

Northern Iraq and the Kurdistan Disputed Territories

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It is stated that territorial disputes are often linked to wealth through the control of natural resources, but they can also be driven by sectarian, religious, ethnic and national security reasons. There are several border and land disputes in the world today, few had led to military conflicts and others could escalate to military confrontation at any given minute. Amanda Ellery explains that territorial disputes are known for being motivated by states' desire to increase power; however, countries often choose to enter territorial disputes for normative reasons too. Whenever [territories under dispute](#) are valuable to countries in terms of natural resources, conflicts can be expected to escalate.

The escalation of conflicts also means a tragedy to human beings, specially those unprotected and vulnerable. The more recent conflict between the Iraqi government and officials of the semi-autonomous Kurdish region of Iraq (KRI) over the so-called disputed territories has devastated both the indigenous Assyrians and Yezidis. Vast areas of these territories are new claims as they were introduced by the empowered Kurds after the 2003 US invasion of Iraq. The Kurds attempted all possible to capitalize from the rise of anarchy and lawlessness in Iraq, which weakened the central government.

Before we proceed, it is important to understand that northern Iraq is [historic Assyria](#). This is an unequivocal historical fact. Over the last few centuries, the Kurds have increased their numbers by welcoming more Kurds from Turkey and Iran. In contrast, the indigenous Assyrians have continued to leave their historic homes and villages, because of continuous attacks on their lands and the Kurdish armed rebellion since 1961.

On Sept 25, 2017, the then KRI president and still the leader the Kurdistan Democratic Party (KDP) Masoud Barzani, authorized an independence referendum of the semi-autonomous Kurdish region. About 93 percent of the Kurdish voters supported a Kurdish secession.ⁱ The case for carving the KRI and other alleged disputed territories from Iraq and establishing a Kurdistan on Assyrian lands has been propagated by Kurdish nationalists, historians and leaders for some time. According to MEMRI, on the one-hundredth anniversary of the Sykes-Picot Agreement (May 19, 1916), Barzani made a public speech in which he stated that the said agreement had failed and that Iraq is too sectarian and that *“if partnership cannot be achieved, let us be brothers and good neighbors.”*ⁱⁱ The Kurds have no intention to live in Iraq indefinitely. They are waiting for the right moment to transform the current regional 2009 draft constitution to a central law of the illusive Kurdistan.

The Iraqi Supreme Court ruled that Barzani's referendum on Kurdish independence was unconstitutional. Following the vote, Iraqi Prime Minister Haidar al-'Abadi with the help of al-Hashd al-Sha'abi militias (Popular Mobilization Forces), [Baghdad seized control](#) of the alleged Kurdistan disputed territories, including the oil-rich city of Kirkuk,ⁱⁱⁱ which the Kurds occupied after the withdrawal of ISIS.^{iv} Barzani was forced to resign his position as the president of the KRI, replaced by his nephew, Nechirvan Barzani. Later, Nechirvan nominated his cousin, Masrour Barzani (Masoud's son), to replace him as the prime minister of the Kurdistan Regional Government (KRG). The Barzani family enterprise dominates political and economical life in the KRI capital of Arbil. The leadership in the KRI and the KRG has been a family affair since the escape of Mulla Mustafa Barzani (Masoud's father) from Iran in 1946 after the collapse of the Kurdish Mahabad Republic and later entering Iraq. The Mahabad Republic lasted 11 months only. It is interesting to know that Masoud Barzani was born in Iran.

On June 12, 2008, the president of Washington Kurdish Institute, Dr. Najmaldin Karim, issued a statement^v in which he criticized the United Nations Assistance Mission to Iraq (UNAMI) for its arbitrary recommendations regarding the issue of the disputed territories. Dr. Karim added, UNAMI has failed to address the core elements of Article 140 of the Iraq Constitution that commit the Iraqi government to reverse past racist policies through the process of normalization and referendum, which was negotiated and decided as a fair way to resolve the territorial issues. He then said that the issue is too important to the future of *Kurdistan* and Iraq as a whole to accept further equivocation and procrastination. He urged the leadership of *Kurdistan* Alliance and the KRG to stand firm against the deliberate encroachment upon historical and legitimate Kurdish rights. However, not a single Kurdish leader addresses the land disputes between the Kurdish newcomers and the indigenous Assyrians.

