the military divisions as well as heads of security authorities is ▶

## MILITARY ASPECTS TO THE CONFRONTATIONS

The tensions between Erbil and Baghdad did not remain purely rhetorical, but spilt over into military planning – relatively unobtrusively in the beginning, but obviously and disconcertingly later on. On 25 May 2012, the Presidency announced in Kurdistan that Iraqi units had assumed positions at several points along the demarcation line and that their guns were pointing in the direction of Kurdistan. Nuri al-Maliki went one step further when he announced the setting up of the Tigris Operations Command (TOC) by the Ministry of Defence on 3 July 2012. Moreover, the TOC was headed by a general from Saddam Hussein's time in power. This command was to have control over all security forces in Diyala and Kirkuk.<sup>28</sup> The Kurdish side categorically rejected this decision by the head of government as he had ignored the preceding agreements with the Kurdistan leadership. When the first TOC soldiers and tanks approached the disputed territories in the southern areas of Kirkuk the Kurdish side realised the seriousness of the situation and responded by strengthening their presence in the area. This left the armed forces of the two sides opposing each other at relative close quarters – a situation comparable to that in former times before the fall of the regime in 2003. This undoubtedly stepped up the escalation of the confrontation.

**On 25 May 2012, the Presidency announced in Kurdistan that Iraqi units had assumed positions at several points of the demarcation line and that their guns were pointing in the direction of Kurdistan.**

There are many unanswered questions in connection with the strengthening of the Iraqi military presence south of Kirkuk. Was it all intended as a show of strength whereby the central government sought to warn the regional government in Kurdistan convincingly of the consequences should Erbil follow through with its threat of destroying the country's unity with a referendum in Kurdistan? Will such troop movements remain first and foremost timely defensive measures for a different eventuality, namely for countering potential attempts by Kurdish forces to establish military control in the disputed territories?

to be subject to confirmation by the parliament, for instance. But that was not the case, complained Maliki's main rival Iyad Allawi in an interview with *Asharq Al-Awsat* on 2 Sep 2012.

28 | On 31 Oct 2012, an order was issued to the effect that this should also include Salahaddin.



There are many indications that the use of force is an option which is not being entirely discounted, at least by al-Maliki's government. The head of government is rumoured to have requested supplies of weapons during a visit to Russia, which can be used in mountainous and desert areas.<sup>29</sup> In Iraq, mountains are located exclusively in Kurdish areas. The leader of the Kurds, Masoud Barzani, has also hinted that he has received similar intelligence about a meeting of the military leadership from a "trusted and reliable source". When a general suggested to the head of government that he could chase the Kurds from Salahaddin at his request, Maliki responded by saying: "Just wait until we receive F16 planes from America, then you'll see what I shall do."<sup>30</sup> However, Maliki denied any such intentions to President Talabani.<sup>31</sup>

**In Iraq no other turn of phrase carries as much authority and generates as much resonance as an appeal to the country's unity.**

The fog has not yet lifted, mainly because the troop movements towards Kirkuk – whatever the pretext may be – are eliciting justified doubt on the Kurdish side. The issue is that the head of government gives in to the temptation on certain occasions to use such activities to incite people in "Arab" Iraq against the Kurds<sup>32</sup> by attempting to discredit them as enemies of the constitution and separatists. In Iraq, as in many other multi-ethnic states, no other turn of phrase carries as much authority and generates as much resonance as an appeal to the country's unity. Maliki will enter the history books as the first high-ranking Iraqi official to have spoken of a potential "Arab-Kurd war" in

29 | See Tariq al-Hashimi, "Arms trade with Russia... Why now?" (Arabic), *Asharq Al-Awsat*, 25 Oct 2012, <http://www.aawsat.com/leader.asp?section=3&issueno=12385&article=701246> (accessed 26 Jul 2013).

30 | See Masoud Barzani's interview in *al-Mada* of 27 Nov 2012.

31 | From the text of the interview of the *al Arabiya* channel with Jalal Talabani of 14 May 2012, Iraqi President, <http://iraqi.presidency.net> (accessed 18 Jul 2013).

