



Islamic State of Iraq and the Levant (ISIS) and the takeover of Mosul

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Section International Affairs and Defence Section

- ISIS has shocked observers by the speed of its takeover of large amounts of Iraqi territory
- The group is perceived to be extreme even by the standards of al-Qaeda
- The advance has shown up the weakness of the Iraqi state and its armed forces
- It may be more difficult for the group to make such progress in Shia-majority areas, including Baghdad. Nevertheless, its successes are a huge threat to the region and threaten a sharp increase in Sunni-Shia hostilities
- It is also accelerating change in the region, with the US and Iran openly talking about cooperating, and the Kurds seeing an opportunity to consolidate and expand their area
- Iraq has requested military assistance from the US

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1 ISIS

1.1 Origins in Iraq

Isis has grown from what used to be Al-Qaeda in Iraq (AQI), a Sunni insurgent group that fought against US and Iraqi government forces and carried out attacks against Shiite targets after the downfall of Saddam Hussein. Its leader at the time, Abu Musab Al-Zarqawi, pledged allegiance to al-Qaeda in 2004 and the group came to be known as AQI. AQI is designated as an entity associated with al-Qaeda by the UN.¹ Al-Zarqawi was killed in 2006 by a US air strike.

The group's centre of gravity is in the Sunni-majority areas of Iraq, particularly the Anbar province. It became known as the Islamic State of Iraq in 2006.

Isis is now led by Abu Bakr al-Baghdadi, also known as Ibrahim Awwad Ibrahim Ali al-Badri, an Iraqi. He was designated a terrorist by the US government in 2011 and a reward of \$10 million was offered for information leading to his location.²

1.2 Al-Qaeda links

In 2013, ISI announced a merger with Jabhat al-Nusrah, forming the Islamic State of Iraq and al-Sham (ISIS or ISIL. Al-Sham is the Levant or the land at the eastern end of the Mediterranean, hence ISIL). Al-Nusrah never appears never to have accepted the merger and, after a struggle and a period of confusion, al-Qaeda's central leadership cut ties with ISIS and al-Baghdadi in February 2014, calling for ISIS to withdraw from Syria. Some have talked about ISIS being the extremist version of al-Qaeda while Jabhat al-Nusrah is linked to the core leadership of al-Qaeda and is more concerned about local sensibilities.³

Jabhat al-Nusrah and ISIS have fought in recent months, leading to thousands of deaths. But press reports suggest that the central al-Qaeda leadership, in the person of Ayman al-Zawahiri, called for a reconciliation between the groups in May.⁴ It is not clear how much

¹ [The List established and maintained by the Al-Qaida Sanctions Committee with respect to individuals, groups, undertakings and other entities associated with Al-Qaida](#), updated 2 June 2014

² 'Terrorist Designation of Ibrahim Awwad Ibrahim Ali al-Badri', US State Department press release, 4 October 2011

³ 'Iraq crisis Q & A: Who or what is ISIS? Is it part of al-Qaeda?', *Daily Telegraph*, 11 June 2014

⁴ 'Syria: Al-Nusra Front agrees to end fighting with ISIS', *Asharq al-Awsat*, 5 May 2014

control al-Zawahiri has over either group. Jabhat al-Nusrah said that it would only desist from initiating any attacks; as most attacks came from ISIS and al-Nusrah pledged to respond if attacked, violence might continue. Al-Nusrah had been one of the biggest groups fighting the Syrian government but reports suggest that it lost most of its foreign fighters to ISIS after the two groups started fighting. The extremism of ISIS is thought to appeal to foreign jihadis.

1.3 Finance

According to Jane's, a security consultancy, AQI's main source of funding at the beginning of its existence was likely to have been wealthy Gulf individuals.⁵ Nouri al-Maliki, Iraqi Prime Minister, has said that Saudi Arabia and Qatar 'announced war on Iraq',⁶ although most sources suggest that the Gulf governments have been assisting groups they perceive as more moderate than ISIS. Many have argued that, at least, Gulf governments, including particularly Kuwait,⁷ have not done enough to prevent funds reaching groups such as ISIS. Kuwait is singled out as a staging post for the funds, a situation that has arisen not only because of its location but also because of a relatively permissive political and financial environment. The amount of money reaching militants in Syria and Iraq from Gulf individuals has been estimated to be in the hundreds of millions of dollars.⁸

Iranian officials have criticised the West for allowing funds to flow from its allies in the Gulf to extremists.

However, since ISIS has controlled more territory both in Syria and Iraq it has increasingly been able to fund itself from the proceeds of organised crime, including protection rackets and bank robberies, and by selling natural resources. The looting of millions of dollars from Mosul banks was a recent example of this, but it had already been going on with the Syrian territory held by the group: a cache of intelligence captured by the Iraqi authorities showed that in late 2012 the group had taken control of oilfields in eastern Syria which had given it a healthy cash flow. Together with other raw materials and looted antiquities, the territory controlled in Syria had already given ISIS cash and assets of £515 million, before the takeover of Mosul. After Mosul, an Iraqi intelligence official estimated that 'they could add another \$1.5 billion to that'.⁹

1.4 Objectives

The group's name reveals the group's ambitions to establish an Islamic caliphate across the Eastern Mediterranean. It has imposed extreme rules in the areas it is controlling, with summary executions and hundreds killed, according to the United Nations.¹⁰ The conditions imposed on civilians have been likened to the Taliban's rule in Afghanistan.

The group has also threatened to kill Shiites and to destroy the Shiite shrines in cities such as Najaf and Karbala.

