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Why international support is required to resolve disputes between the Government of Iraq and the Kurdistan Regional Government

by
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Request

Kurdish Lobby Australia requests that the Australian Government advocate and use all levers available in support of mediated negotiations between the Government of Iraq and the Kurdistan Regional Government leading to internationally guaranteed outcomes.

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Acronyms

GoI	Government of Iraq
IRGC	Islamic Revolutionary Guard Corps (Iran)
KDP/PDK	Kurdistan Democratic Party (Iraq)
KPC	Kirkuk Provincial Council
KRG	Kurdistan Regional Government (Iraq)
KRI	Kurdistan Region of Iraq
PAK	Kurdistan Freedom Party (Iran)
PKK	Kurdistan Workers Party (Turkey)
PMUs	Popular Mobilisation Units, also known as Hashd al-Shaabi
PUK	Patriotic Union of Kurdistan (Iraq)
PYD	Democratic Union Party (Syria)
SDF	Syrian Democratic Forces
YPG	Peoples' Protection Units (Syria)
YPJ	Women's Protection Units (Syria)



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Time Line of Relevant Events, 2017

10 July	Liberation of Mosul
18 September	Russian energy giant, Rosneft, announces agreement with KRG to build gas pipeline through Turkey to supply Europe.
21 September	Hawija offensive is launched in Kirkuk governorate.
23 September	US Secretary of State Rex Tillerson guarantees US support in negotiations between the Kurdistan Regional Government (KRG) and Government of Iraq (GoI) in return for the referendum on independence being cancelled.
25 September	Referendum on independence held in the Kurdistan Region of Iraq (KRI) and disputed territories; 92.72 percent vote 'yes'.
26 September	The Iraq Parliament approves taking military action against the disputed territories.
28 September	Iraq and Turkey, and Iraq and Iran co-ordinate military exercises near the KRI borders.
29 September	The GoI halts international flights in and out of Erbil and Sulaimani international airports.
3 October	Jalal Talabani, Iraq's first non-Arab president dies. The Iraq Parliament blocks Kurdish MPs from entering the chamber and votes to arrest and withdraw parliamentary membership from MPs who supported the referendum.
5 October	Liberation of Hawija district.
11 October	Abadi claims that dialogue with the Kurdistan Regional Government (KRG) is dependent on Kurdish leaders supporting the unity of Iraq, and agreeing to exclusive federal control over all oil exports and revenues, security, disputed territories, airports and land borders.
12 October	20,000 Iraqi forces, including Popular Mobilisation Units (PMUs) enter Taza and Bashir in Kirkuk governorate. Peshmerga withdraw three kilometres.
13 October	Abadi gives Peshmerga 48 hours to leave Kirkuk governorate; Brett McGurk announces Iraqi forces in Kirkuk are moving to



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Anbar; Jim Mattis says US supports shared management of disputed territories and US President Donald Trump orders the US Treasury to place sanctions on the Islamic Revolutionary Guard Corps (IRGC).

- 14 October Fire fight between Shia PMUs and Peshmerga in Tuz Khurmatu in Salahaddin governorate; Iraq president Fuad Masum presents six demands to the PUK leadership; Brett McGurk talks with the National Alliance in Baghdad, and asks Peshmerga commanders to hand over the K-1 Military Base in Kirkuk. Peshmerga commanders cannot agree on a response.
- 15 October Brett McGurk asks Baghdad to delay any decision on Kirkuk.
- 16 October Iranian and Iraqi forces including IRGC-linked PMUs advance on Kirkuk with US-supplied tanks and weapons, violating Article 9(1A) of the constitution. Fighting occurs but Peshmerga withdraw allowing Iraqi forces to take the military base, airport, oil fields and city. The GoI replaces Kurdish governor, police and administrators. From 16 October, PMUs raid and burn homes, arrest Kurds and Arabs, and move in Arabs from other governorates violating Article 7. By 2 November, 79,000 people have fled the city.
- 17 October Iraqi forces, including PMUs, take other oil fields and the disputed territories of Sinjar city and Bashiqa in Nineveh, and Khanaqin in Diyala. Peshmerga withdraw from Gwer in Erbil.
- 18 October Iraqi forces attack Peshmerga near Mosul Dam and in Rabia, which has a border crossing into Syria. Fighting continues in Rabia until the US negotiates a Peshmerga withdrawal on 24 October. Rosneft signs agreement with KRG to exploit five oil blocks.
- 19 October Iraqi forces advance on Faysh Khabur, another border crossing inside the KRI where the KRG oil pipeline from Kirkuk enters Turkey. Fierce fighting breaks out on 26 October. On 27 October Peshmerga are given two hours to withdraw. They do not.
- 20 October Iraqi forces attack Peshmerga at Altun Kopri on the border of Kirkuk and Erbil governorates. After a 12-hour fire fight Iraqi forces declare victory. Peshmerga prevent a further advance.
- 21 October The GoI reiterates its 11 October demands that violate Articles 112, 114, and 121 of the constitution.



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- 25 October The KRG announces it will 'freeze' the referendum results, abide by a ceasefire and requests negotiations based on the constitution.
- 26 October The US and UN Security Council urge Baghdad and Erbil to set a time line for talks. Abadi rejects the KRG offer.
- 27 October The US negotiates a cessation of hostilities at Faysh Khabur. Between 27 – 31 October, KRG Ministry of Peshmerga and Gol Ministry of Defence meet to negotiate a way forward. Peshmerga ask for a joint coordination committee that includes Coalition representatives to administer border crossings and disputed territories.
- 30 – 31 October Abadi rejects proposal, reiterates previous demands and makes new demands. KRG expenditure must be audited by the Gol; the Gol will directly pay salaries to vetted KRI civil servants; and Peshmerga must come under federal control; a draft 2018 budget cuts the KRG share from 17 percent to 12.67 percent, and will only be paid after the KRG hands over all oil fields and oil revenues. These demands violate Articles 106, 112, 114, 115, 117(1), 121, 126 (4) and 141. The US State Department claims it supports a strong KRG and a strong Gol, and admits that Iran was involved in the advance on Kirkuk. Peshmerga representatives walk out of negotiations saying Abadi's demands threaten the KRI, violate the constitution and involve KRI territory being rolled back to pre-2003 lines. As a result of the walkout Abadi threatens military action.
- 1 November US diplomacy causes military talks to resume. Acting KRI President Masoud Barzani resigns.
- 14 November The KRG announces that it 'respects' the 6 November Federal Supreme Court ruling that the Iraqi constitution does not allow for secession. The Gol continues to refuse dialogue. The Gol and Iran sign a deal to export Kirkuki oil to Iran initially by truck before a pipeline is built.
- 19 November Some PMUs pull out of Rabia and Zummar.
- 20 November The Federal Supreme Court ruled that the referendum was un-constitutional. Masoud and Nechirvan Barzani questioned the legitimacy of the Court, its process and ruling and called for the full implementation of the constitution of Iraq.



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Getting into Position: the Hawija offensive

After taking large swathes of territory across Syria and Iraq, when ISIS threatened Kirkuk city in June 2014, Iraqi forces withdrew. Kurdish Peshmerga moved in and defended or liberated three of four districts in oil rich Kiruk, whose jurisdiction is disputed by the Government of Iraq (GoI) and the Kurdistan Regional Government (KRG). On 8 August 2014, ISIS simultaneously attacked Sinjar on the Iraq-Syrian border and threatened Erbil, the capital of the Kurdistan Region of Iraq (KRI). Civilians in Erbil prepared to flee over the mountains, as they had done in 1991 when Saddam Hussein attacked the Kurds after a Kurdish uprising. In 1991, the US, UK and France established a no-fly zone over the Kurdistan region to protect its people; in 2003, a US-led coalition toppled Saddam Hussein and the Baathist regime (but forced Peshmerga to withdraw from Kirkuk); between May and August 2005 the US helped draft the Federal Constitution of Iraq; and in 2014, US warplanes stopped the ISIS advance on Erbil one month before a US-led coalition provided air support for the GoI. The people of Kurdistan were grateful in 1991, 2003, 2005 and 2014. Their Peshmerga forces fought alongside Americans in 2003 and since 2014.

Fast track to October 2017, with ISIS having lost more than 90 percent of territory it had previously claimed in Iraq and Syria, it became a race for who would control the liberated territories. The liberation of Hawija, the ISIS stronghold in Kirkuk, had been repeatedly delayed, but two months after the liberation of Mosul, Iraqi Security Forces moved into position 50 kilometres from Kirkuk city. About 2,000 ISIS fighters remained in Hawija. Arrayed against them were 45,000 Iraqi Security Forces and Peshmerga forces but on 6 September Iraqi Prime Minister Haider al-Abadi made a surprise announcement: the offensive would not include Peshmerga.