32 | At the very time that the crisis was going on, 16 factions and groupings in Kirkuk announced a type of united front entitled "Joint Arab Meeting" in order to enter the next provincial elections with a joint list. This alliance has three basic principles: Besides the unity of Iraq, Kirkuk is Arab, and it may not be subordinated to any region. See *al-Sumaria*, <http://www.alsumarianews.com/ar/1/52855/news-details-.html> (accessed 18 Jul 2013).

a press meeting in the context of the confrontations with Kurdistan.<sup>33</sup>

Meanwhile, the TOC has not covered itself in glory with its deployments in its operational areas south of Kirkuk. On 23 April 2013, Iraqi units stormed a protest encampment of Sunni Arabs in the small town of Hawija, which had been in place for some time. There were 50 deaths and numerous people were injured. This dramatic development deepened the persistent rift between Maliki and many Sunni Arabs, most of whom had previously welcomed the establishment of the TOC in Kirkuk.

### **MALIKI'S EFFORTS TOWARDS CENTRALISATION**

The fact that Maliki succeeded in attracting the large number of votes he did (89 seats) during the last elections is worth a closer look. It appears that the search for modest politicians and the need to find new models for a leadership that is reasonably results-oriented have played a role in Maliki's election victory. He obviously managed to bring many groups among the Shiites on board. A further reason why Maliki should have been considered the man of the hour was the fact that many Iraqis were looking for stability and believed that only a centralised, tightly controlled state was capable of leading the way into a new era.

According to Maliki's philosophy, Iraq needs rigid internal control to ensure stability and so the country can assert the leading position in the region due to it. Within the country, Maliki, who is trying to make his mark by promoting a course aiming at an Iraqi nation state, is intent on consolidating his political system of authoritarianism. Serving this objective has become the task of his parliamentary party in the National Assembly and of virtually the entire Shiite block with the exception of the Sadrists. Maliki has no interest in decentralisation of the country, which may otherwise easily get out of control. By the beginning of his second term in office at the latest, he began maintaining

33 | See his statements at a meeting with the Kuwaiti press. "Nuri al-Maliki: We do not want an exception made on our behalf for a single dinar from Kuwait; we are determined to pay the remainder of the 13 billion U.S. dollars in restitution", *al Rai*, <http://alraimedia.com/Article.aspx?id=398173> (accessed 18 Jul 2013).

a totally new stance. In his opinion, former times, which required a certain degree of tolerance because of his political and military weaknesses, are coming to an end. His interpretation of the situation seems to be that the sovereignty of a state can be undermined by federalism such as that enforced on the ground by the Kurds.

**Baghdad must ensure Erbil will not crash through the barriers of state sovereignty. The Kurdistan leadership, for its part, are not at all happy when they have to bow to Baghdad's wishes.**

In view of such developments it is only natural that considerable differences arise between the central and regional governments. Baghdad must ensure Erbil will not crash through the barriers of state sovereignty. The Kurdistan leadership, for its part, are not at all happy when they have to bow to Baghdad's wishes. Particularly as the constituent state of Kurdistan has developed a dynamic of its own over the past two decades that is virtually irreversible.

The fact that the Kurds consider centralism the embodiment of all evil is due to the memories of thousands of destroyed villages and tens of thousands of victims under Saddam Hussein's central rule. Nobody knows when the last mass graves of Kurds from 1987/1988 may be found. But neither should one ignore the fact that the Kurds are convinced they not only played an important part in establishing the new Iraqi state, but also made great sacrifices and struggled for decades to build their institutions and structures; there is no doubt they will not give up control over all this willingly.

During his time in power, Saddam Hussein discovered the limits to what he could achieve in a country of conditional stability without going under himself – without the U.S.-led invasion by the allies Saddam Hussein would have remained in power to the present day. In the post-Saddam era, the Baghdad government can help shape the country's fate, but not centralise it totally as Maliki is promising.

Centralisation is not universally popular with voters in Iraq as the third provincial elections in mid-April in twelve mainly Shiite provinces showed, during which 14 candidates were assassinated. The desired rule of law and security is nowhere near as well established as it seemed. While Maliki's "State of Law coalition" emerged victorious

in eight provinces, it also suffered clear losses. His followers in parliament are no longer safe in the knowledge that they continue to call the shots in Iraq.