1.5 Treatment of Christians and other minorities

Concern has been raised in Parliament and elsewhere about the treatment of Christians by ISIS. Lord Alton of Liverpool drew attention to the plight of Christians in Syria, some of whom

⁵ Jane's World Insurgency and Terrorism, Al-Qaeda in Iraq (AQI)

⁶ 'Maliki: Saudi and Qatar at war against Iraq', *al-Jazeera*, 9 March 2014

⁷ 'Kuwaiti minister accused by U.S. over terrorism funding quits', *Reuters*, 12 May 2014

⁸ Elizabeth Dickinson, *Playing with Fire: Why Private Gulf Financing for Syria's Extremist Rebels Risks Igniting Sectarian Conflict at Home*, Brookings Institution, 6 December 2013

⁹ 'Iraq arrest that exposed wealth and power of Isis jihadists', *Guardian*, 15 June 2014

¹⁰ 'Iraq conflict: ISIS militants seize new towns', *BBC News Online*, 13 June 2014

have been killed while others have been forced to pay *jizyah*, a traditional tax on non-Muslims in Muslim areas that used to be levied by the Ottoman Empire and other Islamic regimes:

When they are not being murdered, they are being forced to pay extortionate jizya tax—protection money—to leave or to die, like the two men who were recently crucified by ISIS in Syria. I was given an account only today from Syrian refugees who are in Jordan, unable to pay a ransom. The head of the family was kidnapped and executed.

Last night, as we heard from the noble Lord, Lord King, and my noble and gallant friend Lord Stirrup, Mosul fell to ISIS. Not surprisingly, overnight, 120,000 Christians were reported to have fled from Mosul to the plains of Nineveh.¹¹

There are concerns for other minorities too, such as Turkmen and Kurds. The mainly Turkmen town of Tal Afar, to the west of Mosul, was captured on Sunday 15 June after heavy fighting.

2 Iraq

The group is reported to have significant support in the Sunni areas of Iraq, at least compared with the Iraqi government's security forces, which are perceived as overwhelmingly pro-Shiite. In January 2014, ISIS took control of much of the mainly Sunni towns of Fallujah and Ramadi, in Anbar province.

2.1 Assault on Mosul

On 10 and 11 June, the group shocked observers by taking control of Iraq's second largest city, Mosul. Mosul is in the north of the country, not far from the Kurdish Autonomous Region, and is surrounded by oil fields. They then moved on to take Tikrit, Saddam Hussein's home town. As many as 500,000 civilians may have fled from Mosul, many of them heading for the Kurdish Autonomous Region.

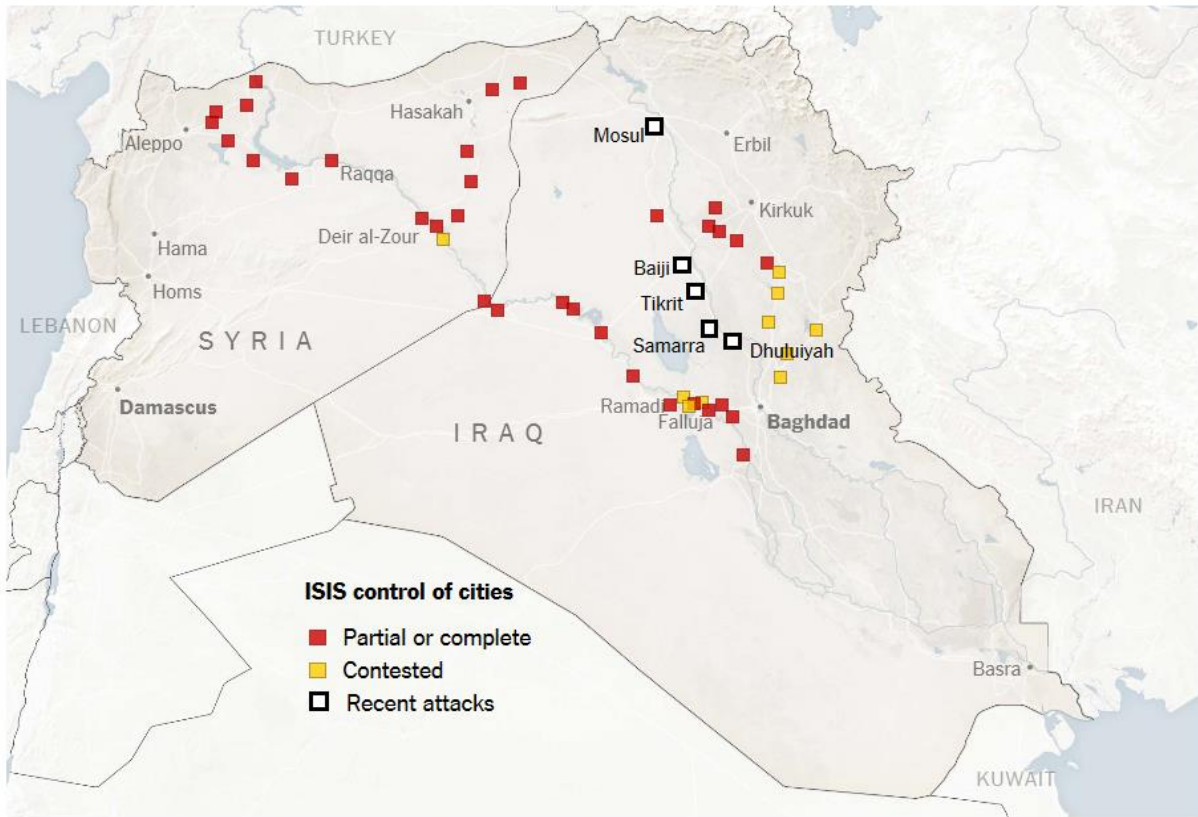
Banks were looted of hundreds of millions of dollars and thousands of prisoners were freed, giving the group a big pool of new recruits. Iraqi army weaponry was also seized, with reports of US-made armoured vehicles and helicopters flying overhead.

Government forces managed to check the ISIS advance at Samarra, about 80 miles north of Baghdad.

In Kirkuk, an important oil city near the Kurdish region, government troops were also reported to have abandoned their posts. Here, however, the Kurdish Peshmerga troops took up positions around the city, which has many Kurdish residents and has been claimed as part of Kurdistan for some time.