On 21 September the Iraqi Army, Federal Police, Counter Terrorism Service (CTS) and Rapid Intervention Force, tribal volunteers and Iran-backed Shia Hashd al-Shaabi, also known as Popular Mobilisation Units (PMUs) launched the Hawija offensive with US-led coalition air support. The Peshmerga were left to maintain a 40-kilometre frontline to the north and east. According to Kurdish sources, an agreement between the Peshmerga and the Iraqi Army overseen by the US-led coalition on 24 September stipulated that Peshmerga were to allow civilians safe passage and if required, reinforce the Iraqi Army, and that after the operation Iraqi forces would withdraw and Peshmerga would remain in control of the territory they currently held.

By 29 September the Iraqi Army was on the outskirts of Hawija city. Locals alleged that the Shia PMU known as the Ali al-Akbar Brigade spearheaded the offensive, despite Sunni Arab tribal leaders having repeated asked for PMUs not to be involved. After 15 days of airstrikes and three days of fighting that killed 300 ISIS fighters, on 5 October Abadi announced the liberation of Hawija city. Over the previous week more than one thousand ISIS fighters had surrendered to Peshmerga forces in preference to being captured by the PMUs. The Peshmerga would take them prisoner. The PMUs had a history of torturing or killing those they captured. The



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UNHCR claimed that more than half of the 33,000 civilians who fled the offensive had returned home by 7 October.

The US plan was for Iraqi forces in Kirkuk to move into Anbar, where the town of Anah had been liberated from ISIS in late September and where reinforcements were required for an advance on Rawa and Qaim. But the Iraqi forces did not leave Kirkuk (thus delaying the Anbar offensive). Instead, by 9 October, Iraqi forces were within 15 kilometres of Kirkuk city.

Between 6 – 9 October Kurds were mourning the death of Jalal Talabani, former Peshmerga and political leader of the Patriotic Union of Kurdistan (PUK), and former president of Iraq. On 11 October, former US ambassador to Iraq, Zalmay Khalilzad, noted that the Islamic Revolutionary Guard Corps (IRGC) Quds Force commander Major General Qassem Soleimani had been in Sulaimani with PUK Peshmerga commanders ostensibly to visit Jalal Talabani's grave before travelling to Kirkuk where he was advising Iran-backed PMUs. A master tactician and strategist, Soleimani is credited with having saved Baghdad from ISIS in July 2014 and pushing ISIS out of numerous towns. Khalilzad advised active US engagement. He received no response. Although Abadi repeatedly promised he would not attack Kurds, Iraqi forces were in position, with PMUs stationed in every disputed territory.

Referendum on Independence

Back on 25 September 2017, a referendum on independence was held in the Kurdistan Region of Iraq (KRI) and the disputed territories despite enormous pressure to cancel or delay the referendum from all countries except Israel, Russia and Jordan. The question in Arabic, Kurdish, Syriac and Turkish put to the people of the KRI (Dohuk, Erbil, Sulaimani and Halabja) and disputed territories (Kirkuk, except for Hawija, Tuz Khurmatu in Salahaddin, the Khanaqin District, Mandali, Jalula and Qara Tabbah in Diyala, and districts in Nineveh including Sinjar and Bashiqa) was:

Do you want the Kurdistan Region and the Kurdistan areas outside the administration of the Region to become an independent state?

KRI Acting President Masoud Barzani claimed an independent Kurdistan was to be a democratic federal republic in which governorates had a large degree of autonomy, Kirkuk had special status, and all ethnic and religious communities had equal rights including the right to high office.

The KRI's Independent High Electoral and Referendum Commission (IHREC) oversaw 12,000 polling stations. Participation was 72 percent of all eligible voters or 3.306 million people, of whom 92.73 percent voted 'yes' in favour of independence. Among the 28 percent who did not vote and the 7.27 percent who voted 'no' were those who wanted the referendum delayed until the Kurdistan Parliament passed



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legislation related to the payment of public sector salaries; the presidency; the establishment of an Oil and Gas Fund, the eligibility of those in the disputed territories to vote for the Kurdistan Parliament, and the drafting of a constitution. Hence, the lower voter turnout and size of the 'no' vote in some areas had a lot to do with people aspiring to democracy and justice as much as independence.

On the day of voting, there was only one incident of violence. In Kirkuk, an Iraqi Turkmen Front militant shot and killed a Peshmerga. The Peshmerga were ordered not to retaliate. Otherwise, Iraqi forces arrested some Christians in Nineveh after they voted but when Christian leaders intervened they were freed; an official from the Turkmen Front, Azad Koorachi, claimed he was dismissed from the party for supporting the referendum and voting 'yes'; and Abadi demanded Kurdish authorities hand over all border crossings including airports to the appropriate federal authority within three days, and for other countries to exclusively deal with the federal government.

Leading up to the Referendum

Abadi called the referendum illegitimate and unconstitutional despite the pre-amble of the 2005 Constitution of Iraq claiming that Iraq is a voluntary union of people, and concluding '*The adherence to this Constitution preserves for Iraq its free union of people, of land, and of sovereignty*', added to which constitutional experts cited Articles 141, 110, 115 and 121(2) to justify a designated federal region holding a referendum. That the referendum was to be held in the disputed territories was more controversial. In campaigning for the referendum, Masoud Barzani argued that Iraq had not adhered to the constitution, and 'We do not face a democratic, federal state ... we face a religious and sectarian state.'

The pressure to call off the referendum had been immense. In early September, the Iran-linked Imam Ali Brigade and Badr Organisation threatened to attack Kirkuk if people chose annexation to Kurdistan. On 12 September, the Iraq Parliament voted in favour of using all means necessary to preserve the unity of Iraq. Abadi warned that if the KRI persisted in holding the referendum it would lose all that it had gained since 2003. On 14 September, a delegation from the US, UK and UN met with Masoud Barzani and proposed an alternative path – that the referendum be delayed for two years to allow US, UK and France to support negotiations to resolve disputes and that the situation of Iraq, including the Kurdistan Region, would be raised at the UN Security Council. US Special Presidential Envoy to the Global Coalition against ISIS, Brett McGurk, argued that the entire coalition considered the referendum ill advised and ill timed. On 18 September, Turkmen guards opened fire on a pro-referendum rally, killing one man and wounding five others, and Turkey began military exercises eight kilometres from the KRI border.



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Within the KRI there was mixed responses to the referendum. Despite Kirkuk Provincial Council having voted to hold the referendum in areas free of ISIS control, on 14 September PUK neighbourhood committees voted against holding the referendum in Kirkuk in case it ignited a war. In other disputed territories pressure was being exerted on local councils. In the town of Mandali, the local council had voted to hold the referendum, but on 10 September, 100 PMU militants took over the council building, organised a protest and the next day allegedly coerced eight of the 13-member council to reverse the decision and dismiss the Kurdish mayor.

On 15 September 68 MPs representing three of the five main political parties and all minorities (Turkmen, Yezidi and Assyrian Christian) in the 111-member Kurdistan Parliament reconvened 23 months after the parliament had been deactivated. Sixty-five out of 68 MPs voted to hold the referendum on 25 September. Gorran's 24 MPs and Komal's six MPs boycotted the session. In response, a White House statement demanded that the referendum be cancelled as it was 'particularly provocative and destabilising' in the disputed territories. On 19 September, Barzani gave the Gol three days to provide an alternative path, saying this would need to involve a bilateral agreement with international guarantees that it would be implemented. Abadi refused a referendum 'now or in the future'.

IRGC Quds commander Major General Qassem Soleimani warned PUK commanders that if the referendum went ahead 'We have held back the Hashd al-Shaabi (PMUs) from attacking, but I will not bother to do that anymore', and on 23 September, the Turkish Parliament renewed a bill that would allow military intervention in Iraq if there was a 'national security threat'. Also on 23 September, US Secretary of State Rex Tillerson wrote to Masoud Barzani claiming if the referendum was cancelled that the US and UN would fully support negotiations on all outstanding issues over a one-year time frame and if these 'last chance' negotiations failed the US would 'recognise the need' for a referendum. Barzani claimed this fell short of supporting a referendum, having always maintained that the referendum was not a declaration of independence but provided a basis for negotiations. On the same day, yet another round of meetings between the KRG and Shia National Alliance in Baghdad ended without progress; large pro-referendum rallies had already been held across the region and electronic voting in the diaspora had started. However, many argue that Masoud Barzani made a monumental mistake in not taking up Tillerson's offer.