Regional Government President Barzani meets U.S. Secretary of Defense Panetta in 2011: the Kurds are convinced they played an important part in establishing the new Iraqi state. | Source: Jacob N. Bailey, U.S. Air Force.

After the escalation of the crisis involving his political opponents, above all the Arab Sunnis and the Kurds (mainly due to deliberating over the national budget), ministers abandoned the head of government in Baghdad in droves. A change seemed to be in the air and Maliki did not miss the opportunity to attempt to arrive at an arrangement with the Kurds. After having received a high-ranking delegation from Erbil in Baghdad, he accepted an invitation to visit Erbil on 9 June. The talks he conducted there served mainly to normalise the relationship. At the joint press conference with Masoud Barzani, the subject of Article 140 was addressed amongst other things. Without entering into an actual commitment, Maliki presented a roadmap for settling the matter; however, just like the government programme of 2006, it will be difficult to realise. In connection with settling the conflict of the disputed territories, Maliki reminded listeners it would be necessary to conduct a census. His government was "ready and determined to reach the census phase by the end of the year" to settle this question. The Prime Minister made reference to the President's bill for determining the provincial boundaries,

which had already been submitted to the National Assembly, and called upon the Assembly to pass this bill.<sup>34</sup>

## CONCLUSION

After the initial euphoria following the fall of the dictatorship, the Kurdistan-Iraq conflict appears to have entered reality. The country may have been successful in passing the constitution, but it is nowhere near settling its conflicts. The issues in dispute have multiplied and so have the number of conflicts and risks as well as the intensity of potential hostilities. The clashes of opposing interests produce a negative mood, which opens up wide scope for misinterpretation and mistrust.

The fact that the government of Nuri al-Maliki has set up the Committee for the Implementation of Article 140 was an important step, but it was not followed by an equally significant second step. The President's bill, with which he proposes the reversal of changes made to the provincial boundaries by the so-called Baathist presidential decisions, might provide a breakthrough given the right circumstances, although the approval of such a bill in the current Iraqi National Assembly is hardly likely as things stand. Because there are numerous movements in Iraq which have established their influence specifically in response to Article 140, but which are not followers of one particular camp.

**The practices of the notorious Arabisation policy of Saddam Hussein are no longer approved by the people now holding political power in Iraq.**

This stance of a considerable number of political movements is met with deep mistrust on the part of the Kurds. It is the case that the practices of the notorious Arabisation policy of Saddam Hussein are no longer approved by the people now holding political power in Iraq as they now work alongside Kurds in the control centres of power in many cases. But their unwillingness to totally reverse the results of the inhumane Arabisation policy arouses scepticism on the Kurdish side.

34 | Cf. "Barzani and Maliki after a conference in Erbil: We agreed on solving the problems in line with the constitution", *Asharq Al-Awsat*, 10 Jun 2013, <http://aawsat.com/details.asp?article=731940> (accessed 18 Jul 2013).

Be that as it may, one must remember that while Article 140 has the potential of going some way to mitigate the long-lasting damage done over the last 75 years it will hardly be possible to correct it totally. The experiences from the years following the fall of the regime have proved that there has been an imbalance between the political benefits of the provisions of Article 140 and their practicability. In other words: it seems the politicians failed to tackle the issue seriously and engaged in wishful thinking without putting sufficient thought into feasibility. Reality did and does not match the intentions by any means. Conflict resolution requires constant adaptation and innovation, and the opposing parties are called upon not to weaken in their endeavours. Even though the Kurdistan leadership continues steadfastly to consider Article 140 the only feasible way forward, it needs to make strenuous efforts to devise new tactics and ideas for its realisation.

Resolving the territorial problems, which are pitting the central government and the regional government in Iraq against one another, is a complex and lengthy process of transformation from violent conflict to enduring peace. Once the agreements, namely the provisions defined in Article 58 of the provisional constitution, are properly implemented sometime in the future, the "Kurdistan-Iraq rapprochement" will surely be considered a landmark event in the Middle East. A grave crisis will then have been overcome in a civilised manner in the country of the so-called "cradle of civilisation".

This article was completed in June 2013.