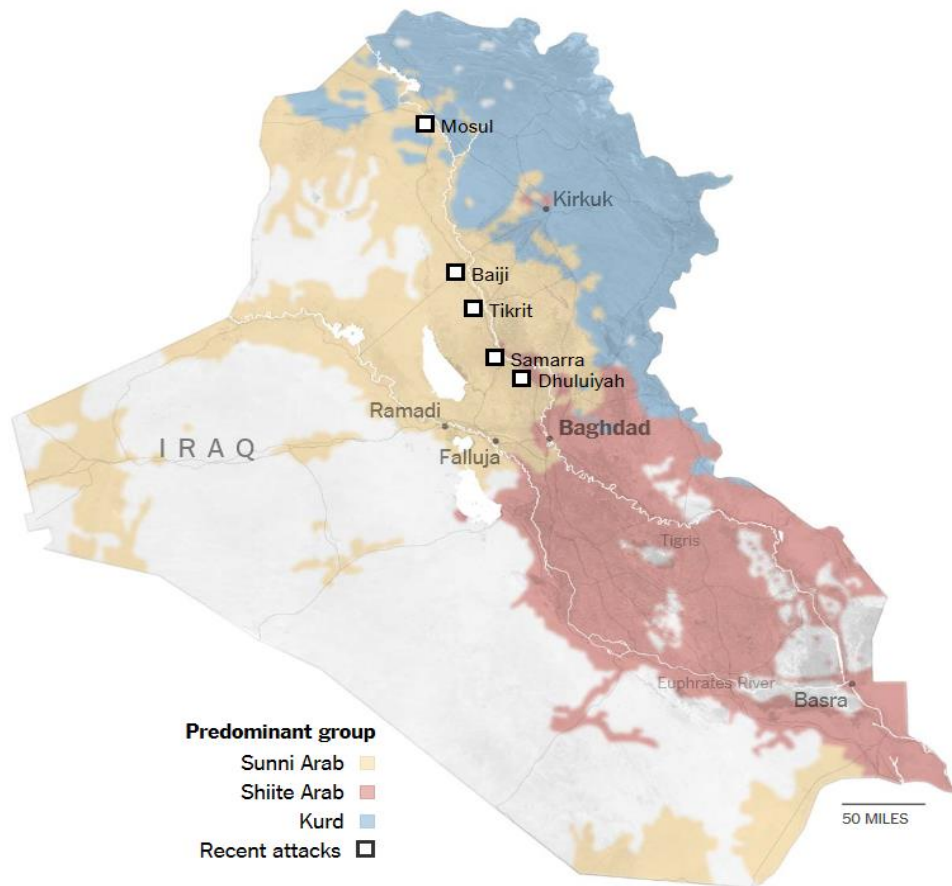
Although ISIS has issued statements threatening Baghdad, this would be a very different matter from Mosul or Tikrit. After years of sectarian tensions, most Sunnis have left and Baghdad is almost entirely a Shiite city; both the armed forces and the residents would be likely to put up a stronger defence.

¹¹ HL Deb 11 June 2014, c418



Source: [New York Times](#), Caerus Associates and *Long War Journal*

The areas where ISIS have taken control are Arab, Sunni majority areas, as shown in this map:



Source: [New York Times](#), Michael Izady, Columbia University's Gulf 2000 project

2.2 Iraqi government response

The sheer ferocity of the ISIS fighters was probably a factor in the Iraqi government security forces' abject failure to resist the advance of the radicals even though they out-numbered them massively. Iraqi troops are reported to have simply fled as the radical Islamists advanced. There were reports of children throwing stones at the retreating soldiers. The failure of Iraq's armed forces adds strength to those who argue that the disbanding of Iraqi armed forces after the US/UK invasion was a mistake.

An attempt to call a state of emergency on 12 June failed because not enough MPs turned up to vote and the Council of Representatives remained inquorate.¹²

Prime Minister Nouri al-Maliki has encouraged Shiite civilians to take up arms against ISIS fighters as well as planning a response from the official security forces. Grand Ayatollah Ali al-Sistani, the most senior Iraqi Shiite cleric, normally viewed as a quietist, supported the call for Shiites to take up arms, although he urged restraint and called on fighters to refrain from activities outside the framework of the state. Hundreds of Shiites were reported to have responded to the call. While Shiite militias might be effective in stopping the ISIS advance, they also raise the fear of civil war and chaos in Iraq.

On 12 June, the Iraqi air force launched strikes against rebel positions in and around Mosul.¹³

¹² 'Iraq crisis: Hundreds answer PM's call to fight as Islamist militants advance towards Baghdad', *Independent*, 12 June 2014

In the days after the initial advances, the group met stiffer resistance as militias and regular forces regrouped. On 19 June, there were reports of fighting around the Baiji oil refinery, some 130 miles north of Baghdad,¹⁴ although the government claimed still to be in full control of the plant, Iraq's largest. The closures of the plant led to immediate petrol shortages.

2.3 US

US President Barack Obama has acknowledged that the Iraqi government needed help and said that all options are open. On 12 June Obama said that no options had been ruled out:

Over the last year, we have been providing them additional assistance to try to address the problems that they have in Anbar, in the northwestern portions of the country, as well as the Iraqi and Syrian border. That includes, in some cases, military equipment. It includes intelligence assistance. It includes a whole host of issues.

But what we've seen over the last couple of days indicates the degree to which Iraq is going to need more help. It's going to need more help from us, and it's going to need more help from the international community.

So my team is working around the clock to identify how we can provide the most effective assistance to them. I don't rule out anything, because we do have a stake in making sure that these jihadists are not getting a permanent foothold in either Iraq or Syria, for that matter.

Part of the challenge -- and I've said this directly to Prime Minister Maliki, and Vice President Biden has said this in his very frequent interactions with the Iraqi government -- is that the politics of Shia and Sunni inside of Iraq, as well as the Kurds, is either going to be a help in dealing with this jihadist situation, or it's going to be a hindrance. And frankly, over the last several years, we have not seen the kind of trust and cooperation develop between moderate Sunni and Shia leaders inside of Iraq, and that accounts in part for some of the weakness of the state, and that then carries over into their military capacity.¹⁵

Observers suggested that air strikes, either by drones or by manned aircraft, were a possibility, and the Iraqi government has been pressing Washington to do this. US troops on the ground are less likely, given the Obama administration's political investment in ending US involvement in Middle East conflicts.

The US moved the aircraft carrier George HW Bush into the Gulf on Saturday 14 June and withdrew some of its staff from the Baghdad embassy while increasing security.