At the request of the Gol a day before the referendum Iran cancelled all flights to and from Kurdistan, and began military exercises on its border with the KRI. Since the referendum the Gol has used all means to isolate and cripple the constitutionally recognised Federal Region of Kurdistan – Iraq, including the use of military force, despite Abadi claiming all measures are based on the constitution and the law.



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Iraq's military response

The Gol's threat and subsequent use of military force violates Article 9 (1A) of the constitution that stipulates *'The Iraqi armed forces and security services ... shall not be used as an instrument to oppress the Iraqi people, shall not interfere in political affairs, and shall have no role in the transfer of authority.'*¹

On 26 September, the Iraq Parliament approved taking military action against the Kurdish-held disputed territories, taking legal action against Acting KRI President Masoud Barzani, sacking Kurdish federal government employees who voted in the referendum, removing Kirkuk governor Najmaldin Karim by force, removing the (Kurdish) Iraqi President, Fuad Masum, closing all KRI borders, stopping oil exports through the KRG Kirkuk-Ceyhan pipeline, and closing foreign consulates in the KRI. The closing of consulates has not occurred, but the Gol has gone about implementing the other measures, having always been highly selective in what articles of the constitution it chooses to enact or implement. For instance, the Gol has not formed a Federal Council to establish a bicameral system of parliament (Articles 48 and 65), has not held a census and referendum in the disputed territories to resolve their status (Article 140), has not formulated mechanisms for other regions to become autonomous (Articles 117(2), 118, 119, 120 and 121), has not decentralised powers to regions and governorates (Articles 116 and 125), has not provided the KRI a budget since January 2014 (Article 121(3)), and has recognised militias outside the Iraqi Armed Forces contrary to Article 9(B).

Three days after the referendum, Turkey and Iraq co-ordinated military manoeuvres near the Ibrahim Khalil (Habur) border crossing with the KRI, and Iran deployed missiles and conducted military exercises with Iraqi forces near the KRI border. In Erbil, a gathering of Sunni Arab tribal leaders from the disputed territories issued a joint statement in support of an independent Kurdistan and rejecting the recent rulings of the Iraq Parliament. A spokesperson noted that in contrast to the Gol having prohibited the entry of Sunni Arabs into Baghdad for four years, the KRI accepted IDPs. Other Sunni Arabs met with Abadi on 30 September to discuss forming a Sunni Arab autonomous region and on 14 October Basra Provincial Council threatened to declare a self-governing region if Baghdad continued to delay financial entitlements.

Back on 29 September, the Gol halted all international flights in and out of Erbil and Sulaimani international airports, except for humanitarian, military and diplomatic flights that had prior approval from Baghdad. Abadi ordered Peshmerga to withdraw from all disputed territories, for the KRG to hand over all oil revenue and oil fields, (violating Article 112 regarding the shared management of oil and gas), and for the KRG to shut down all unofficial land border crossings, and hand over all official

¹ All quotes of Articles from the Constitution of Iraq are sourced from:
https://www.constituteproject.org/constitution/Iraq_2005.pdf?lang=en



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border crossings (violating Article 114 regarding the shared management of customs). Abadi warned that Iraqi Security Forces would enforce all measures and there would be no negotiations.

On 3 October, the Parliament blocked Kurdish MPs from entering the chamber and voted to arrest and withdraw parliamentary membership from any MP who had supported the referendum. On 6 October Iraq's National Security Advisor Falah Fayadh ruled out a military confrontation unless Peshmerga attacked, which was the same day that Major General Qassem Soleimani met with Hero Ibrahim Ahmad, wife of recently deceased Jalal Talabani, their eldest son and other PUK commanders to tell them, 'Abadi has all the regional powers and the West behind him and nothing will stop him.' On 7 October two of Iraq's three vice presidents (Ayad Allawi and Osama al-Nujaifi) met with Masoud Barzani and agreed to support an open dialogue to resolve issues, start meetings as soon as possible, and lift all sanctions imposed on the KRI. Iraq Parliamentary Speaker Salim al-Jabouri likewise called for dialogue but Abadi rejected these overtures.

On 9 October, two of Iraq's three largest telecom companies - AsiaCell and Korek Telecom – established in Kurdistan but operating throughout Iraq under the federal Communication Media Commission (CMC) with licences issued by Baghdad, were ordered to move their headquarters to Baghdad and in the following week the GoI launched a probe into Kurdistan's oil revenues and pledged to expose Kurdish officials who had illegally monopolised the market.

With PMUs on the move in the disputed territories, Peshmerga began building defensive embankments, all activities being monitored by US-led coalition aircraft. On 11 October Abadi claimed dialogue could commence if Kurdish leaders supported the unity of Iraq and the Iraqi constitution, annulled the referendum result, and agreed to the federal government's sovereignty over all oil exports, security, disputed territories and borders.

Kurdish authorities warned the US that there was a build up and movement of Iraqi security forces and PMUs to the west and south of Kirkuk city. Peshmerga commanders reported that Major General Qassem Soleimani, IRGC and Iranian army personnel were among the forces. They received no response. On the night of 12 October, 20,000 Iraqi troops including the elite Counter Terrorism Service (CTS), the Federal Police Rapid Response Division (RRD), Iraqi Army units, and several PMUs entered the Turkmen-majority towns of Taza and Bashir in Kirkuk. Peshmerga withdrew three kilometres, and fortified positions on a line they could defend with minimum casualties. This was only 10 kilometres south of Kirkuk city. Kurdistan Prime Minister Nechirvan Barzani appealed to the UN Security Council, US-led coalition, Grand Ayatollah Ali al-Sistani and others to prevent conflict, but on 13 October Abadi gave Peshmerga 48 hours to leave Kirkuk.



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Brett McGurk assured Kurdish leaders that the Iraqi forces were evacuating Kirkuk and moving to Anbar yet US troops evacuated the Makhmour military base, 50 kilometres southeast of Erbil, and in the early hours of 13 October (local time), i.e. 14 October EST, 55 kilometres southeast of Kirkuk city in Salahaddin governorate, Iraqi Turkmen Front PMUs shot at the Peshmerga headquarters and there was an exchange of fire in the disputed town of Tuz Khurmatu, which has a population of 119,000 consisting of 55 percent Kurd, 30 percent Turkmen and 15 percent Arab.

On 14 October Iraqi President Fuad Masum presented Abadi's six demands to the PUK leadership in Kirkuk. The Kurdish authorities were to hand over Kirkuk airport, the K-1 Military Base, all oil fields and all ISIS prisoners, allow the return of the Iraqi Army and remove Governor Najmaldin Karim from office. The PUK leaders were given a deadline of 2 am Sunday morning to comply. Some in the PUK wanted to negotiate. Others, along with the Kirkuk governor and those affiliated with the Kurdistan Democratic Party (KDP) insisted Iraqi troops must not be allowed to enter the city. Kirkuk civilians armed themselves and a spokesperson for the Sunni Arab tribes of Nineveh announced that 20,000 fighters were prepared to defend Kirkuk.

The US State Department and military were working behind the scenes to de-conflict the situation. On 14 October Brett McGurk held talks with the Shia National Alliance in Baghdad and returned to ask Peshmerga commanders to agree to share authority or hand over the K-1 Military Base to the Iraqi Army, the arrangement being overseen by a US general. The Peshmerga commanders met in Dukan but could not agree on a response. On 15 October Brett McGurk pleaded with Baghdad to delay a decision on Kirkuk for 24 hours. That day, the Gol claimed that the presence of Kurdistan Workers Party (PKK) fighters in Kirkuk was 'a declaration of war'. Kurdish officials denied any official presence but said they may have joined the volunteers. On the evening of 15 October, Hero Ibrahim Ahmad, her eldest son, Bavel Talabani, Talabani's nephew Lahur Talabani, and other PUK commanders met Major General Qassem Soleimani in Sulaimani. They were told 'If you resist, we will crush you and you will lose everything' but if they withdrew, Iran would protect their interests. Afterwards, Lahur Talabani and other PUK commanders met with another Iranian Quds general and PMU Commanders Abu Mahdi al-Muhandis and Hadi al-Ameri in Kirkuk and were informed of what was going to take place the next day.

