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2018 CPSA Conference
Regina, Saskatchewan

The Consequences of Iraqi Kurdistan's Independence Referendum

This article explains Iraqi Kurdistan's decision to hold an independence referendum against unfavourable domestic, regional, and international conditions. Iraqi Kurdistan justified its decision to hold a referendum on the grounds that Baghdad had failed to adhere to and implement the terms of the 2005 Iraqi constitution. One of the central aims behind the constitution was to convince the Kurds that a union with the rest of Iraq would be politically and economically beneficial and by all accounts, the Iraqi constitution met Kurdish demands for political and economic autonomy. Iraqi Kurdistan's decision to hold a referendum, therefore, raises interesting questions about Kurdish motivations to hold the referendum against domestic, regional, and international opposition. This decision raises three key questions: First, why did the Kurds hold the referendum at a time of so much political uncertainty and opposition from Baghdad and the international community? Second, why did the Kurds relinquish control of Kirkuk to Baghdad? Finally, what are the short- to medium-term consequences of the referendum and the battle for Kirkuk? This article argues that the purpose of Iraqi Kurdistan's independence referendum was to strengthen the Kurds' negotiating position in its political and economic relationship with Baghdad. The Kurdish demand for independence is a symptom of broader political issues in Iraqi Kurdistan and in Iraq. These unaddressed issues include political divisions within Iraqi Kurdistan, Iraq's unwillingness to resolve longstanding constitutional disputes between the Kurds and Baghdad, and, finally, the international community's mishandling of the Kurd-Baghdad relationship. The immediate impact of the referendum is that Iraqi Kurdistan is in a weaker position vis-à-vis Baghdad but the failure is a short-term setback for Iraqi Kurdistan's ultimate goal of redefining its relationship with Baghdad.

Iraqi Kurdistan argued that Iraq's post-2003 union failed largely because Baghdad refused to adhere to the terms of the constitution and that the Kurds had little choice but to push for independence. The roots of Iraqi Kurdistan's referendum can be traced back to the long and turbulent history of the Kurdish-Baghdad relationship characterized by decades of political oppression and violent clashes. The immediate causes for the referendum were triggered by the acrimonious relationship between Erbil (Iraqi Kurdistan's capital) and Baghdad and the security threat, as well as the political and economic challenges, posed to Iraq by the Islamic State in Iraq and Syria (ISIS). The Kurds argued that the tenure of former Prime Minister Nouri al-Maliki was evidence that Iraq was neither federal nor democratic. And the presence of ISIS exacerbated the existing poor relations between the Kurds and Baghdad. Additionally, Iraqi Kurdistan's war against ISIS produced military support from western countries that the Kurds misinterpreted as tacit political support for independence. And, the chaos created by ISIS provided an opening for the Kurds to seize disputed territories (e.g., Shingal and Kirkuk) that they claim as historically Kurdish territories. There are also other less significant contributing factors, such as Massoud Barzani's desire to cement his legacy as the father of Kurdistan and an attempt to gain leverage over Baghdad concerning political and economic disputes in Iraq.

In a 28 June 2017 editorial in the Washington Post, Massoud Barzani (the former president of Iraqi Kurdistan) highlighted Iraq's failure, prior to and post-2005, to uphold the constitution and to treat Kurds as equal partners. Referring to the 2005 constitution, Barzani

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said, "Baghdad has failed to implement key provisions of that constitution, and we have good reason to believe that it never will. This failure of the political system is also responsible for the drastic deterioration of relations between Sunnis and Shiites that led to the rise of the Islamic State, with disastrous consequences for all Iraqis, including Kurds."¹ Baghdad's failure to abide by the constitution was the main justification for holding the referendum. In a subsequent interview with *Foreign Policy* magazine, Barzani reiterated this argument by declaring: "A long time ago I reached the conclusion that it was necessary to hold a referendum and let our people to decide...For a long time I have had this belief that Baghdad is not accepting real, meaningful partnership with us."²

Former Iraq Prime Minister Nouri al-Maliki received the bulk of the responsibility for pushing the Kurds towards independence. According to Kurdish officials, Maliki's tenure as prime minister demonstrated that a democratic partnership between Baghdad and Erbil would be impossible. Massoud Barzani accused Maliki of committing crimes against the Kurds similar in scale to the atrocities committed by Saddam Hussein.³ In an interview, Barzani said, "Maliki committed another version of the Anfal operation, but in another uglier way...We sought to establish a democratic federal Iraq, but Baghdad refused and we reached a conviction that we are not wanted there."⁴ From Barzani's perspective, the behaviour of Nouri al-Maliki validated Kurdish concerns that little had changed in Iraq since the overthrow of Saddam Hussein. The Kurds expressed concerns that they were being treated like second-class citizens, rather than partners in a federal and democratic Iraq.