On 19 June, President Obama announced that the US would be sending 'up to 300' military advisers to assess how Iraqi forces could be assisted trained and advised.¹⁶

2.4 Iran

The Iranian government is allied to the Maliki government and is likely to act to prevent its collapse. However, Iran is already stretched by its support of the Assad government in Syria at a time when the Iranian economy has been badly affected by Western sanctions over its nuclear programme.

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¹⁴ 'Iraq crisis: Baiji oil refinery contested', *BBC News Online*, 19 June 2014

¹⁵ 'Remarks by President Obama and Prime Minister Abbott of Australia After Bilateral Meeting', White House press release, 12 June 2014

¹⁶ 'Remarks by the President on the Situation in Iraq', White House press release, 19 June 2014

President Rouhani said on 12 June that Iran would act to stop the violence:

The Islamic Republic of Iran will not tolerate this violence and we will not tolerate this terror and as we stated at the UN, we will fight and combat violence, extremism and terrorism in the region and the world.¹⁷

According to the *Wall Street Journal*, Iran has already deployed two units from the Islamic Revolutionary Guards Corps (IRCGC) to protect Baghdad and the holy cities of Karbala and Najaf.¹⁸ Analysts say that a substantial deployment of Iranian ground troops is unlikely for now, and that the Iranian effort is more likely to be directed towards helping to organise Shiite militias. The Iraqi foreign minister said in a recent interview, however, that Iran had offered to help 'in any way we want, even to send forces.'¹⁹

Iranian and US representatives are scheduled for talks in Vienna over the Iranian nuclear programme early in the week of 16 June, and the opportunity may be used to discuss Iraq.

2.5 UK response

Hugh Robertson, Middle East Minister, met the Iraqi foreign minister on 12 June. He expressed his support for the Iraqi government:

Foreign Minister Zebari and I discussed the attacks by the Islamic State of Iraq and Levant (ISIL) in Iraq, and agreed that ISIL's threat in Iraq and Syria should alarm the whole international community.

The Iraqi government has our full support in its struggle against terrorism. My thoughts are with the people of Iraq and the families of the victims of these attacks, and with the families of the Turkish nationals being held hostage in Mosul, including staff from the Turkish Consulate-General.

It is vital now that all Iraqi authorities, both in the Federal Government and Kurdistan Regional Government (KRG), coordinate and work together to tackle the threat from ISIL. All parties must ensure the safety of all civilians in Iraq.

I also expressed my concern at the humanitarian situation. As the International Development Secretary has said, hundreds of thousands of people, including vulnerable women and children, are being forced to flee their homes. We have deployed a team of humanitarian experts to assess the situation on the ground and coordinate with our partners. We are monitoring the situation very closely and stand ready to provide whatever humanitarian support is needed.²⁰

The UK has sent a team to assess the humanitarian needs of the refugees fleeing the fighting, but the British Foreign Secretary has said that the UK will not get involved militarily. Mr Hague was reported as saying that the UK would support the US in whatever it decides to do:

But we will not be getting involved militarily. We will support the United States in anything they decide to do. We are in consultation with them.

¹⁷ 'Rouhani says Iran ready to 'fight and combat' terrorists in Iraq', *Al-Monitor*, 12 June 2014

¹⁸ 'Iran Deploys Forces to Fight al Qaeda-Inspired Militants in Iraq', *Wall Street Journal*, 12 June 2014

¹⁹ 'Hoshyar Zebari pleads for western assistance in Iraq', *Financial Times*, 13 June 2014

²⁰ 'Minister for Middle East Hugh Robertson meets Iraqi Foreign Minister', FCO press release, 12 June 2014

But I stress that it is for the Iraqi leadership primarily to respond to this. This is a democratic country with an elected government with considerable resources and the prime responsibility rests with them in their own country to deal with this issue.²¹

The government has also said that the security services will be checking whether any UK nationals have joined ISIS in Iraq.²²

The most senior UK Shiite cleric has issued a statement saying that UK Shiite residents should not join the fight in Iraq, clarifying the statement by Ayatollah al-Sistani at the weekend. He said, however, that British Shiites should offer 'every assistance' to the battle against ISIS.²³

The Foreign and Commonwealth Office advises against all travel to Ramadi and Fallujah in Anbar province, and against all but essential travel to any other part of Iraq.²⁴

Re-opening the British embassy in Tehran

On 17 June, the Foreign Secretary announced plans to re-open the British Embassy to Iran.²⁵ Although the situation in Iraq was not mentioned in the statement and the process of re-establishing full diplomatic relations has been going on for some time, many observers think that this process has been accelerated by developments in Iraq.

3 Syria

ISIS was driven out of Syria's biggest city Aleppo in January by other, more mainstream rebel groups and for a while it looked as if its fortunes were on the wane. However, the group has consolidated its strength in recent months. It has held the city of al-Raqqah, its only provincial capital, since 2013.

While ISIS has its roots in Iraq and many of its commanders are Iraqi, it has also recruited foreign fighters, which is a cause for concern in Western security circles, where there is a fear that fighters in the Syrian conflict may pose a threat to Western nations. According to one estimate, 80% of Western fighters in Syria have joined ISIS.²⁶

Not only was the takeover of Mosul a threat to the Iraqi government, it could strengthen the threat to the Syrian government. Press reports suggested that ISIS had taken control of Iraqi weapons and armoured vehicles as well as looting hundreds of millions of dollars from Mosul banks.

However, some rebels say that the Assad government has spared ISIS while attacking more moderate groups.²⁷ This would strengthen the impression both within Syria and abroad that the opposition to the Assads is extremist and should not be supported, thus helping the Syrian government.

4 Military capabilities

The capture of large areas of Iraq and Syria looks to have dramatically increased the fire power that ISIS can deploy. There were reports that captured, US-supplied armoured

²¹ 'UK sends humanitarian team to Iraq', Press Association, 12 June 2014

²² 'Britons may have gone to Iraq to fight; MI6', *Daily Telegraph*, 13 June 2014

²³ 'Shia cleric tells British Muslims not to join fight against Isis in Iraq', *Guardian*, 15 June 2014

²⁴ FCO, [Foreign travel advice: Iraq](#)

²⁵ [HC Deb 17 Jun 2014, c80WS](#)

²⁶ 'Profile: Islamic State in Iraq and the Levant', *BBC News Online*, 11 June 2014

²⁷ 'Isis defies repeated efforts to destroy its capability', *Financial Times*, 12 June 2014

vehicles and helicopters were being paraded in Mosul by ISIS fighters. The fact that Iraqi soldiers have abandoned their equipment and fled is a big worry for both the Iraqi government and internationally.