At midnight, Sunday 15/16 October Abadi ordered the PMUs and Iraqi Security forces to advance on the K-1 military base, airport and oil fields, and for Iraqi Security Forces, but not the PMUs, to enter Kirkuk city, protect civilians and 'co-operate' with the Peshmerga. In the early hours of the morning Iraqi forces including PMUs exchanged heavy weapon fire with Peshmerga in Tuz Khurmatu. Peshmerga destroyed four Humvees but PMUs killed 15 Peshmerga, eyewitnesses alleging that ten had been decapitated. The PMUs also took Peshmerga captive, releasing four on 2 November. During the fire fight five civilians were killed and 51 were wounded inside their homes. By daybreak all Peshmerga had withdrawn. The US called it a 'misunderstanding', but PMUs took control of the town, looting and burning at least 100 houses. Over the next ten days, the governor of Salahaddin removed the elected



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Kurdish mayor and appointed a Shia Arab in his place; PMUs killed eleven civilians; and in fear and panic, 35,000 mainly Kurdish civilians fled the town. On 16 October, tens of thousands of Iraqi security forces and PMUs (there are no published statistics of actual numbers) advanced on multiple fronts with 140 Abrams tanks, 'thousands' of Humvees, and state-of-the art heavy weapons, rockets and artillery – all US-supplied. By evening these forces had captured the K-I Military Base, the airport, the headquarters of the North Oil Company, Baba Gur Gur oil field and the city of 1.26 million people. In the industrial zone south of Kirkuk, Peshmerga had fought back and received casualties: at least 30 dead and many more wounded. According to one front line commander, PUK Peshmerga under Bavel Talabani's command were ordered to withdraw after 105 Peshmerga were killed, 200 were wounded and 45 were captured by PMUs on one of five front lines. PMUs captured another six Peshmerga in the vicinity of Baba Gur Gur. Later, the Ministry of Peshmerga was to report that 60 Peshmerga had been killed and 150 wounded in Kirkuk on 16 October.

Barzani had given orders not to initiate any attack - only to return fire, but after the withdrawal of some PUK fighters, all PUK and KDP Peshmerga were ordered to withdraw. Civilians blocked city roads and demanded Peshmerga stay and fight. PKK claims that their HPG fighters, some PUK Peshmergas and civilians continued to fight Iraqi forces inside the city until they were told all Peshmerga had withdrawn. The High Commission for Human Rights (IHCHR) reported that on 16 October there were 69 civilian casualties, including children.

Iraq had assembled its best, most battle-hardened units to take Kirkuk, including the US-trained Counterterrorism Service, 9th Armoured Division, the 16th Infantry, the Badr-linked Emergency Response Division and Federal Police. There was also an array of Shia PMUs. The three main ones are linked to the IRGC and Major General Qassem Soleimani. These are the Kata'ib Hezbollah, led by Abu Mahdi al-Muhandis (a US designated terrorist wanted for attacks on US and Kuwaiti personnel and currently the operational commander of the Prime Minister's Commission of the PMFs with a budget of nearly \$2 billion); Asa'ib Ahl al-Haq, led by Qais al-Khazali (a US designated terrorist thought to have been one of the principal planners in the kidnapping and execution of four American soldiers in Karbala in 2007), and the Badr Organisation, led by the popular Hadi al-Ameri. The Badr Organisation was formed by the IRGC during the Iraq-Iran war to fight Iraq. Following the purge of Baathists after 2003, Badr fighters joined the new Iraqi Security Forces and other positions in the Ministry of Defence. Another former Badr leader, Qassem al-Araji, is the Minister of Interior, Iraq's largest ministry, despite Araji having been held for 26 months in US detention facilities in Iraq prior to 2011, suspected of having connections with anti-US attacks. He has staffed the Ministry of Interior, including the Emergency Response Division and Federal Police, with former Badr militants. Muhandis and Ameri were in Kirkuk on 15 – 16 October. Other Iran-linked militias involved in the advance included the Badr Organisation's 16th Turkmen Brigade, the Abbas Division, Ali Akbar, Khorasan and the Imam Ali Brigade.



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In contrast there were up to 20,000 Peshmerga equipped with limited ammunition, machine guns often purchased by the individual, mortars, grenade launchers, aging tanks abandoned by Iraqi forces, 80 Humvees, 50 Mine-Resistant Ambush Protected military vehicles (MRAPs) and a few Milan anti-tank weapons. During the day, US-led coalition representatives met with KDP Peshmerga commanders in Erbil and told them the US supports joint KRG-Gol authority in all disputed territories and did not support either side in a military conflict. From the Kurdish point of view, this was a contradiction, given there had been no negotiations on shared management of the disputed territories prior to the use of military force, and US-supplied weapons and armoured vehicles were being used against them, including by PMUs the US classified as terrorists. In public announcements US officials underplayed the situation, calling the advance on Kirkuk 'co-ordinated movements'. They were silent on Iranian involvement and claimed there was no evidence to support the claim that PMUs were in possession of US-supplied Abram tanks and weaponry. After images emerged of smiling, waving Iraqi forces and PMUs entering Kirkuk city sitting on top of Abrams tanks and Humvees draped with photos of Ayatollah Khamenei and flags of Hezbollah and other Shia PMUs being greeted by Shia Turkmen and Arabs, some US Republican and Democrat Senators and Congress representatives spoke angrily of the need to stop supplying weapons to Iraq if they were going to end up in terrorists' hands. The images also implied that PMUs had been trained to operate Abram tanks and the advanced weapons. That they entered the city meant that Abadi had no control over their movements. They answered to Soleimani, not Abadi. Iran was to claim that Soleimani was following direct orders from Iran's Supreme Leader, Ayatollah Ali Khamenei.

On 16 October, 60,000 civilians fled Kirkuk city to the KRI, this number increasing to 100,000 over subsequent days. Throughout the city, PMUs set up security checkpoints and took down the Kurdistan flag from government buildings. Abadi replaced Governor Najaladin Karim with the Deputy Governor, a Sunni Arab, Rakan Ali al-Jubouri. At a news conference on 17 October the new governor barred the Chief of Police from speaking in Kurdish, despite Kurdish being an official language (Article 4). By the end of October the Gol Ministry of Interior had replaced the police chief, Sarhad Qader, with an Arab, Fatah Mahmoud Yaseen, who is suspected of having indirect links with ISIS during his time as Chief of Police in Hawija district, and Abadi appointed the Iran-linked General Ali Fadhil Imram as the head of a newly created Kirkuk Operations Command.

Since 16 October, the PUK has nominated two individuals as a replacement governor, but voting for a new governor requires the Kirkuk Provincial Council to reconvene and Rebwar Talabani, acting head of the council, refuses to reconvene the council until all Iraqi Security Forces leave the city. With fourteen council members having fled the city, Arabs and Turkmen presented a proposal to the current authorities that called for the council to be dissolved and that Arabs be nominated as Governor and Deputy Head of Kirkuk Provincial Council and Turkmen be nominated as Head of the Kirkuk Provincial Council and Mayor of Kirkuk city; and



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that all Kurdish candidates declare their political affiliation and their opposition to independence. The proposal also suggested civil administrative positions be divided evenly between Arabs, Turkmen and Kurds, so each receives 32 percent of all positions, the remaining 4 percent being reserved for Assyrians. Since, some departments have asked for the names of staff that voted in the referendum.

The current governor has limited power. PMU commanders have established martial law. They have ordered their militias to move their families to Kirkuk and refused to leave Kirkuk, when Abadi ordered them to do so on 18 October. Posters of Iranian spiritual leaders Ayatollah Ruhollah Khomeini and Ayatollah Ali Khamenei have been hung in the streets and in offices, street names are being changed to Arabic names, and alcohol has been banned. On 18 October PMUs burnt down a women's fitness centre in the city centre because it was 'un-Islamic', PMUs killed a civilian during a protest against the military occupation; Iraqi Turkmen Front militants looted and damaged offices of Kurdish political parties and PMUs issued threats of death or arrest to staff of two Kurdish news channels, Rudaw and Kurdistan24. Baghdad authorities banned the two channels from reporting inside Kirkuk and on 28 October the Gol Commission of Media and Communications ordered their TV stations to cease broadcasting and the seizure of all station equipment throughout Iraq claiming these news channels were a threat to peace and security. On 29 October, eight masked Turkmen militants forcibly entered the Daquq house of Kurdistan TV photojournalist, Arkan Sharifi and viciously stabbed him to death. An Arab journalist, Samir Obed, was arrested for being critical of Abadi. In November, Kurds and Sunni Arabs continue to be arrested in their homes and public spaces for supporting the referendum. PMUs conduct house-to-house searches, particularly targeting Kurdish neighbourhoods (Rahimawa, Panja Ali, etc), breaking down doors, separating women from men, and looting and burning houses. People are searched at checkpoints with the local police having no authority over the PMUs. The ongoing killings, kidnappings and arrests, and PMUs taking over political party offices and homes of Provincial Council members, as well as allegations that Arabs from Salahaddin and Diyala are being moved into the governorate and that Kurds and Turkmen are being evicted from land that allegedly belongs to the Gol, are reminiscent of the Arabisation of Kirkuk and violate Article 7 that prohibits ethnic cleansing.²

The peace and security that had been maintained inside Kirkuk city (except for one incident) since June 2014 came to an end on 5 November when two ISIS suicide bombers attacked a Shia Mosque (or market, depending on the report) and a Moqtada al-Sadr linked PMU and Asa'ib Ahl al Haq that were based inside a police station. It was commonly reported that five civilians were killed and 20 wounded. ANF claimed that in the attack on the PMU base ten militants were killed. Another incident targeted Iraqi forces leaving two injured. Details cannot be confirmed because PMUs are not allowing independent investigators into Kirkuk or other

² Christians displaced from the Nineveh plains report the Shiafication of their towns, including the opening of sectarian schools like the Imam Khomeini School in Bartella.