Under Nouri al-Maliki, Kurds felt alienated and there grew a perception among the Kurds that Baghdad was becoming increasingly authoritarian.⁵ Maliki's actions were highlighted by his combative rhetoric and policies aimed at strengthening Baghdad's position not only vis-à-vis the Kurds, but also the rest of Iraq. Some of Maliki's actions included tightening his grip on the Iraqi military by creating the Office of the Commander in Chief and Provincial Command Centres, institutions through which Maliki could exercise control over the army.⁶ Maliki also targeted the Kurds by reducing or withholding the Kurdish region's annual budget and ignoring Kurdish

¹ Masoud Barzani, "The Time Has Come for Iraqi Kurdistan to Make its Decision on Independence," *The Washington Post*. 28 June 2017. Available at: https://www.washingtonpost.com/news/democracy-post/wp/2017/06/28/the-time-has-come-for-iraqi-kurdistan-to-make-its-choice-on-independence/?utm_term=.aaf9a8179f09

² Campbell McDiarmid, "I Want to Die in the Shadow of the Flag of an Independent Kurdistan," *Foreign Policy*. 15 June 2017. Available at: <http://foreignpolicy.com/2017/06/15/i-want-to-die-in-the-shadow-of-the-flag-of-an-independent-kurdistan/>

³ Ghassan Charbel, "Barzani: Maliki's Crimes against Kurdish Region Worse than Saddam's Anfal Operation," *Asharq al-Awsat*. 30 August 2017. Available at: <https://english.aawsat.com/ghassan-charbel/interviews/barzani-malikis-crime-kurdish-region-worse-saddams-anfal-operation>

⁴ Ghassan Charbel, "Barzani: Maliki's Crimes against Kurdish Region Worse than Saddam's Anfal Operation."

⁵ Michael Gunter, "Arab-Kurdish Relations and the Future of Iraq." Gareth Stansfield, "The Unravelling of the Post-First World War State System? The Kurdistan Region of Iraq and the Transformation of the Middle East," *International Affairs* Vol. 89, No. 2 (2013): 259-282. Marissa Sullivan, "Maliki's Authoritarian Regime," *Institute for the Study of War*. Middle East Security Report No. 10. (2013).

⁶ Toby Dodge, "Iraq's Road Back to Dictatorship," *Survival* Vol. 54, No. 3 (2012), 152.

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autonomy as outlined in the constitution.⁷ Massoud Barzani and the Kurdistan Regional Government (KRG) believed Maliki's actions represented a larger trend in which Baghdad was attempting to reassert its dominance over the Kurds. Maliki's power-grab (whether perceived or real) prompted Barzani to declare, in a meeting with Maliki, "you smell like a dictator."⁸ Barzani highlighted these concerns during a visit to Washington DC, where he told the Barack Obama administration that "Iraq is facing a serious crisis...it's coming towards one-man rule."⁹

Maliki's political aspirations can be likened to a 'strong-man' who provided Iraqis with stability and security, but whose rule depended on "patronage and an iron fist."¹⁰ "To anger him is to risk endless harassment, exile, or imprisonment. To strike an alliance with al-Maliki is an opportunity to mass power and protection from enemies," writes Ned Parker.¹¹ This type of behaviour was best demonstrated by Maliki's actions on 15 December 2011 when he ordered the arrests of Tariq al-Hashemi, Iraq's then vice president, Rafi al-Issawi, then finance minister, and Saleh al-Mutlaq, then deputy prime minister.¹² It was revealed that the accusations and incriminating evidence against these high-level officials were collected from individuals who were tortured and that the arrests were politically motivated.¹³

It is surprising then that Iraqi Kurdistan's two main political parties, Massoud Barzani's Kurdistan Democratic Party and the Patriotic Union of Kurdistan, supported Maliki and his State of Law party to form a government in 2010. Following the March 2010 election, neither Maliki's State of Law, which garnered 89 seats, nor Ayad Allawi's Iraqiyya, which won 91 seats, secured the 163 seats necessary for a majority to form the government. Following months of political deadlock and negotiations, an agreement was reached wherein Maliki would continue to serve as prime minister, but his powers would be constrained by the creation of a National Council for Strategic Policy, which would be responsible for approving all major policy decisions.¹⁴ Barzani would later reveal that, at the time, the Kurds viewed Maliki as less of a threat than Allawi and Iraqiyya.

Kurdish officials accused the Maliki administration of creating an environment of suspicion and hostility between the Kurds and Baghdad.¹⁵ Although this accusation is not unwarranted, the Kurdistan Regional Government (KRG) also contributed to the deterioration of relations between Baghdad and the Kurds. Iraqi Kurdistan established its own Ministry of Natural Resources in 2006 and it pursued an independent oil and energy policy without the consent of or

⁷ The Economist, "Iraq: Is it Really Coming Right?" *The Economist*. 27 November 2008. Available at: <http://www.economist.com/node/12678343>. Michael Gunter, "Arab-Kurdish Relations and the Future of Iraq."

⁸ The Economist, "Iraq: Is it Really Coming Right?"

⁹ Massoud Barzani quoted in Toby Dodge, "Iraq's Road Back to Dictatorship," 149.

¹⁰ Ned Paker, "Machiavelli in Mesopotamia: Nouri al-Maliki Builds the Body Politic," *World Policy Journal* Vol. 26, No. 1 (2009): 18.

¹¹ Ned Paker, "Machiavelli in Mesopotamia: Nouri al-Maliki Builds the Body Politic," 17.

¹² Toby Dodge, "Iraq's Road Back to Dictatorship," *Survival* Vol. 54, No. 3 (2012), 150.