Kurdish fighters too took control of abandoned Iraqi army weapons as they took control of the city of Kirkuk.

Legality of external intervention

5 Possibility for NATO involvement in Iraq

The Iraqi Government has formally requested air power from the US. US General Martin Dempsey said "it is our national security interest to counter ISIL where-ever we find them".

NATO's Secretary-General, Anders Fogh Rasmussen, has already ruled out any NATO action in Iraq. Speaking on 12 June 2014 he said:

Let me stress that I don't see a role for NATO in Iraq, but of course we follow the situation closely and we urge all parties involved to stop violence. Video released by the Iraqi Government shows what it says is an airstrike on an insurgent stronghold in Salahuddin province. This comes amid reports that Iraqi ground forces have essentially evaporated in the face of the onslaught, abandoning bases and U.S.-provided weapons.²⁸

He was further quoted by Reuters as saying "'NATO's role is the defense of our allies... and we don't have a mandate or request on Iraq."²⁹

5.1 NATO support for US action?

NATO operates by consensus, and all NATO decisions are made by consensus. There is no voting mechanism. Instead, consultations take place until a decision that is acceptable to all is reached. Sometimes, members agreed to disagree on an issue.

It is extremely unlikely NATO would intervene militarily if the US decided against military action. NATO's forces would be similarly limited as the US's by a lack of Status of Forces Agreement. The UK has already ruled out military action in Iraq.

NATO could take measures to enhance its defensive stance, as it already has done along its eastern border with Russia. In 2012 it augmented Turkey's air defence systems with Patriot missile batteries, albeit in response to a Turkish request in reaction to action by Syria in 2012.

NATO ran a Training Mission in Iraq from 2004 to 2011. NATO's relationship has now shifted to count Iraq as one of its "Partners across the globe".

In September 2012 NATO and Iraq signed the NATO-Iraq Cooperation Programme. According to NATO, the main areas of cooperation include "education and training, response to terrorism, counter-IED, explosive ordnance disposal, defence Institution building and communication strategy."³⁰

²⁸ "NATO chief says "no role" for the alliance in Iraq", *Reuters*, 12 June 2014

²⁹ "NATO Secretary General says sees no role for alliance in Iraq", *Reuters*, 12 June 2014

³⁰ "NATO's relations with Iraq", *NATO website*, accessed 19 June 2014

An example of the type of cooperation involved was the training of Iraqi Explosive Ordnance Disposal experts on a training course entitled “countering the threat of home-made explosives”, held at the NATO-accredited EOD Centre of Excellence in Slovakia in November 2013.³¹

NATO and Iraq held talks in January 2014 to discuss how the partnership could be developed in terms of practical cooperation and political dialogue. A NATO press release at the time said the Partnership and Cooperation programme signed in 2012 “provides the basis for political dialogue and for training cooperation in areas such as counter-terrorism, crisis management and critical energy infrastructure protection.”³²

5.2 NATO response to a request from Turkey?

NATO’s Secretary General, Anders Fogh Rasmussen, visited Turkey on 16 June 2014 and met Foreign Minister Ahmet Davutoglu. In his remarks, he pointedly said “NATO Patriot batteries continue to augment your defences in the south of the country. And that is a clear sign of NATO solidarity.”³³

Rasmussen told Today’s Zaman on 17 June NATO stands ready to defend its allies:

What we [NATO] will do is to provide effective defense and protection of our allies. We will not hesitate to take the steps necessary to defend and protect our ally Turkey. You saw that when we deployed Patriot missiles to Turkey upon the request of Turkey in response to the deteriorating security situation in Syria. The deployment of Patriot missiles to Turkey is a demonstration of [our] strong alliance solidarity and [our] determination to take [the] steps necessary to protect our allies.³⁴

Turkey could invoke Article 4 of the Washington Treaty, which states: “the Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.”

Turkey has done this before, in response to two incidents in 2012 involving Syria. In response, NATO augmented Turkey’s air defence capabilities and three NATO allies (Germany, the Netherlands and the United States) agreed to provide two Patriot missile batteries each to augment Turkey’s air defences. Similar transfers occurred in 1991 and 1993. NATO said in 2012 these measures were purely defensive.³⁵

However, according to a media report of the recent emergency NATO Defence Ministers meeting on 11 June, the Turkish Ambassador did not call for discussions to be held under Article 4. The Turkish Deputy Prime Minister Bulent Arinc said on 13 June specifically that the Government does not perceive that Turkey is under direct threat of ISIS:

We do not perceive that Turkey is under direct threat [of ISIS]. Although our consulate is considered Turkish territory; although we raise [the] Turkish flag there; although our citizens are taken hostage and although our consul general is hostage, none of these

³¹ “NATO and Iraq tackle deadly improvised explosive devices together”, NATO, 11 December 2013

³² “NATO Secretary General discusses ways to strengthen ties with Iraqi Foreign Minister”, NATO website, 20 January 2014

³³ “Opening remarks by the NATO Secretary General, Anders Fogh Rasmussen at the Joint Press Point with the Minister of Foreign Affairs of Turkey, Ahmet Davutoglu 16 June 2014”, NATO, 16 June 2014

³⁴ “Rasmussen assures Turkey: NATO won’t hesitate to defend its ally”, Cihan/Today’s Zaman, 17 June 2014

³⁵ “NATO support to Turkey : Background and timeline”, NATO, accessed 19 June 2014

prove that there is a particular message toward Turkey in all of this. I can say it with full confidence that Turkey's territory is under no threat.³⁶

The Turkish Prime Minister has also warned US airstrikes could cause heavy civilian casualties.³⁷

6 Legal questions about external intervention

The question of whether US airstrikes would be permissible under international law remains a live debate. The key document in the debate is the [United Nations Charter](#). Article 51 of the Charter states:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.³⁸

The above would appear to suggest that if US airstrikes were regarded as “collective self-defence” (that is, the US helping to defend Iraq), this would be permissible under the Charter. However, Deborah Pearlstein has argued in the *Opinio Juris* blog that a request from a legitimate government is not the end of the story. Firstly, she says that a self-defence justification on the part of the US would look unconvincing at the moment:

There is currently no applicable UN Security Council authorization for the use of force in Iraq, and no serious claim that has yet been advanced that the United States would be acting in anything approximating the concept of self-defense recognized by the UN Charter and associated customary law. One could speculate the Administration has (or is looking for) indications that ISIS is threatening U.S. targets in anything beyond the broadest rhetorical way, and if such evidence emerges, of course that could change matters.