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disputed territories. Misinformation is enflaming tensions. For instance, there was a demonstration against Kurdish police for allegedly being responsible for the disappearance or imprisonment of family members since 2003, when between 2003 and 2010, during which time Kirkuk suffered from a Sunni Arab insurgency, the US military oversaw security and justice in Kirkuk with help from Iraqi forces until joint Iraqi-Kurdish police and security forces were established in 2010.³ On 9 November 2017, the GoI appointed Major General Maan al-Saadi as Head of Security. Saadi is a former Baathist who was awarded medals for conducting operations against the Kurds and other minorities.

The day after Kirkuk was occupied, 17 October 2017, there was more devastating news for Kurds and their allies: KDP Peshmerga and fighters in the Iranian Kurdish Kurdistan Freedom Party (PAK) surrendered the Bai Hassan and Havana oil fields in Kirkuk after a fire fight, and KDP Peshmerga withdrew from Sinjar city leaving the PKK-affiliated Yezidi Protection Units in charge. Non-local Iran-backed PMUs immediately moved in and took control of Sinjar city, forcing 1,300 Yezidi families to flee. Without consulting the City Council, a PMU appointed one of its own militants, Fahd Hami, as mayor and began dismissing Kurdish officials. In early November reports emerged that the IRGC-linked Khorasani Brigade was building a 'military base' on Mount Sinjar, from where Iran's new 3,220 kilometre range missiles could reach Israel.

Also on 17 October, Peshmerga withdrew from Bashiqa in Nineveh and Khanaqin in Diyala, both having been under KRG control since 2003, and from Gwer inside Erbil governorate. In Nineveh, Iraqi forces, led by PMUs, shelled Peshmerga in the vicinity of the Christian towns of Tel Skef and Baqofa north of Mosul, and on 18 October PMUs attacked Peshmerga near Mosul Dam. After a fire fight in which eight PMUs and one Peshmerga were killed, Iraqi forces claimed they had taken control of the dam. Also on the 18th, protesters carrying Kurdish flags in Khanaqin demanded PMUs leave the town. Protests continued the next day, which led to PMUs killing one protester (a policeman) and wounding at least three others, after which the PMUs withdrew and the Iraqi army and local police secured Khanaqin.

In Nineveh, Iraqi forces, including the PMUs that had been arrayed against Kirkuk, ignored the US Secretary of State Rex Tillerson's call for no more military confrontation and advanced to Rabia, which has a border crossing into northern Syria and which has been under KRG control since 2014. After a fight with Peshmerga near Rabia on 18 October, the head of the Badr Organisation, Hadi al-Ameri, announced the seizure of Rabia township and border crossing, but this was premature and fighting in Rabia (led by Muhandis) against Peshmerga, PKK and Syrian Kurdish Peoples' Protection Units (YPG), and in Zummar to the east (led by Ameri) against Iraqi Peshmerga, supported by some Syrian Kurdish Peshmerga, continued. In Rabia, Peshmerga reported killing 100 PMU militants. Fighting was so

³ Conners, P.W. (2011). The US Army in Kirkuk: Governance Operations on the Fault Lines of Iraqi Society, 2003 – 2009. *Combat Studies Institute Press*.



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close to the border that Peshmerga and YPG claimed PMU mortars killed one civilian and wounded four others inside northern Syria. Finally, on 24 October, the US brokered a ceasefire and a Peshmerga withdrawal from Rabia.

On 25 October the same combination of Iraqi forces advanced north from Rabia and Zummar with tanks, missiles and artillery, PMU commanders openly stating their intention to take Semalka, a pontoon bridge across the Tigris River, and one kilometre upstream, the Faysh Khabur border crossing, located at the point where the borders of the KRI, Turkey and Syria meet. These crossings were established by the KRG in January 2013 to supply northern Syria with humanitarian aid for IDPs and refugees, and later, weapons, ammunition, reconstruction equipment and materials for the Kurdish-led Syrian Democratic Forces. The KRG oil pipeline from Kirkuk to Ceyhan in Turkey also passes through Faysh Khabur, where there is a metering station and hence the facility to turn off the flow of oil. Consequently, Faysh Khabur is strategically important (as is Sinjar) for the KRG, Syrian Democratic Forces, the GoI, PMUs, the US and Turkey, with Turkey demanding the GoI close all border crossings into northern Syria. On 26 October, a fierce battle between Iraqi forces and Peshmerga ten kilometres south of Faysh Khabur left dozens killed on both sides, and impacted members of the local Yezidi and Christian communities. Other PMU units headed south to Anbar. It appeared Tehran had assessed it was free to take control of the entire Syrian-Iraqi border. That the US-led coalition was letting this happen was a shock to Kurds and left other observers perplexed.

Concurrent with these operations, on 20 October Iraqi forces, including PMUs, and Iranian IRGC staged a multi-pronged attack on Peshmerga in Altun Kupri, on the border between Kirkuk and Erbil governorates. Facing a line of artillery and mortars, six Peshmerga were killed. According to Peshmerga sources, they inflicted 243 casualties, which included killing at least three IRGC fighters, whose bodies were smuggled back to Iran. US Apache attack helicopters hovered overhead but did not intervene. After a 12-hour fight, pro-Iraq forces claimed victory, marking the complete takeover of Kirkuk. PMUs went on a looting spree and Iraqi forces positioned heavy weapons in the town. On 25 – 26 October, PMUs attempted to advance north from Altun Kupri and Makhmour further into the KRI, but Peshmerga defended their positions. However, by 27 October the Peshmerga had withdrawn from Makhmour, where a military base and the KRG's Khurmala oilfield are located.

Iraq's political measures

On 21 October an Abadi spokesperson outlined conditions for future negotiations with the KRG. These were that the KRG reconfirm the integrity of Iraq and the constitution, and hand over all border crossings, airports, oil fields and revenue, Peshmerga forces and security establishments to federal authorities. The demands violated Article 114 (shared management of customs), Article 112 (shared



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management of oil and gas), and Article 121(5) that gives the federal region the right to have its own security forces.

On 25 October the KRG announced it was willing to 'freeze' the referendum results, abide by a ceasefire and base negotiations on the constitution. The US and UN thought it a conciliatory offer but Abadi rejected it. On 26 October the US and UN Security Council urged Baghdad and Erbil to set a time line for talks, but on 27 October, Iraqi forces gave Peshmerga two hours to leave Faysh Khabur. A few hours later, Colonel Ryan Dillon, a spokesperson for the US-led Coalition, announced a ceasefire, which was later clarified as a 24-hour cessation of hostilities to allow Peshmerga and Iraqi military commanders to meet and discuss a way forward to avoid military conflict, particularly at Faysh Khabur. He warned that the US would not supply weapons and equipment to any force the US classified as a terrorist organisation. Abadi's interpretation of the 24-hour cessation of hostilities was to allow a 'joint technical team of the federal and regional forces to work on the ground to immediately deploy Iraqi federal forces in all disputed areas, Faysh-Khabur and the international borders.'

Between 28 – 31 October representatives from the Ministry of Peshmerga and Iraqi Ministry of Defence met in Mosul, with US officials in attendance. The Kurdish delegation asked for a joint coordination committee of Iraqi, Kurdish and US-led coalition personnel to administer the border crossings, and for the disputed territories to come under joint administration. Abadi rejected their offer, and repeated his demands that federal authorities have exclusive control over all border crossings, airports and visas⁴, and that Peshmerga come under federal control. He also added new demands: that KRG expenditure be audited by the GoI and that the GoI directly pay the salaries of approved KRI civil servants and those Peshmerga under federal control, with the KRG paying the salaries of a much smaller security force. Abadi's demands to bypass the KRG violates numerous articles, including Article 117 (1) that states:

This Constitution ... shall recognize the region of Kurdistan, along with its existing authorities, as a federal region;

Article 115 that states:

With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions ... in case of dispute;

⁴ Obtaining a visa for Iraq is a bureaucratic process that takes at least two months. In contrast the KRG issues visas on arrival to the KRI. If Iraq controls visas it will have a direct impact on humanitarian organisations and businesses operating in the KRI and disputed territories.