¹³ Toby Dodge, "Iraq's Road Back to Dictatorship," *Survival* Vol. 54, No. 3 (2012), 150.

¹⁴ Toby Dodge, "Iraq's Road Back to Dictatorship," *Survival* Vol. 54, No. 3 (2012), 156.

¹⁵ Masoud Barzani, "The Time has Come for Iraqi Kurdistan to Make its Choice on Independence."

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cooperation from Baghdad.¹⁶ The KRG signed exploration and service contracts, against the will of Baghdad, with the United Arab Emirates' Dana Gas Crescent Petroleum, Korea National Oil Corporation, Canada's Talisman, and ExxonMobil amongst others.¹⁷ By 2013, the KRG was exporting and selling its oil through the KRG's pipeline without an agreement with Baghdad in place.¹⁸ With little dialogue on the matter, the federal government in Baghdad interpreted the KRG's behaviour as a move towards economic and political independence. The KRG, meanwhile, was suspicious that Baghdad's unwillingness to pass a national oil law was a sign of its aspirations to dominate the Kurds.

The referendum, then, was the culmination of long-held grievances and a growing fear within Iraqi Kurdistan that the central government in Baghdad could not be trusted to respect Kurdish autonomy. It is on these grounds that the Kurdistan Regional Government accused Baghdad of wilfully ignoring Iraq's constitution and shrinking, or completely withholding, Iraqi Kurdistan's share of the annual budget. Massoud Barzani and the KRG argued that since 2005, they called for a federal and democratic Iraq, which, to their dismay did not materialize.¹⁹ The view from Erbil is as follows: The Kurds made every effort to make Iraq a multi-ethnic democracy, but Baghdad failed to adhere to framework of the constitution. After more than a decade of political quarreling, the Kurds lost confidence in the project of a federal and democratic Iraq. In an interview with the Russian think tank Valdai Club, Hemen Hawrami, chief advisor to Massoud Barzani, reiterated that the Kurdish decision to hold the referendum was a response to Baghdad's undemocratic behaviour from 2003 through 2017.²⁰ Hawrami said, "The leadership and the people of Kurdistan went through 14 years of failed federalism in Iraq. The new Iraq in post 2003 failed to implement the main pillars of power sharing and consensus... In February 2014, then Prime Minister Maliki cut the budget from Kurdistan Region. Iraq failed to protect us from the barbaric attacks of ISIS."²¹ It is in this context that Iraqi Kurdistan carried out the controversial referendum.

The referendum generated opposition from Baghdad, Iraq's neighbors, the international community, and from within Iraqi Kurdistan. Within in Iraqi Kurdistan, political parties and segments of the population argued that the referendum was ill-timed. Gorran and the Kurdistan Islamic Group, for instance, released a joint statement calling for the referendum to be postponed to a date to be set by the parliament of Iraqi Kurdistan.²² These parties believed that

¹⁶ Robin Mills, "Under the Mountains: Kurdish Oil and Regional Politics," *The Oxford Institute for Energy Studies*. The University of Oxford. January 2016. Available at: <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2016/02/Kurdish-Oil-and-Regional-Politics-WPM-63.pdf>

¹⁷ Robin Mills, "Under the Mountains: Kurdish Oil and Regional Politics."

¹⁸ Robin Mills, "Under the Mountains: Kurdish Oil and Regional Politics."

¹⁹ Masoud Barzani, "The Time has Come for Iraqi Kurdistan to Make its Choice on Independence," *The Washington Post*. 28 June 2017. Available at: https://www.washingtonpost.com/news/democracy-post/wp/2017/06/28/the-time-has-come-for-iraqi-kurdistan-to-make-its-choice-on-independence/?utm_term=.90e57dce0aeb

²⁰ Valdai Club, "Kurdistan Referendum: Changing the Status Quo," *Valdai Club*. 22 August 2017. Available at: <http://valdaiclub.com/a/highlights/kurdistan-referendum-changing-the-status-quo/>

²¹ Valdai Club, "Kurdistan Referendum: Changing the Status Quo."

²² Rudaw, "Gorran, Komal call for Kurdistan to delay referendum, want parliament reactivated," *Rudaw*. 4 September 2017. Available at: <http://www.rudaw.net/NewsDetails.aspx?pageid=326987>

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Iraqi Kurdistan's parliament possesses the legal framework to sanction a referendum on independence. In addition, there was a campaign, concentrated in Sulaymaniyah province (the hotbed of Gorran and PUK supporters), that urged Iraqi Kurdistan to postpone the referendum. The 'No for Now' campaign, led by the media organization Nalia Radio and Television (NRT) and its owner Shaswar Qadir, accused Barzani and the Kurdistan Democratic Party of exploiting Kurdish nationalism by distracting the population with the referendum.²³ During a rally held in Sulaymaniyah, Shaswar Qadir declared that the referendum is a ploy to "distract people from the real problems, such as the ongoing financial crisis and shortage of basic services."²⁴