She also casts doubt on the idea of collective self-defence, but then moves on to what is probably the strongest claim for legality – the fact that the Iraqi government has requested help:

So what of the existence of Iraqi consent to – indeed, request for – U.S. government intervention here? Doesn't such consent obviate concerns about violations of international law? I think not, for two reasons. First, when the United States uses force in another state to target a group or individual, two separate issues arise. The first is whether the U.S. is violating Art. 2(4) of the UN Charter by using force on the target state's territory. This Article 2 concern may be substantially overcome by the target state's consent. (I say “substantially” and not ‘totally’ for reasons I'll come back to below.) But one must also ask whether it is lawful under international law for the United States to use force against the targeted group or individual. That is, whether the target poses an imminent threat such that the United States could use force in self-defense, or whether the target is lawfully targeted as part of an armed conflict. I don't understand state consent per se to have a bearing on that analysis. Imagine, for example, that in the midst of its civil war Sudan consented to China's using force on

³⁶ “Turkey not asking NATO for help with ISIS”, *almonitor*, 13 June 2014

³⁷ “Turkish PM says U.S. air strikes in Iraq could cause heavy casualties”, *Reuters*, 19 June 2014

³⁸ [United Nations website](#) (accessed 19 June 2014)

Sudanese territory to attack democratic opponents of Sudanese President Bashir. Would Sudanese consent suffice to render such an attack lawful under international law? No – because Article 2(4) is not the only source of international law in the world. See, e.g., treaty-based and customary human rights and humanitarian law, among others.

This brings me back to my hesitancy to say state consent totally resolves questions of the violation of UN Charter Article 2(4), which states: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” What’s the best way to read this provision in light of its text and purpose? Consider reading the “or’s” as disjunctive, i.e. states shall not use force either “against the territorial integrity or political independence of any state,” OR “in any other manner inconsistent with the Purposes of the United Nations.” There is understandably no threat to a state’s political independence, for instance, if the state itself asserts its political power to invite the use of force. But article 2 also and separately prohibits the use of force “inconsistent with the Purposes of the United Nations.” These purposes, evident from the Charter’s history and set forth expressly in its Article 1, include the mandate “to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes.” A use of force to which Sudan consents – but which otherwise violates principles of international law – seems to me problematic not only under whatever other international law it violates, but also with the terms of Article 2 itself.³⁹

Of course a specific Security Council resolution authorising the use of force would clarify the legality of any action.

6.1 Agreements between Iraq and the US

It may be that the present US-Iraqi agreement could be used as a legal basis for US military action since it contains provisions for defence and security cooperation. The bilateral agreement certainly does not rule it out.

Under the Strategic Framework Agreement (SFA) on US-Iraqi Bilateral Relations,⁴⁰ the present document setting out their relationship, Iraq and the US agreed to:

continue to foster close cooperation concerning defence and security arrangements without prejudice to Iraqi sovereignty over its land, sea and air territory

consistent with the declaration of principles⁴¹ and pursuant to the 2008 agreement on the withdrawal of US forces.⁴² (All three documents signed during the George W Bush administration.)

The declaration of principles set out the following on security:

1. Providing security assurances and commitments to the Republic of Iraq to deter foreign aggression against Iraq that violates its sovereignty and integrity of its territories, waters, or airspace.

³⁹ "Bombing Iraq Doesn't Just Pose Serious Questions of Domestic Law, International Law May Be a Problem, Too", *Opinio Juris*, 18 June 2014

⁴⁰ *Strategic Framework Agreement for a Relationship of Friendship and Cooperation between the United States of America and the Republic of Iraq*, 2008

⁴¹ *Declaration of Principles for a Long-Term Relationship of Cooperation and Friendship Between the Republic of Iraq and the United States of America*, 26 November 2007

⁴² *Agreement Between the United States of America and the Republic of Iraq on the Withdrawal of United States Forces from Iraq and the Organisation of the Activities during their Temporary Presence in Iraq*, 2008

2. Supporting the Republic of Iraq in its efforts to combat all terrorist groups, at the forefront of which is Al-Qaeda, Saddamists, and all other outlaw groups regardless of affiliation, and destroy their logistical networks and their sources of finance, and defeat and uproot them from Iraq. This support will be provided consistent with mechanisms and arrangements to be established in the bilateral cooperation agreements mentioned herein.

3. Supporting the Republic of Iraq in training, equipping, and arming the Iraqi Security Forces to enable them to protect Iraq and all its peoples, and completing the building of its administrative systems, in accordance with the request of the Iraqi government.

Although it expired at the end of 2011, the agreement on the withdrawal of forces recognised:

the importance of strengthening their joint security, contributing to world peace and stability, and cooperating in the security and defence spheres, thereby deterring aggression and threats against the sovereignty, security and territorial integrity of Iraq and against its democratic, federal and constitutional system.

It set out that:

In the event of any external or internal threat or aggression against Iraq that would violate its sovereignty, political independence, or territorial integrity, waters, airspace, its democratic system or its elected institutions, and upon request by the Government of Iraq, the parties shall immediately initiate strategic deliberations and, as may be mutually agreed, the United States shall take appropriate measures, including diplomatic, economic, or military measures, or any other measures, to deter such a threat.