On June 13, 2008, *United Press International* (UPI) reported that UNAMI had released a report on June 5 regarding four districts in Iraq to serve as benchmarks for the Iraqi government to reach broader national reconciliation measures as part of the Iraqi Constitution. Article 140 of the Iraqi Constitution seeks to reverse ethnic policies implemented by Saddam Hussein. Masoud Barzani issued a statement that the UN report was not a suitable essence for solving the problems and that it runs contrary to the constitutional demands of applying Article 140.^{vi} However, we must understand that many important articles of the 2005 Iraqi Constitution were written ambiguously by non-Iraqis which opened the doors for personal interpretations later on. In its report, the UN said that the KRG can administer the cities of Akre (Aqra) and Makhmour in the Nineveh province while Baghdad would control Hamdaniya, also in Nineveh, and Mandali in Diyala province. Kurdish leaders sent a letter to the UN special envoy to Iraq, Staffan de Mistura, expressing their displeasure with the report. Kurdish lawmaker Arez Abdullah added that the report did not “respect the will of Kurds concerning disputed areas.” It is not understood what Abdullah is trying to say since the Hamdaniya District was historically inhabited by Assyrians and Yezidis and few other smaller religious groups, but never had a Kurdish presence.

Why are the Kurdish officials claiming that the historic Assyrian Nineveh Plain (al-Hamdaniya, Tel Kaif and al-Shaikhan Districts) is a Kurdistanian disputed territory? Assyrian lawmakers continued their efforts to prevent the Kurdish accession of the Nineveh Plain and other illegal practices by the Kurdish leaders. In a letter dated April 25, 2008, from the Assyrian General Conference to Ban Ki-moon, United Nations Secretary-General, the Assyrian group expressed concerns about the mission of de Mistura and the Kurdish pressure and activities. The group suggested to the UN to do the followings:

1. Work for normalization of the situation under international supervision and protection of the United Nations according to the census in 1957 before holding any referendum in the northern governorates of Iraq.
2. Consideration of the Assyrian General Conference, demand and support the establishment of the Assyrian region in northern Iraq.
3. Taking into consideration the fact that the Nineveh Governorate and surroundings are linked to central administration.
4. Taking into consideration the current Duhok Governorate was one of the administrative districts of Nineveh Governorate.
5. The inclusion of the Duhok Governorate in the disputed areas as it was subjected to demographic and geographic changes that negatively impacted the Assyrian national presence and the issue of the province is still not resolved.^{vii}

Efforts by the Assyrian and some non-Assyrian groups to protect the Assyrian regions continued. On October 21, 2017, Dr. Salim Abd Allah al-Jiburi, head of the Iraqi Parliament, forwarded a request from Imad Youkhana, Deputy Secretary General of the Assyrian Democratic Movement (ADM), to the Iraqi

Federal Court, requesting clarification on several issues related to the so-called disputed territories. First, he requested a definition for the term *disputed territories*. Second, he asked what standards were applied to identify regions that were disputed. Third, he inquired about the entities that would decide those territories.^{viii} In the words of Dr. Michael Youash, this issue has not been contested in formal political processes but, rather, as part of a “facts-on-the-ground-realpolitik-power-contest” between Baghdad and Arbil.

The drift between Baghdad and Arbil continues today at the expense of the most vulnerable indigenous Assyrians and Yezidis in northern Iraq. The alleged disputed territories is a very vital point that the Kurds try to keep on the negotiation table while they look ahead to the future and their elusive state. Three regions in Iraq the Kurds desire the most are: the oil-rich Kirkuk^{ix}; the Nineveh Plain with its newly discovered large oil reserves; and finally, Yezidis’ Sinjar, further to the west, in an effort to create a wide border between the KRI and Syria. Currently, that border outlet is narrow through Nohadra (Duhok), but the Kurds desire to enlarge it through the annexation of Sinjar to create a wide corridor between the Kurds in northern Iraq and those in Syria toward a Greater *Kurdistan*.