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Article 121 (2) that states:

In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region;

Article 126 (4) that states:

Articles of the Constitution may not be amended if such amendment takes away from the powers of the regions that are not within the exclusive powers of the federal authorities, except by the approval of the legislative authority of the concerned region and the approval of the majority of its citizens in a general referendum;

And Article 141 that states:

Legislation enacted in the region of Kurdistan since 1992 shall remain in force, and decisions issued by the government of the region of Kurdistan, including court decisions and contracts, shall be considered valid unless they are amended or annulled pursuant to the laws of the region of Kurdistan by the competent entity in the region.

A draft Gol budget for 2018 cut the budget share of the 'Kurdistan region governorates' from 17 percent to 12.67 percent, despite more than 1.25 million IDPs residing in the KRI, no census having been conducted in Iraq since 1987, and Abadi offering to pay only one third of all KRG public sector salaries. Abadi also conditioned the payment of these salaries on the KRG handing over all oil fields and refineries to Iraq's State Organisation for Marketing Oil (SOMO). The cut in the budget share violates Articles already outlined and Article 106, which has not been enacted but stipulates:

A public commission shall be established by a law to audit and appropriate federal revenues. The commission shall be comprised of experts from the federal government, the regions, the governorates, and its representatives, and shall assume the following responsibilities:

First. *To verify the fair distribution of grants, aid, and international loans pursuant to the entitlement of the regions and governorates ...*

Third. *To guarantee transparency and justice in appropriating funds to the governments of the regions and governorates ... in accordance with the established percentages.*

There are many obstacles for SOMO being responsible for all oil fields and oil exports. Turkey is demanding the KRG pay all debts to Turkey before Turkey allows



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the resumption of Kirkuk oil exports through SOMO. Exporting oil through SOMO would require Turkey to break a 50-year oil agreement with the KRG, although Turkey has agreed to do this. Turkey has also agreed to facilitate the reopening of the Gol's Kirkuk-Ceyhan pipeline that was sabotaged in 2014, but this would take at least three months to repair and by law would require negotiating with the KRG as it goes through KRG-controlled territory.

On 31 October, representatives from the Ministry of Peshmerga walked away from negotiations saying the demands posed a threat to Kurdistan and were unconstitutional, i.e. they violated Article 121(5) that gives the right of regions to organise their own '*internal security forces ... such as police, security forces, and guards*', Article 114 (shared management of customs), Article 112 (shared management of oil and gas) and the quoted Articles 106, 115, 117(1), 121, 126(4) and 141. The Peshmerga representatives refused the GoI demand that territory be rolled back to pre-2003 lines, and insisted that the GoI respect a US-brokered Memorandum of Understanding (MoU) that allegedly gave Peshmerga control of all territories Peshmerga held before the Mosul offensive. The GoI disputes this interpretation, claiming Peshmerga agreed to withdraw to pre-2014 lines.

In response to the walk out, Abadi threatened military action to capture all Kurdish-held territory. The US frantically mediated and on 1 November negotiations resumed. The Kurdish representatives presented a seven-point plan that included joint civilian control of the disputed territories and border crossings, but the GoI continues to demand exclusive control. The only agreement reached so far was between the Interior Ministries that allowed 263 policemen from Kirkuk to return to duty.

On the day of the walk out, an Iraqi military committee visited Faysh Khabur and Ibrahim Khalil border crossing. Ibrahim Khalil is Iraq's only border crossing with Turkey and links the Kurdish majority town of Silopi in Turkey to Zakho in the KRI. Since 1991 it has been under Kurdish control. It is a vital supply line for KRI, and a lucrative one for Turkey. After the Iraqi military committee crossed into Turkey to consult their counterparts, Turkish Prime Minister Binali Yildirim announced that the GoI had taken control of the border crossing. What happened remains unclear. According to some reports, Iraqi forces set up a checkpoint between the Turkish and Kurdish checkpoints, which would mean any movement across the border would have to go through three checks.

Turkey and Iraq have discussed opening a new border gate at Ovakoy near Rabia, 30 kilometres from Ibrahim Khalil, but this route would require going through the Kurdish-majority town of Nusaybin that has been largely destroyed in Turkish military operations since August 2015, then through the Kurdish-controlled town of Qamishli in northern Syria before traversing 50 kilometres of KRI territory to Tal Afar, located 40 kilometres west of Mosul. It is unlikely Syrian and Iraqi Kurds would agree to this route given it is designed to disadvantage the KRI. With PMUs and Peshmerga holding their positions south of Faysh Khabur, meetings between the Ministry of



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Peshmerga and Gol Ministry of Defence broke down again on 7 November. The same day, the Central Bank of Iraq ordered all banks to cease operating in the KRI, and claimed any bank continuing to operate in the KRI would not get foreign currency transfers, in accordance with an order from the Iraq Parliament dated 12 October.

On 6 November, Prime Minister Nechirvan Barzani agreed for the KRG to hand over all oil resources in return for receiving 17 percent of the the Gol's budget, but said other disputes had to be settled according to the constitution. The Federal Supreme Court ruled that there was no article in the constitution that allowed a constituent to secede. On 14 November, the KRG announced it 'respected' the court's decision, and again called for negotiations based on the constitution. Many Kurds criticized Nechirvan Barzani for not standing up to the Gol, but on 15 November the Kurdistan Parliament announced that if negotiations did not commence, Kurdish MPs may not participate in the 2018 national elections. On 20 November the Federal Supreme Court ruled the referendum was unconstitutional. Both Masoud and Nechirvan Barzani questioned the legitimacy of the Court, its processes and ruling and said that the Gol must implement the entire constitution. The problem for the KRI leadership is that the Shia National Alliance controls the Iraq Parliament, which appoints judges to the Federal Supreme Court, and there is no other recourse to resolve disputes because the Gol has not enacted Article 105 stipulating the establishment of an independent public commission for this purpose.

Impacts on the Kurdistan Region of Iraq

Back on 30 September, the Kurdistan Parliament convened to discuss the referendum results and responses to the Gol's threats and measures. The parliament unanimously voted to act on the referendum results, and to reject the Iraq Parliament's rulings because under Article 126 (4) the Kurdistan Parliament must approve all laws passed by the Iraq Parliament before enacting them. MPs in attendance also voted to form a council to negotiate with Baghdad. The last move was condemned by Gorran, which had boycotted the session, and which called for an interim government, as did Barham Saleh, former KRI Prime Minister and Iraqi Deputy Prime Minister, and founder of newly formed Coalition for Democracy and Justice. Gorran and others argued that a new leadership would be in a better position to negotiate but the parliament rejected this proposal. As already outlined since this session, the KRG has offered concessions and repeatedly called for dialogue. Baghdad has rejected all offers.

The Peshmerga have withdrawn from over 40 percent of the territory under KRG control since 2003 (Sinjar and Khanaqin) and 2014 (Kirkuk, Tuz Khurmatu, Rabia and Zummar). The KRG has lost ten major oil fields and 40 smaller ones, taking 350,000 barrels per day (bpd) out of production, or about half of the KRI's daily production. With decreased oil exports, Halkbank not forwarding oil revenues, and problems at border crossings the KRG faces bankruptcy. Peshmerga continue to hold long lines



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against ISIS but if left unpaid, many will be forced to leave so they can support their families. This provides opportunities for ISIS and other terrorists to regroup.

On 2 November the UN reported that 183,000 people had fled to the KRI since mid-October, of whom 79,000 were displaced from Kirkuk city. According to Dr Dindar Zebari, head of the KRG High Committee to Evaluate and Respond to International Reports, by 23 October, 400 civilians had been killed and 200 were missing in Kirkuk governorate and between 150 to 200 civilians had been killed in Tuz Khurmatu.

Iraq's military advances and demands left Kurds in Iraq, Turkey, Iran and Syria confused, shocked and grief stricken. Peshmerga withdrawals avoided greater bloodshed but were a national humiliation. After years of fighting ISIS and welcoming IDPs, people felt used and betrayed by the US-led coalition. Major General Aziz Weysi Bani, chief commander of the Zerevani Peshmerga forces, summed up the general feeling when he wrote in *Newsweek* on 28 October 2017:

Comparing the international outrage over our referendum to their deafening silence as we are now attacked by terrorists in revenge, we wonder who will be their partner in destroying the latest monster created by this fatally-flawed foreign policy. ... Our allies have sold out the Kurdistan Region in a last-ditch effort to win over an Iraqi central government that itself was sold out to Iran long ago, and which will never return to the arms of the West.