The parties agree to continue close cooperation in strengthening and maintaining security institutions and democratic political institutions including, as may be mutually agreed, cooperation in training, equipping and arming the Iraqi Security Forces in order to combat domestic and international terrorism and outlaw groups, upon request by the Government of Iraq.

'Pursuant to' and 'consistent with' are taken to mean 'not conflicting with'. There is no implication that elements of the two expired agreements are in any way revived by the agreement that is still in force.

7 Outlook

The attacks by ISIS mark a sharp escalation in the worsening Sunni/Shia conflict that has become an enormous threat to stability throughout the Middle East and, to a lesser extent, in South Asia. Some blame the removal of Saddam Hussein for the unleashing of sectarian violence, not only in Iraq itself but also across the region. However, the invasion of Iraq was only one part of the story. The difficulties in holding Iraq together must be traced back to the creation by the British and French of a state that is fundamentally fractious (and perhaps fundamentally not viable) after the First World War, as a result of the Sykes-Picot agreement.

The Iranian revolution in 1979 represented an important stage in the political revival of the Shia, who had traditionally been dominated by Sunni Islam, while Western help for Iraq in the bloody Iran-Iraq war only served to increase the bloodshed and entrench hostility between Sunnis and Shias.

The growing oil wealth of the Gulf states, where very traditional and often intolerant strains of Islam are prevalent, has also contributed to the spread of conflict between the two branches. Add to these factors growing populations of young people who are sometimes economically excluded and usually politically disenfranchised, and who can communicate through new technologies.

European societies have been the source of many of the foreign *jihadis* who are contributing to the most extremist groups, such as ISIS. Perhaps this is a sign that they have failed to integrate young people as effectively as the US, for example, from where far fewer fighters have come.

The sectarian policies of the Maliki government in Iraq have also been widely blamed for the failure to make any progress in forming any sense of nationhood above religious and ethnic identities in Iraq. In December 2013, an arrest warrant was issued for the Sunni Deputy Prime Minister of Iraq, Tareq al-Hashemi for alleged links to terrorism. It was seen as a major escalation in anti-Sunni policy by Sunnis and the main Sunni political bloc announced that it was boycotting the cabinet in response. Protest camps in Ramadi were violently dispersed by the Iraqi authorities shortly afterwards.

The Syrian conflict is the most important driver of the Sunni-Shia hostility at present. The Syrian government is widely thought to have deliberately played up and provoked the sectarian nature of the conflict there to discourage support for the rebels. In Lebanon, Syria's neighbour to the west, there is increasing concern about increasing inter-communal violence and about the possibility of the civil war that raged there from 1975 to 1990 re-igniting.

The conquest of Mosul by ISIS is perhaps the most significant act by a jihadist group since the 9/11 attacks on the US in 2001. If ISIS manages to keep control of the areas that it currently occupies, let alone bring more of Iraq and Syria under its control, it will have succeeded in creating an extremist caliphate which could well be used as a base for organising attacks on other countries.

However, it may also serve to galvanise cooperation against violent extremism and it may prove difficult for ISIS to hold on to the territory that it controls at present. Powerful states such as Turkey, Iran and Saudi Arabia, not to mention the West, will be considering what action to take to reverse the gains by ISIS.

Many Kurds may see the developments as an opportunity as well as a threat. It seems certain, however, that the developments herald even more instability in the region that is likely to last for some time.

Con Coughlin writes that while most of the blame should lie with the Iraqi government for the present situation, the failure of the Obama administration to negotiate a continued US military presence allowed the Iraqi government to become more sectarian and ended up increasing Sunni disaffection:

Not surprisingly, this only intensified feelings of alienation among the Sunni tribes, with the result that tribal leaders who only seven years ago supported efforts by the US-led coalition to destroy al-Qaeda in Iraq are now encouraging their attempts to establish an independent state, even if it is one that is based on an extreme interpretation of Sunni doctrine.

The events of the past week, together with the very real threat ISIS fighters now pose to Baghdad, is certainly at odds with Mr Obama's assertion, made in a speech at the

Fort Bragg military base in North Carolina when the last US combat forces returned home, that the US was leaving behind a "sovereign, stable and self-reliant" Iraq.

Less than three years later, Iraq is on the point of collapse, with the al-Maliki government unable to mount effective resistance against the Islamist fanatics making their way towards Baghdad, once the capital of the mighty Abbasid Caliphate. Their stated ambition is to storm the capital and restore it to its former Islamic glory. As an imam for the ISIS fighters remarked yesterday, Iraq has experimented with secular governments during the Ba'athist era, as well as during the monarchy that was overthrown in the Fifties. "Now the time has come for us to return the country to a truly Islamic state," he said.⁴³

In the *Guardian* former aide to Tony Blair John McTernan, too, blames the complete withdrawal of troops and calls for troops to be sent back. He also bemoans the lack of interest in Iraq in Parliament:

The truth is that the US and UK left Iraq before it was ready, and they left for their own selfish, domestic political reasons. The ordinary Iraqis left behind have never abandoned hope - the turnout at the recent election was greater than the gridlocked Iraqi political class perhaps deserves, and showed a thirst for freedom. Supporting the Middle East's second full democracy after Israel is still the noble cause it was when I was in No 10 working for Tony Blair, and when I worked in the prime minister's office in Baghdad. Complex conflicts need strategic patience - the kind that won the cold war. It will take as least as long to rebuild Iraq as it took Saddam Hussein to destroy it.

The true scandal is the studious, indeed shameful, silence in Westminster. It is an appalling reflection on the House of Commons that MPs - a majority of whom voted for the Iraq war - chose not to ask a single question about the fall of Mosul at prime minister's questions.⁴⁴

An editorial in the *Independent* says that past mistakes in Iraq mean that military intervention is effectively off the table, although it might in fact be wise:

It is easy to blame "Bush and Blair" - their names will be forever conjoined - for all this, and justifiably. There is also a case for saying that some sort of decisive Western action in Syria, famously defeated in the House of Commons, might have prevented Isis from gaining the strength it has. However, such speculation is not greatly productive. The West has to put its past mistakes behind it, and should analyse the situation as it stands. Would intervention now work? If Isis continues its winning streak, armed intervention, mainly on the part of the US, may become inevitable because of the threat to Israel and Turkey, a Nato ally. With such a prospect might it be better to act now? Or would American intervention merely repeat the mistakes made after 2003?