The referendum also faced strong political opposition from the central government in Baghdad and neighbouring Turkey. On 12 September 2017, Iraq's parliament voted against the referendum, arguing that it was unconstitutional. The parliamentary resolution asserted that "This referendum lacks a constitutional basis and thus it is considered unconstitutional."²⁵ In addition, the parliament furnished Iraq's Prime Minister, Haider al-Abadi, with the power to "take all measures" necessary to preserve Iraq's unity.²⁶ Turkey's Recep Tayyip Erdoğan declared that "If Barzani and the Kurdish regional government do not go back on this mistake as soon as possible, they will go down in history with the shame of having dragged the region into an ethnic and sectarian war."²⁷ Erdoğan also threatened economic sanctions against Iraqi Kurdistan. He proclaimed that Turkey would punish Iraqi Kurdistan "when we close the oil taps, all [their] revenues will vanish, and they will not be able to find food when our trucks stop going to northern Iraq."²⁸

Two days before the referendum, in a letter addressed to Massoud Barzani, US Secretary of State, Rex Tillerson, asked Barzani to postpone the referendum and proposed an 'alternative' course of action. Tillerson referred to the alternative as "accelerated framework for negotiation with the central Government of Iraq...[The] accelerated framework carries an open agenda and should last no longer than one year, with the possibility of renewal. Its objective is to resolve all issues outstanding between Baghdad and Erbil and the nature of the future relationship between the two."²⁹ Perhaps most significantly, Tillerson offered to "address" Iraqi Kurdistan's "fiscal and security needs" and pledged that should the talks fail, the US would "recognize the need for a

²³ Rudaw, "Hundreds Stage 'No for Now' Rally Against Kurdistan Referendum," *Rudaw*. 9 September 2017. Available at: <http://www.rudaw.net/english/kurdistan/090920173>

²⁴ Rudaw, "Hundreds Stage 'No for Now' Rally Against Kurdistan Referendum."

²⁵ Ahmed Rasheed and Raya Jalabi, "Barzani Vows to Press on with Kurdish Referendum, Defying Iraq Parliament," *Reuters*. 12 September 2017. Available at: <https://www.reuters.com/article/us-mideast-crisis-iraq-kurds/barzani-vows-to-press-on-with-kurdish-referendum-defying-iraq-parliament-idUSKCN1BN11T>

²⁶ Ahmed Rasheed and Raya Jalabi, "Barzani Vows to Press on with Kurdish Referendum, Defying Iraq Parliament."
²⁷ Martin Chulov, "Iraq: Kurdish Leader Barzani Claims win in Independence Referendum," *The Guardian*. 26 September 2017. Available at: <https://www.theguardian.com/world/2017/sep/26/iraq-kurdish-leader-barzani-claims-win-in-independence-referendum>

²⁸ Martin Chulov, "Iraq: Kurdish Leader Barzani Claims win in Independence Referendum."

²⁹ Eli Lake, "Tillerson Letter Shows US Nearly Averted Kurdish Referendum," *Bloomberg*. 13 October 2017. Available at: <https://www.bloomberg.com/view/articles/2017-10-13/tillerson-letters-show-u-s-nearly-averted-kurdish-referendum>

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referendum.”³⁰ In exchange for the above, the Kurds would enter into negotiations with Baghdad, continue to support the coalition against ISIS, and the boundaries of Iraqi Kurdistan would be determined by negotiations with Baghdad and through implementation of Article 140.³¹ The last requirement regarding Iraqi Kurdistan's border would have been unacceptable to Barzani and the Kurds. After all, following the capture of Kirkuk, and other disputed territories, the Kurds declared that the KRG would under no circumstances relinquish control over Kirkuk. This was a concession Barzani could not make without tarnishing his legacy.

Barzani and his supporters ignored the repeated and unambiguous requests from the international community to suspend the referendum. Barzani refused these appeals on the grounds that the referendum was the Kurds' inalienable right. In doing so, Barzani risked the KRG's autonomy and security for something uncertain. The fateful decision was a miscalculation that pushed Iraq to brink of civil war. On 25 September 2017, Iraqi Kurdistan held the referendum, which asked: “Do you want the Kurdistan Region and the Kurdistan areas outside the administration of the Region to become an independent state?” The overwhelming majority, 92.7 percent, of citizens voted in favour of separating from Iraq.³²

The international community ignored the results of the referendum. Perhaps the biggest diplomatic blow came from the United States, an ally from which the Kurds expected support. Secretary of State, Rex Tillerson, released a press statement denouncing the referendum. Tillerson's statement read:

The United States does not recognize the Kurdistan Regional Government's unilateral referendum held on Monday [25 September 2017]. The vote and the results lack legitimacy and we continue to support a united, federal, democratic and prosperous Iraq. We remain concerned about the potential negative consequences of this unilateral step. Prior to the vote, we worked with both the KRG and the central government in Baghdad to pursue a more productive framework and to promote stability and prosperity for the people of the Kurdistan region. These aspirations, ultimately, cannot be advanced through unilateral measures such as this referendum. We urge calm and an end to vocal recriminations and threats of reciprocal actions. We urge Iraqi Kurdish authorities to respect the constitutionally-mandated role of the central government and we call upon the central government to reject threats or even allusion to possible use of force. The United States asks all parties, including Iraq's neighbors, to reject unilateral actions and the use of force. The fight against ISIS/Daesh is not over, and extremist groups are seeking to exploit instability and discord. We urge our Iraqi partners to remain focused on defeating ISIS/Daesh. We encourage all sides to engage constructively in a dialogue to improve the future of all Iraqis.³³

Turkey and Iran, traditional rivals and countries who disagree on most issues, demonstrated unity in opposing Iraqi Kurdistan's referendum and independence aspirations. As mentioned earlier,

³⁰ Eli Lake, “Tillerson Letter Shows US Nearly Averted Kurdish Referendum.”