On June 12, 2014, following the 2014 Northern Iraq offensive, during which ISIS secured control of Tikrit, northern Baghdad, and nearby areas in Syria, the Iraqi army evacuated Kirkuk, and the Kurdish Peshmerga occupied the city. More Kurds were allowed to enter the city in an attempt to change Kirkuk’s demographic in anticipation of future census and elections. We must also consider the followings: First, the Peshmerga confiscated the arms of the indigenous Assyrians and Yezidis only weeks before the invasion of ISIS claiming that they, the Peshmerga, will protect them. Second, as ISIS initiated their attack on Nineveh Plain, the peshmerga withdrew without any real fight leaving the indigenous Assyrians and Yezidis in the region under the mercy of ISIS.

Usama al-Nujaifi, a Sunni Arab from Mosul, Nineveh Governorate, served as Minister of Industry in the 2005–2006 Iraqi Transitional Government. He later won a seat in the 2010 Iraqi parliamentary elections. While heading a parliamentary committee to assess the humanitarian situation in Nineveh Governorate, he criticized the conduct of Governor Duraid Kashmoula (governor of the Nineveh Province 2004–2009), stating, “We have seen no trace of the huge sums of money said to have been appropriated for the province and could gather no idea on how they were spent.” In October 2008, he declared that the 2008 attacks on the Christians in Mosul were carried out by the Kurdish Peshmerga and intelligence operatives.^x On May 17, 2009, al-Nujaifi asked that Kurdish militias (Peshmerga) be removed from the non-Kurdish districts of Sinjar, Zamar, Telkaif, Shekhan, Ba’asheqa, and Makhmor in the Nineveh Province. He stated that the Kurdish Peshmerga terrorizes the inhabitants, imprisons and threaten the people, and transfers those they apprehend to other areas in the three Kurdish-controlled governorates.^{xi} However, a weak central government in Baghdad handed the KRG leaders the opportunities to dig in in all the new territories they controlled illegally.

A human rights report asserted that when the Peshmerga joined with the Iraqi Army and al-Hashd al-Sha’abi (PMU) to fight IS (ISIS), they used a special pattern of destroying buildings, homes, and even entire villages during the fighting, especially those villages that fell within the so-called disputed territories. The Kurdish leaders understand that the displaced people who were chased out by IS from their homes in those territories would not be able to return to their homes if those homes were destroyed. These leaders also understand that any rebuilding would take years, if not decades, during which time many of the original inhabitants would be relocated and settled in other regions or even countries. Thus, the plans by Kurds to move in and claim those territories would have less opposition. The report identified seventeen villages in Kirkuk and four in the Nineveh Governorate that were unlawfully demolished between September 2014 and May 2016. The report went on to state, “In a

further 62 villages that researchers were not able to visit, satellite imagery provides evidence of destruction after Kurdish security forces recaptured them, but a lack of witness accounts did not allow for definitive conclusions as to the reasons and responsibility for the destruction.”^{xii}

Other observers, like Congressman Wolf, agreed with the analysis that the political struggle between the Iraqi government and the KRG over the alleged disputed territories is crucial for the displaced population.^{xiii} Assyrians in Iraq and elsewhere fear a return to these areas and to relive the nightmarish battles over the disputed lands. Security remains the main deterrent preventing the return of the displaced populations and refugees. The Nineveh Plain is under the control of various militias and armed forces, including Iraqi security forces, the KDP Peshmerga, PMF Brigade 30, and PMF Babylon Brigade 50, and a smaller defensive Assyrian Nineveh Plain Protection Unit (NPU). The NPU, on its own, does not have the resources to compete with the Kurdish and the nongovernmental Arab militias.