To a large degree, as with the earlier debate on Syria, such questions may prove academic, at least in the short term, because recent history does haunt us. The memories of the loss of life and treasure in Iraq and Afghanistan remain fresh in the minds of the public, and there is no appetite for intervention anywhere, no matter how compelling the arguments.

⁴³ 'Who can halt the jihadis now?; The West is at least partly to blame for the emergence of Islamic extremists sweeping through Iraq, says Con Coughlin', *Daily Telegraph*, 13 June 2014

⁴⁴ 'Comment: Toppling Saddam was right, but we pulled out too soon: Instead of blaming Blair and Bush for the chaos in Iraq, we should be sending forces back there to rescue democracy', *Guardian*, 13 June 2014

Our failures in Iraq have inoculated Western electorates against any desire to repeat the experiment, no matter that an invasion of Iraq now could be more truthfully termed a "liberation" for the Iraqi people, and an act to save many more lives throughout the Middle East, than the one Blair and Bush presided over 11 years ago. Their failures do mean we cannot act now. Mission accomplished indeed.⁴⁵

In the Daily Telegraph, Lord Powell says that an unwillingness to act could in future be costly:

In the long term, the price for going soft will be a heavy one, because our rivals, our competitors and those who resent the West's global role and values will be encouraged to try their luck and challenge our interests. One sees it with Putin over Georgia and Ukraine. One sees signs of it with the Chinese in the South China Sea and their evident desire to push the Americans back to the mid-Pacific.

In such an environment, China and Russia could use their growing dominance over their neighbours to close the West out. Others will feel liberated to build nuclear and chemical weapons that recreate the existential threats we faced in the Cold War. Shorn of our strength and willpower, we will fail to contain these challenges, and others such as trans-national terrorism.

Are there things we should be doing differently? We should have taken action on Syria. We should regard the 1991 commitment not to station Nato forces in Eastern Europe as a dead letter. We should be ready to contemplate limited air action in support of the US against Isis in Iraq - provided that it establishes a government worth saving. But weakness and softness are self-reinforcing. Even if rebuilding our hard-power capabilities is apparently beyond us, the West needs to rebuild its willpower - and to be honest with its people about the long-term risks of losing our ground on the global stage.⁴⁶

The Belfast Telegraph calls on the West to cooperate with Iran:

It is in both sides' interests to ensure that Isis does not make any further gains as it marches towards Baghdad.

Iran can also ensure that the Shia majority in Iraq does not seek revenge on ordinary Sunnis for the actions of the Isis extremists, sparking all out civil war.

David Cameron should heed his own words and rebuild the relationship with Iran step by step.

Practical diplomacy is a much better response to the current tinderbox situation in Iraq than simple military-based intervention.⁴⁷

Matthew D'Ancona in the *London Evening Standard* calls for less effort to be expended on blaming Tony Blair and more on facing real problems:

For the next generation, Iraq was the full stop of a long sentence in British history that began with Suez, in which the Falklands War was no more than a parenthesis. To a greater or lesser extent, they grasp that all the major questions before us now - Scottish independence, membership of the EU, Islamic extremism, border control, the

⁴⁵ 'Mission aborted; Bush and Blair's hubris in Iraq means the West is now powerless to act against a genuine threat', *Independent*, 13 June 2014

⁴⁶ Charles Powell, 'The West will pay for losing its backbone; Those who resent our global role and values will feel encouraged to challenge our interests', *Daily Telegraph*, 19 June 2014

⁴⁷ 'West must make an unlikely ally in Iran', *Belfast Telegraph*, 18 June 2014

legacy of Iraq and its lessons for future conflicts - are variations on the same question: what sort of nation do we wish to be? Yet what Blair and Cameron understand is that we cannot disconnect the world selectively by screwing up our eyes, clicking the heels of our ruby-red slippers and saying: "There's no place like home." ISIS in Mosul, Muslim extremism in Birmingham's secular schools, the growing threat of British jihadis trained in Syria, waiting in sleeper cells for their orders: all are connected. Hate Blair as much as you like, but he is right about more than you may find comfortable. Specifically this: you cannot have globalisation à la carte.⁴⁸

A later editorial in the *Independent* called on more help for the refugees and encouragement for reconciliation between the regional powers, and questioned whether intervention would really help:

The outside world, starting with the United States, cannot hope to reverse the course of events in Iraq by intervening on the ground, and President Barack Obama was right to rule out US troops going back there.

However, that doesn't mean taking up an observer's seat as the region descends into ever greater chaos. Washington should encourage the tentative rapprochement between Sunni Saudi Arabia and Shia Iran, both of which are starting to see just how dangerous the Sunni-Shia power struggle is becoming to each of them. We should do our utmost to shore up the defences of vulnerable but still stable states in the region, such as Jordan.

Western countries could also afford to be more generous in helping to address the humanitarian aspect of the latest crisis. Britain has so far offered an extra £3m to help tens of thousands of refugees fleeing the advance of Isis, most of whom are now camping in Kurdish-controlled areas of northern Iraq. It hardly seems an adequate gesture.

With any luck, the Sunnis in Syria and Iraq will at some point turn against their self-styled deliverers in Isis. In that case, it is vital that the Shia-dominated regime in Baghdad comes under pressure to keep the door open to talks about some kind of federal option for the Sunnis, and for the Kurds. It is late in the day for Iraq even to try to play with the federalisation option, but just possibly some kind of gossamer-thin state can be salvaged from the current mess. Right now, none of the options looks good, but despair is not the answer.⁴⁹

⁴⁸ 'Don't blame Tony Blair for our lack of nerve on Iraq; The former PM realises all the issues we face, from the EU to Islamic extremism, are about the future of Britain', *London Evening Standard*, 18 June 2014

⁴⁹ 'Iraq's dismal choices: At a time when none of the options looks good, it may just be a question of trying to avert the worst scenario; The outside world cannot hope to reverse the course of events in Iraq by intervening', *Independent*, 16 June 2014