³¹ Eli Lake, “Tillerson Letter Shows US Nearly Averted Kurdish Referendum.”

³² Eligible voters must be Iraqi citizens, 18 years of age or older, and residents of Iraqi Kurdistan and the disputed territories under Article 140.

³³ Rex Tillerson, “Iraqi Kurdistan Regional Government's Referendum,” *US Department of State*. 29 September 2017. Available at: <https://www.state.gov/secretary/remarks/2017/09/274522.htm>

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Turkey and Iran both threatened to impose economic and political sanctions on the Kurds.³⁴ The international community (both regional and international actors) played a decisive role in thwarting Iraqi Kurdistan from achieving anything meaningful from the referendum.

Regional and international actors played an important role in preserving the unity of Iraq. The Kurds faced the difficult task of persuading the US, Turkey, Iran, and other international powers (e.g., France, UK, and Germany) that an independent Iraqi Kurdistan would not lead to instability in the region.³⁵ The policies of Turkey, Iran, and the US converge on the unity of Iraq. All three actors have promoted, albeit for different reasons, the territorial integrity of Iraq. The KRG has worked to reassure these governments that Iraqi Kurdistan is not on the path to independence. In a 2012 interview with *Time* magazine, Nechervan Barzani, the Prime Minister of Iraqi Kurdistan, noted that the oil pipeline from the Kurdish region to Turkey's Ceyhan port is not a prelude to the breakup of Iraq.

Furthermore, Nechervan Barzani has consistently maintained that Kurds will not seek independence if Baghdad adheres to the Iraqi constitution. In a 2012 interview, he said, "We have a constitution in this country. We will not take any other step until we lose hope in that constitution. There is no doubt if and when we lose hope that the constitution is not adhered to, certainly there are other options."³⁶ Nechervan Barzani further noted that Kurdish independence has never been so viable, but there remain challenges. According to Nechervan Barzani, Kurdish independence is unlikely and, indeed, impossible without support from a regional neighbour, referring to Turkey, and the US.³⁷ Turkey, therefore, will play a major role in the future of Iraqi Kurdistan. Turkey fears that Iraqi Kurdish autonomy will ultimately lead to independence, which will lead to unrest with its own Kurdish population and threaten Turkey's territorial integrity. This fear has been a mainstay of Turkey's policy towards Iraq and Iraqi Kurdistan.

Iran is similarly fearful that an independent Kurdistan on its border will lead to instability amongst its own Kurdish population. Iran is host to about six to seven million restive Kurds and Tehran is forced to confront sporadic military clashes with the militant Kurdish group, the Free Life Party of Kurdistan (PJAK). Iraqi Kurdistan's autonomy has prompted neighbouring Kurds in Iran to make similar political and economic demands from Tehran. As a result, Iran is on high alert and weary of the prospect of an independent Kurdistan on its border. To this end, Iran is working closely with Shiite political leaders in Iraq and Tehran also has close ties with the PUK.

³⁴ Ted Regencia, "Kurdish Secession Tops Erdoğan's Agenda in Iran Visit," *Aljazeera*. 4 October 2017. Available at: <http://www.aljazeera.com/news/2017/10/kurdish-secession-tops-erdogan-agenda-iran-visit-171003060210611.html>

³⁵ Michael Gunter, "Federalism and the Kurds of Iraq: The Solution or the Problem?" in Faleh A. Jabar and Hosham Dawod (eds.), *The Kurds: Nationalism and Politics* (London: SAQI, 2006), 252.

³⁶ Jay Newton-Small, "An Interview with Nechirvan Barzani: Will There Be an Independent Kurdistan?" *Time*. 21 December 2012. Available at: <http://world.time.com/2012/12/21/an-interview-with-nechirvan-barzani-will-there-be-an-independent-kurdistan/#ixzz2Fnix3uj9>.

³⁷ Ibid.

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Iran provided the PUK with military assistance to fight ISIS in June 2014.³⁸ In exchange for military and political support, Iran expects the PUK to promote a united Iraq.

The international community's strong condemnation of the referendum emboldened Baghdad to adopt a heavy-handed response towards Iraqi Kurdistan. Baghdad decried the referendum as unconstitutional and rather than engaging in dialogue with the Kurds, it imposed a series of sanctions against the Kurds. Prime Minister Haider al-Abadi demanded that Kurdish authorities relinquish control of Iraqi Kurdistan's two international airports – Erbil and Sulaymaniyah – and Abadi requested that international airlines suspend their service to Iraqi Kurdistan. Abadi's plea was met with approval by airlines such as a EgyptAir, Turkish Airlines, and Royal Jordanian, all of whom suspended flights into and from the Kurdish airports. In addition, Baghdad insisted that it would not allow Iraqi Kurdistan to continue administering the disputed territories, including Kirkuk. After the capture of Kirkuk, Barzani declared that the Kurdish annexation of Kirkuk could not be reversed. Speaking after the seizure of Kirkuk, Barzani said, "We waited for 10 years for Baghdad to solve Article 140. Now it's accomplished because the Iraqi army pulled out and our peshmerga forces had to step in. So now the problem is solved. There will be no more conversation about it."³⁹ Iraqi officials, meanwhile, insisted that Kirkuk is a part of Iraq and that Baghdad must have administrative control over the city. Nouri al-Maliki, in his role as the Vice-President of Iraq, demanded that the KRG return Kirkuk and the other disputed territories to Baghdad. Maliki said, "We will not stop until we control the areas that were seized from us."⁴⁰ To this end, Haider al-Abadi ordered the Iraqi military to retake the city of Kirkuk and other disputed territories.