With heightened tensions between and within the KRI political parties and Peshmerga forces, and with civilians levelling unprecedented criticism at Kurdish leaders of all persuasions, on 23 October the Kurdistan Parliament voted in favour of an eight-month delay to parliamentary and presidential elections scheduled for 1 November. This means they would occur one month after national elections in May.

Barzani had always had misgivings about allowing Iraqi security forces back into the KRI before the Mosul offensive, but was told by US commanders and officials to trust them. His trust was misplaced. Many conclude that Barzani's insistence on holding a referendum was one of the biggest miscalculations in the history of Iraq: he and his colleagues had failed to build trust, unity and institutions, and had underestimated the international political isolation, military threat and the Gol's intention to strip the KRI of its autonomy.

On 28 October, Masoud Barzani wrote a letter to the Kurdistan Parliament announcing his resignation as president on 1 November. He asked the parliament to divide the presidency's powers between the prime minister, council of ministers, parliament, and the judicial council although he remains head of the council tasked to negotiate with Baghdad and head of the KDP. On 29 October, he made a televised announcement that he was resigning, but said he would remain a Peshmerga and continue to struggle for independence. He claimed that with or without the referendum Baghdad had intended to take back the disputed territories and destabilise Kurdistan, and had timed the Hawija offensive accordingly. He described



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the use of military force as unconstitutional and a continuation of the Baathist culture of genocide and indicated that the GoI does not support federalism. He accused some Peshmerga of 'treason' in retreating from Kirkuk but claimed no one could erase the voices of three million people. He reiterated, 'We don't want bloodshed. We want the problems to be resolved through dialogue,' and finished by denouncing the US for abandoning the Kurds and not doing more to prevent Baghdad's use of military force.

Parliament approved Barzani's resignation and distribution of powers. With emotions running high, remarks by a Gorran MP outside parliament angered some KDP supporters, who attacked two TV crews. Asayish pushed the MP back into the parliamentary building where he was allegedly held in a room and beaten, during which time KDP supporters entered the building and fired shots, protesting Barzani's resignation. In Dohuk, PUK offices were set on fire and Asayish stopped another mob from burning the Erbil offices of the two TV stations, although since Barzani's resignation Gorran and Komal have returned to parliament.

The people of the KRI and disputed territories are paying dearly for supporting a referendum on independence and for thinking they had some powerful friends. Instead, the region has suffered its worst losses since 1975. The silver lining to such losses is that the world now knows what the majority of people in the region want and if the world opens its eyes, it will understand why. Kirkuk's Arabs and Turkmen may rue the day they celebrated the occupation of Kirkuk by PMUs. The more pressure Iraq, Iran and Turkey put on the KRG the more likely that Kurds from these countries and Syria may co-ordinate, with the Syrian-Kurdish People's Protection Units (YPG/YPJ), PKK (Turkey) and PAK (Iran) having already helped Peshmerga defend the KRI. If Kurdish leaders address internal failures, and finalise a constitution, reactivate parliament on a regular basis, hold elections as soon as possible, allow new blood into the leadership, unite the Peshmerga forces, and develop other institutions and civil society, they will gain a well functioning region, whether or not it remains part of Iraq. In calling for dialogue framed by the constitution, they put their trust in the constitution. Given that Abadi is not in a conciliatory frame of mind, the Kurdish leadership continue call for the international community to exert levers on Baghdad to negotiate and implement all articles in the constitution. But what if Baghdad refuses?

International responses and their impacts

Abadi considers the international community is on his side. The military advances and unconstitutional demands to roll back KRI autonomy would not be possible without support from Iran, approval from Turkey, inaction from the US, and international disinterest.



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Iran claims to have foiled a US-Zionist plot to create a second Israel in the Middle East. Iran feared the Iraqi Kurds' push for independence would inspire its own ethno-religious minorities to push for greater rights and autonomy. In backing Abadi's use of military force, Iran has consolidated its military and political presence in Iraq and along the Iraq-Syrian border (thus dividing Kurds and Sunni Arabs and opening land routes), sidelined Turkey, shown US diplomacy to be ineffectual and perhaps made an on-going US presence in a post-ISIS Iraq untenable, with PMU commanders threatening to attack US forces if they stay in Iraq. In addition, Iran intends to increase the 40 percent of its official trade with Iraq that goes through the KRI. It has not only formed an alliance with a PUK faction that controls the KRI border with Iran but has signed a MoU with the Gol to build an oil pipeline from Kirkuk to Iran, and on 14 November signed another agreement with the Gol to begin exporting Kirkuk oil to Iran by truck before the pipeline is built, all overseen by the IRGC.

Turkish President Recep Tayyip Erdogan felt personally betrayed by Masoud Barzani going ahead with the referendum. Erdogan's immediate response was to threaten to close the border with Kurdistan, block oil exports, ('The valve is with us') and invade. He then started working on a co-ordinated response with Iran and Iraq, although any tri-partnership was going to be fragile. For instance, if SOMO takes over oil exports through Turkey, Iraq undermines its case in suing Turkey for allowing the export of KRI oil since 2014. Moreover, Turkey will be unable to recover the billions of dollars owed by the KRG. Consequently, Kirkuk oil exports through Turkey ceased on 16 October. Oil stoppages and reductions in exports hurt Turkey's already weakening economy, increases its reliance on Russian oil and gas, and therefore Russia's leverage over Turkey, and hurts Turkey's reputation as a reliable transfer country for major oil players like UK-based Genel Energy, Russia-based Rosneft, UAE-based Pearl Petroleum (Dana Gas and Crescent Petroleum), Exxon Mobil, Glencore, Vitol, Trafigura and Petraco, and the countries that buy the oil. In the long term Turkey will be hurt if Iran becomes the favoured destination for Kirkuk and KRI oil and gas.

Problems at the Ibrahim Khalil border crossing impacts 4,000 Turkish businesses operating in the KRI, and an annual trade of more than \$9 billion, as well as 20 million people's livelihoods inside Turkey. Breaking trade links with the KRI could result in a permanent loss of markets to regional competitors. Hence, the actions taken by Turkey to date have only been to redirect Turkish road trade with Iraq via Iran, allegedly withhold the proceeds of KRI oil sales, and agree to Iraqi security forces and administrators setting up border checkpoints on Turkish soil. But by weakening or losing yet another ally – the Barzani-led KRG – Turkey's capacity to influence events on the ground are reduced. Turkey's hard line response could also impact the voting patterns of 20 to 25 percent of Turkey's own population who are Kurds, while US acquiescence to Iraq's use of military force could influence Turkey's actions towards Kurdish-controlled areas in northern Syria.

Saudi Arabia and Russia were ambivalent about the referendum, but since the use of military force and the Gol's political demands they have pivoted towards Baghdad.



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Saudi Arabia has recently opened border crossings into southern Iraq that were closed since 1991, and is negotiating trade links and investment opportunities with the GoI. Russian diplomats expressed support for Iraq's territorial integrity but also claimed that Russia 'respects the desire of the Kurds for independence.' In 2017 Russia became the largest foreign investor in the KRI. In June, Turkey, the KRG and Rosneft signed an agreement for Rosneft to export KRI oil through an expanded KRG pipeline. In September Rosneft and the KRG signed a MoU for Russia to invest \$1 billion in a gas pipeline through Turkey, with Rosneft having a 60 percent stake, and the KAR Group⁵ having a 40 percent stake. On 18 October, Rosneft and the KRG signed another \$400 million investment and production sharing agreement involving five oil blocks. Russia has advocated some form of autonomy for Syrian Kurds, although Russia could be using both the Syrian and Iraqi Kurds as levers, and on 23 October, Russian Foreign Minister Sergey Lavrov announced Moscow would continue its business and diplomatic ties with the KRI in coordination with Baghdad. In the following week Russia and the GoI signed a protocol to open discussions for Russian companies and contractors to build and operate Iraqi electricity and hydropower plants, as well as oil and gas fields. The GoI maintains any contract signed without GoI approval is illegitimate but it is unclear if the Russian-KRG agreements and the 50-year Turkey-KRG agreement are transferable.

Only Israeli leaders openly supported the referendum and continue to support an independent Kurdistan. After the military occupation of the disputed territories, Israeli Prime Minister Benjamin Netanyahu lobbied the US, Russia, France, and Germany to support an independent Kurdistan and to provide arms for Iraqi Kurds to defend themselves. Israel has supported Iraqi Kurds since 1961, with Jews and Kurds sharing a history of persecution and statelessness. Israel also views an independent Kurdistan as a way to curb Iranian expansion.