The indigenous Assyrians, Yezidis, Mandaeans, and other minority ethnic and religious groups do not possess the military power, creating a struggle to pass any reasonable solution in regards to the future of these smaller indigenous communities. The October 2003 Chaldo-Assyrian National Conference in Baghdad agreed on a reliant direct link between the planned new Nineveh Plain governorate with the central government for financial sustainability. Shortly after the conclusion of the conference, the KRG leadership entitled the Nineveh Plain as part of the alleged disputed territories and began, first, coercing the Assyrian religious leaders, who had previously agreed to the outcomes of the October Conference, to back out and reject the recommendations and second, began to rephrase the language of their draft KRI constitution to include many of the districts of the Nineveh Plain as part of the KRI region and included the Nineveh Plain as part of the so-called disputed territories.

The Nineveh Plain was eligible to become a governorate based on the initial approval of the Iraqi Council of Ministers in 2014 and in accordance with Article 125 of the Iraqi Constitution. It was the invasion of ISIS of Nineveh that placed the plan on the back burner. ISIS invasion benefited the Kurds since not a single town, village or region within the KRI was attacked by ISIS.

Five years have passed since the defeat of ISIS in Iraq. Yet not a single Assyrian village has been fully rehabilitated and re-inhabited. Many homes remain destroyed and/or deserted and many towns and villages still lack the basic and essential services that were destroyed by ISIS. There is a reason why the KRG delays any discussion on the rebuilding of the abandoned villages and towns in the Nineveh Plain. The longer it takes to reconstruct, the less are the chances that the original occupants would return. Meanwhile, the Peshmerga and Shia militias continue to assert themselves in the Nineveh Plain. From one side, the KRG fuels the alleged disputed territories’ argument with the central government in Baghdad. On the other, the KDP and Sunni Arabs within the Nineveh Governorate deliberate on the future of Nineveh Plain despite the fact that the region was never a part of the so-called disputed territories or part of Article 140 of the 2005 Iraqi Constitution. This was confirmed by the decisions of the Iraqi Federal Court and by a UN report in 2007.

The indigenous Assyrians and Yezidis deserve to live free, in peace and prosperity on their ancestral lands along the rest of the Iraqi people. The United Nations declaration on human rights and the rights of indigenous people must be applied to the indigenous Assyrians and Yezidis in Iraq. However, the apathetic leaders in Baghdad and their land grabbing counterparts in Arbil make it impossible for the indigenous groups to survive peacefully on their ancestral lands.

- i “Iraqi Kurds decisively back independence in referendum,” BBC News, September 27, 2017.
- ii MEMRI, “Kurdish President Barzani: The Sykes-Picot Agreement Has Failed; It Is Time to Establish a Kurdish State,” Special Dispatch 6444, May 23, 2016, <https://www.memri.org/reports>, accessed February 27, 2019.
- iii Wikipedia, s.v., “2018 Iraqi parliamentary election,” accessed April 24, 2020.
- iv “Iraq Supreme Court rules Kurdish referendum unconstitutional,” BBC, November 20, 2017.
- v WKI Press Release, June 12, 2008.
- vi *The Kurdish Globe*.
- vii Ishaia Isho to Ban Ki-moon, April 25, 2008, Assyrian General Conference. <http://www.assyriangc.com/9.html>, accessed December 10, 2020.
- viii Frederick Aprim. “The Betrayal of the Powerless”. Xlibris Press. 2020. Appendix B
- ix According to the 1957 Iraqi census of before Arabization, Kirkuk was 40 percent Turkoman and 35 percent Kurdish. George Packer, “The Next Iraqi War?” *The New Yorker*, October 4, 2004. 64.
- x Wikipedia, s.v., “Osama al-Nujaifi,” https://en.wikipedia.org/wiki/Osama_al-Nujaifi.
- xi Iraq News Network, <http://www.aliraqnews.com/modules/news/article.php?storyid=24518>.
- xii “Marked With An ‘X’ - Iraqi Kurdish Forces’ Destruction of Villages, Homes in Conflict with ISIS,” Human Rights Watch, November 13, 2016, <https://www.hrw.org/report>.
- xiii Helen Malko, a study titled, “Heritage Wars: A Cultural Genocide in Iraq.” Published in, *Cultural Genocide: Law, Politics, and Global Manifestations*, edited by Jeffrey S. Bachman, Routledge, 2019.

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