Baghdad deployed the Iraqi military and Shia militias (the *Hashd al-Shabi* or the People's Mobilization Units) on 16 October 2017 to retake the disputed territories. Iraqi forces marched into Kirkuk with little resistance from Kurdish forces. The fall of Kirkuk represented an important loss for the Kurds, not least because it highlighted the weaknesses of the peshmerga and Iraqi Kurdistan's political divisions. Following the fall of Kirkuk to Iraqi forces, there emerged accusations of treason from rival Kurdish factions. Two theories emerged to explain the fall of Kirkuk. Some argue that the Kurdish withdrawal from Kirkuk was coordinated between one faction of the Patriotic Union of Kurdistan (PUK) and Baghdad. Led by, Hero Talabani, the former first lady of Iraq and the wife of Jalal Talabani, and her two sons, Bafel and Qubad, this PUK faction opposed the referendum and supported joint administration (i.e., Kurdish and Iraqi) of Kirkuk.⁴¹ In an interview with France 24, Bafel Talabani rejected these accusations by arguing that the

³⁸ Shelly Kittleson, "US, Iran woo rival Kurdish factions in battle against IS," *Al-Monitor*. 22 September 2014. Available at: <http://www.al-monitor.com/pulse/originals/2014/09/Peshmerga-iraq-iran-kurd-isis-krk.html#>.

³⁹ Al Jazeera, "Iraq's Kurds rule out giving up Kirkuk," *Al Jazeera*. 28 June 2014. Available at: <http://www.aljazeera.com/news/middleeast/2014/06/iraq-kurds-rule-out-retreating-from-kirkuk-20146271440878594.html>

⁴⁰ Sofia Barbarani, "Iraq divided over control of Kirkuk," *Al Jazeera*. 11 July 2014. Available at: <http://www.aljazeera.com/news/middleeast/2014/07/iraq-control-kirkuk-20147772054115995.html>.

⁴¹ Marc Perelman, "Kurdish Referendum 'Colossal Mistake', says son of late President Talabani," *France 24 – The Interview*. 20 October 2017. Available at: <http://www.france24.com/en/20171020-interview-bafel-talabani-kirkuk-barzani-sulaymaniyah-puk-abadi-baghdad-referendum-turkey>

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PUK's peshmerga withdrawal from Kirkuk was a tactical decision made by PUK commanders in the face of a "vastly superior enemy [Iraqi forces]."⁴² Others believe that Massoud Barzani's Kurdistan Democratic Party (KDP) and the PUK agreed to relinquish control of Kirkuk in response to mounting pressure from Turkey and Iran.⁴³ It is difficult to believe that Barzani was unaware of the plan to handover Kirkuk to Baghdad. At the same time, in an interview with the New York Times, Bafel Talabani acknowledged that he unilaterally negotiated with Abadi and Baghdad to relinquish parts of Kirkuk to Baghdad.⁴⁴

Following one week of violent clashes between Iraqi forces and the peshmerga, the Kurdistan Regional Government issued a statement calling for an end to the military clashes, freezing the results of the referendum, and entering into negotiations under the framework of Iraq's constitution.⁴⁵ The statement did not clarify what the KRG means by 'freeze the results of the referendum conducted in Iraqi Kurdistan.' One interpretation is that the referendum is null and void. Alternatively, the statement 'freeze the results' could mean a temporary suspension of the referendum process. It is possible that the KRG is intentionally vague on this point. More likely, however, the KRG has recognized that the referendum was a miscalculation and this is the best way to nullify its results without political backlash from the Kurdish population.

Iraqi Kurdistan argued that the referendum was legal and fell under the purview of the constitution, which the Kurds interpreted as a voluntary partnership between Kurds and Arabs. The preamble of the constitution says:

We, the people of Iraq, of all components and across the spectrum, have taken upon ourselves to decide freely and by choice to unite our future, to take lessons from yesterday for tomorrow, and to enact this permanent Constitution, through the values and ideals of the heavenly messages and the findings of science and man's civilization. The adherence to this Constitution preserves for Iraq its free union of people, of land, and of sovereignty.⁴⁶

Kurdish officials argue that this section provides them with the constitutional means for holding the referendum and for negotiating separation from Iraq. That the Kurds "freely and by choice" joined the Iraqi union, implies that they could freely and by choice divorce from that same union. Baghdad disagreed with this interpretation and instead argued that Iraqi Kurdistan's unilateral referendum was illegal and unconstitutional. The international community sided with Baghdad, which meant that the referendum was ill-fated before it was held.

⁴² Marc Perelman, "Kurdish Referendum 'Colossal Mistake', says son of late President Talabani."

⁴³ Patrick Cockburn, "Kurds Face Transformation of Iraq's Political Map as They Lose Territory in Face of Government Advance," *Independent*. 17 October 2017.

Available at: <http://www.independent.co.uk/news/world/middle-east/iraq-kirkuk-battle-withdrawal-peshmerga-baghdad-latest-advance-disaster-a8006036.html>

⁴⁴ Margaret Coker, "With Iraq-Kurdish Talks Stalled, Phone Diplomacy Averts New Clashes," *New York Times*. 12 November 2017. Available at: <https://www.nytimes.com/2017/11/12/world/middleeast/iraq-kurds-autonomous-borders.html>

⁴⁵ Kurdistan Regional Government, "Statement from Kurdistan Regional Government," *Cabinet of the Kurdistan Regional Government*. 24 October 2017. Available at: <http://cabinet.gov.krd/a/d.aspx?s=040000&l=12&a=55938>

⁴⁶ Preamble. Constitution of Iraq.

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On the legality of the referendum, Iraq's supreme court agreed with Abadi and the Iraqi parliament. On 18 September 2017, the court ordered Iraqi Kurdistan to suspend the referendum to give the court time to examine and deliberate the issue.⁴⁷ The court's ruling, delivered on 6 November 2017, declared that no region or province in Iraq can secede.⁴⁸ The ruling bolsters Baghdad's position that the constitution precludes the right to secession and, as a precondition to negotiations, Iraqi Kurdistan must concede that separation is off the table. In a surprising move, the KRG accepted the Iraqi Supreme Court's ruling that the independence referendum is unconstitutional.⁴⁹ This concession by Iraqi Kurdistan lends support to the notion that the end goal of the referendum was not independence. Rather, it was about furnishing the Kurds with leverage in its political and economic dealings with Baghdad.

There is some merit to the idea that the referendum is more about resetting the relationship with Baghdad than independence.⁵⁰ This idea asserts that Iraqi Kurdistan's aim is to establish a confederation with two components made up from the Kurdish region and the rest of Iraq.⁵¹ This idea is supported by the political rhetoric of high-ranking Kurdish officials, including Massoud Barzani and Nechervan Barzani. On more than one occasion, Massoud and Nechervan have expressed their desire for a confederal arrangement with Iraq. In April 2014, Massoud Barzani asserted that if relations with Baghdad continue to deteriorate, the Kurds would consider pushing for confederation.⁵² Similarly, Prime Minister Nechervan Barzani noted one way to preserve the unity of post-ISIS Iraq is to establish a confederation between an independent Kurdistan and Iraq.⁵³

This partly explains the mixed signals from the Kurds concerning the desire and intentions with the aim of the independence referendum. On the one hand, two weeks before the vote, in a televised speech, Massoud Barzani asserted that a 'yes' vote for the referendum is in itself a declaration of independence.⁵⁴ Yet, during the same speech, Barzani suggested that like the United Kingdom's European Union exit, Iraqi Kurdistan's exit from Iraq will take long negotiations

⁴⁷ The Guardian, "Iraq Supreme Court Steps in to Block Kurdish Independence Vote," *The Guardian*. 18 September 2017. Available at: <https://www.theguardian.com/world/2017/sep/18/iraq-supreme-court-steps-in-to-block-kurdish-independence-vote>

⁴⁸ Ahmed Rasheed, "Iraq Court Rules no Region Can Secede after Kurdish Independence Bid," *Reuters*. 6 November 2017. Available at: <http://www.reuters.com/article/us-mideast-crisis-iraq-kurds/iraqcourt-rules-no-region-can-secede-after-kurdish-independence-bid-idUSKBN1D6170>

⁴⁹ Ahmed Rasheed, Raya Jalabi, "Abadi says Iraq to Act Soon Over Border Areas in Stand-Off with Kurds," *Reuters*. 14 November 2017. Available at: <https://www.reuters.com/article/us-mideast-crisis-iraq-kurds/abadi-says-iraq-to-act-soon-over-border-areas-in-stand-off-with-kurds-idUSKBN1DE0XD>

⁵⁰ Mohammed A. Salih, "Iraqi Kurdistan's Referendum Isn't About Independence," *The New York Times*. 6 September 2017. Available at: https://www.nytimes.com/2017/09/06/opinion/iraq-kurds-referendum.html?_r=0

⁵¹ Mohammed A. Salih, "Iraqi Kurdistan's Referendum Isn't About Independence."

⁵² Rudaw, "Barzani: KDP Will Retain Interior Ministry; Kurds Considering Confederation," *Rudaw*. 22 April 2014. Available at: <http://www.rudaw.net/english/kurdistan/22042014>

⁵³ Trudy Rubin, "Worldview: Rubin: Time for Kurdish Independence?" *The Inquirer*. 23 March 2017. Available at: http://www.philly.com/philly/columnists/trudy_rubin/20170323_Worldview__Rubin__Time_for_Kurdish_independence_.html

⁵⁴ Rudaw, "Barzani: Committing to Iraq post-Saddam was Mistake, Now is Time to Leave," *Rudaw*. 6 September 2017. Available at: <http://www.rudaw.net/english/kurdistan/060920173>

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in order to resolve "...hundreds of problems with Iraq on the subject of water, border, gas and oil."⁵⁵ Furthermore, in an editorial published in the Washington Post, Barzani described the vote as a "binding referendum."⁵⁶ On the other hand, Bayan Sami Abdul Rahman, the Kurdistan Regional Government's representative in Washington DC, maintained that the referendum is nonbinding and that the objective behind the vote is to reach "a negotiated settlement with the government of Iraq."⁵⁷ In the lead up to the referendum, Massoud Barzani added more confusion to the situation by declaring that the "referendum is not for defining borders or imposing a *fait accompli*. We want a dialogue with Baghdad to resolve the problems, and the dialogue can last one or two years."⁵⁸ The ambiguity was deliberate. It was intended to provide the Kurds with bargaining leverage in the post-referendum negotiations with Baghdad.

Conclusion

This article examined Iraqi Kurdistan's decision to hold an independence referendum against strong political opposition from Baghdad and the international community. It argued that the objective behind the referendum was to furnish the Kurds with leverage in negotiating a political and economic relationship with Baghdad. In other words, the Kurds believed that the referendum would strengthen their position in extracting concessions from Baghdad. Instead, however, the referendum backfired and threatened Iraqi Kurdistan's autonomy following Baghdad's military offensive in Kirkuk and other disputed territories on Iraqi Kurdistan's border. Most analysts missed the mark and declared that the dream of Kurdish independence died with the referendum and that Iraqi Kurdistan would suffer long-term consequences following the ill-fated referendum.⁵⁹ Certainly, Iraqi Kurdistan suffered a series of political, economic, and military sanctions imposed on it by Baghdad, neighbouring Turkey and Iran, and the United States. In the short- to medium-term, the crisis post-referendum presents serious political and military challenges to Iraqi Kurdistan. Politically, Iraqi Kurdistan will continue to face backlash and opposition to its independence aspirations. It will be increasingly isolated by Baghdad, its neighbours, and the international community. Iraqi Kurdistan also faces internal instability as highlighted by the division between the PUK and the KDP. Militarily, Iraqi Kurdistan faces a

⁵⁵ Rudaw, "Barzani: Committing to Iraq post-Saddam was Mistake, Now is Time to Leave."

⁵⁶ Masoud Barzani, "The Time has Come for Iraqi Kurdistan to Make its Choice on Independence," *The Washington Post*. 28 June 2017. Available at: https://www.washingtonpost.com/news/democracy-post/wp/2017/06/28/the-time-has-come-for-iraqi-kurdistan-to-make-its-choice-on-independence/?utm_term=.90e57dce0aeb

⁵⁷ Ishaan Tharoor, "The Quest for an Independent Kurdistan Enters a New Phase," *The Washington Post*. 21 June 2017. Available at: https://www.washingtonpost.com/news/worldviews/wp/2017/06/21/the-quest-for-an-independent-kurdistan-enters-a-new-phase/?utm_term=.d71e41a493e9

⁵⁸ Massoud Barzani quoted in Robin Wright, "Kurds Voted, So is the Middle East Breakup Up?" *The New Yorker*. 27 September 2017. Available at: <https://www.newyorker.com/news/news-desk/kurds-voted-so-is-the-middle-east-breaking-up>

⁵⁹ See the following: Loveday Morris, "How the Kurdish Independence Referendum Backfired Spectacularly," *Washington Post*. 20 October 2017. Available at: https://www.washingtonpost.com/world/how-the-kurdish-independence-referendum-backfired-/2017/10/20/3010c820-b371-11e7-9b93-b97043e57a22_story.html?utm_term=.4d28145f71e1

David Zucchino, "After the Vote, Does the Kurdish Dream of Independence Have a Chance?" *The New York Times*. 30 September 2017. Available at: <https://www.nytimes.com/2017/09/30/world/middleeast/kurds-iraqi-independence.html>

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serious threat from the Iraqi military and Shia militias, who possess superior weapons and political and material support from regional neighbours.

Yet, there is reason to be optimistic that the referendum will not have long-term consequences for Iraqi Kurdistan's desire to redefine its relationship with Baghdad. For one, the resignation of Massoud Barzani presents an opening to the younger generation of Kurdish politicians to lead Iraqi Kurdistan. The embargo against Iraqi Kurdistan's international airports has been lifted. Haider al-Abadi and the Iraqi parliament have agreed to pay Iraqi Kurdistan's share of the annual budget and Baghdad will pay the salaries of Kurdish civil servants. These are positive steps that will provide the foundation for Iraqi Kurdistan and Baghdad to redefine their political and economic relationship. From Iraqi Kurdistan's perspective, the lesson from the referendum is that it must work within Iraq's institutional framework and push for dialogue rather than pursuing unilateral action that triggers the ire of Baghdad and its neighbours. From Baghdad's perspective, it learned that it has the political support of its neighbours and the international community. But Baghdad has also demonstrated that it has learned to engage the Kurds in dialogue, to negotiate, and to compromise in resolving the political and economic challenges facing Iraq.