The US, EU and individual countries including the UK, Germany and France feared the referendum would undermine Abadi being re-elected as prime minister. They back Abadi in the hope that he will be able to transform Iraq into a united, federal, democratic country that is not a vassal of Iran. What should have warned the Kurds of Washington's deep-seated opposition to the referendum was that the Pentagon-KRG 12-month agreement to pay 36,000 Peshmerga salaries was not renewed in July 2017. That the US was aware of what could unfold was indicated by Rex Tillerson's pre-referendum caution that 'all parties, including Iraq's neighbours, [must] reject unilateral actions and the use of force'. On 22 September Brett McGurk issued another warning at a press conference in New York, when he stated that the referendum 'carries an awful lot of risks ... That's not something the United States can control ... Other actors here will make their own decisions.' Embedded US Special Forces in Kirkuk knew enough to warn the Kirkuk Governor Najmaldin Karim to escape before Iraqi forces entered the city.

⁵ The KAR Group is a privately owned company founded by Baz Karim in Erbil in 1999 with branches throughout Iraq.



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On 13 October, the day Abadi ordered Peshmerga to leave Kirkuk, US President Trump authorised the US Treasury to place sanctions on the IRGC⁶ for being a sponsor of terrorism and US Secretary of Defence Jim Mattis claimed the US supported shared management of the disputed territories despite this having led to Gol neglect between 2005 – 2014.⁷ On 16 October, US officials called the Iraqi advance on Kirkuk ‘co-ordinated movements’ although no negotiations on shared security and management had taken place prior to the use of military force. US officials also downplayed Iran’s role in the advance although it is unlikely that US plans included IRGC-linked PMUs entering and taking control of Kirkuk city and other disputed territories, or the Gol demanding exclusive federal authority over all Iraqi territory and Peshmerga forces. In response to these developments a US State Department spokesperson said, ‘We urge the central government to calm the situation by limiting federal forces’ movements in disputed areas to only those coordinated with the Kurdistan Regional Government,’ and, ‘The disputed areas remain disputed until their status is resolved in accordance with the Iraqi constitution.’ Questions remain about how much the US knew in advance; whether the Gol misled the US, and if the US was so sure of a post-referendum disaster, why was there no plan if diplomacy failed.

By supporting Abadi, the US and Europe put faith in an individual, rather than any realistic assessment of the Iraq Parliament and Gol ministries, in apparent denial that whoever becomes prime minister is irrelevant because Iran is pushing for majority rule in parliament (not consensus as previously negotiated), and has infiltrated powerful Gol ministries. US support may even disadvantage Abadi, given the level of anti-US feeling in the south. Whilst Abadi’s popularity has risen sharply in the wake of victories in Mosul and Kirkuk (Arab commenters praising him as a strong man that defeated the ‘separatists’), since coming to power in 2014, Abadi has been an ineffectual leader because he lacks a power base. He has not been able to deliver on promised reforms or curb corruption and has overseen salary and pension cuts, high unemployment, increased crime, skyrocketing foreign debt, the militarisation of Iraqi society and negligible reconstruction in destroyed Sunni Arab cities like Tikrit, Ramadi, Fallujah and Mosul. Nor is Abadi Iran’s favourite within the Iran-backed Dawa Party, which is headed by his main rival, ex-Prime Minister Nouri al-Maliki. And new rivals have emerged. That PMUs played a prominent role in the taking of the disputed territories may be to Abadi’s disadvantage, as Iraq’s High Electoral Commission has granted licences for the political wings of the Badr Organisation and

⁶ The IRGC was founded as a parallel force answering to Iran’s Supreme Leader to protect the Islamic Republic after the 1979 Revolution. Over time it has entrenched itself in business, politics and military activities in and outside Iran. It supports Syrian President Bashar Al-Assad, Hezbollah, Hamas, and more than 20 Iraqi PMUs. The US designated its elite Quds force as a terrorist organisation in 2007.

⁷ The Gol has not completed one major project in Kirkuk, which suffered decades of neglect under the Baath Regime.



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Asa'ib Ahl al-Haq to run in the 2018 elections. In October, Abadi set a precedent in using overwhelming military force to resolve political disputes. This has implications for Sunni Arabs and others who oppose a Shia theocracy. If Abadi negotiates with the KRG he will lose his recent swell in popularity. If he persists in his demands and use of force, Kurdish authorities are left with a painful choice: total subjugation or war. Either way, Kurds may not support him in the 2018 elections, when their support is vital in him being re-elected. Or perhaps this is part of Iran's Machiavellian plan to replace Abadi as prime minister. Certainly, the ease with which Iraq exerted control over the disputed territories in October 2017 is only the beginning of Iraq's post-ISIS era.

Since 1991, the US has cultivated Iraqi Kurds as an ally and established military, political and business interests in the KRI. For instance, a new US military base is being constructed 50 kilometres northwest of Mosul and 50 kilometres from the Syrian border in an area controlled by the KRG, and the US allegedly has taken charge of the Bashur Airfield, 65 kilometres west of the Haji Omran border crossing with Iran. The US claims to support a strong KRG, but with the loss of Kirkuk, Kurds lost their biggest bargaining chip in negotiations: oil. It appears that the US and Europe have miscalculated in thinking Abadi will negotiate with the Kurds, given that it would mean Abadi losing newly acquired power and control of oil, borders and territory. Or perhaps the US was simply outmanoeuvred by Iran and had no way of stopping what unfolded. US Secretary of State Rex Tillerson contributed to the loss of US credibility in his statements of late October, claiming 'militias need to go home', before clarifying, 'Any foreign fighters in Iraq need to go home', three days later claiming 'Iraqis are Arab. Iraqis are not Persian', even as other US State Department officials declared that the US supports a strong KRG and Peshmerga. On 30 October the US State Department commended Masoud Barzani's decision to resign and expressed support for Prime Minister Nechirvan Barzani and Deputy Prime Minister Qubad Talabani, (i.e. the status quo). By this stage, US officials were admitting that Iran had played a significant role in the advance on Kirkuk and in dividing Peshmerga forces, and the US and Europe were strongly advocating a ceasefire and negotiations based on the constitution.

There is on-going debate over how much the US and Europe should support the Kurds. US Senator John McCain wrote in the *New York Times*, 'Let me be clear: If Baghdad cannot guarantee the Kurdish people in Iraq the security, freedom and opportunities they desire, and if the United States is forced to choose between Iranian-backed militias and our longstanding Kurdish partners, I choose the Kurds.' US National Security Adviser H. R. McMaster declared, 'We have to work to mediate this conflict in a way that allows our Kurdish friends to enjoy the safety, security and prosperity they built over so many years.' On 3 November Rex Tillerson assured Prime Minister Nechirvan Barzani that the US supports the constitutional rights of the KRG and the next day, eight US senators on the Senate Foreign Relations Committee, which oversees the State Department, wrote to Abadi placing



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responsibility on him to act on the conciliatory position that the KRG had adopted. Yet US tactics appear to involve statements and diplomacy without action.

Unless the US-led coalition has some undisclosed strategy, or US responses are symptoms of a divided, dysfunctional administration, it is hard to understand current US policy. Unfolding events appear to favour Iran and an ISIS insurgency. They increase the potential of a complicated civil war in Iraq; jeopardise US-led Coalition military, intelligence and logistic efforts in the KRI and northern Syria; enable PMUs greater access into Syria ostensibly to help the Syrian regime defeat ISIS, but also to contain another US-led coalition ally, the Syrian Kurds, thus potentially prolonging war in Syria, and further entrench Iran in both countries and along the border, thus enabling Iran to open key land routes to the Mediterranean. Developments also undermine the survival of secular political structures established by the Iraqi and Syrian Kurds and their allies, despite their forces having been the coalition's most consistent allies in fighting ISIS.

Ways forward

The referendum on independence and its aftermath amplify internal, regional and international issues. Some commentators suggest that the events of October 2017 have not only changed the balance of power in Iraq, but could define patterns of conflict and tensions in the region for decades to come. Suggestions being offered to re-balance relations inside Iraq include international support to:

- Develop joint security and administrative mechanisms with Coalition oversight for all KRI border crossings and disputed areas until negotiations establish how these are to be administered on a permanent basis;
- Penalise any further GoI military action and an on-going Iran-linked PMUs presence in the disputed territories by using levers such as slowing down, reducing and/or stopping the delivery of weapons, ammunition and spare parts, and other assistance outside humanitarian aid;
- Penalise any party that refuses to negotiate within a specified time frame;
- Ensure negotiations include a broad cross section of representatives and that these negotiations come to a clear agreement on the status of Peshmerga forces and the management of the disputed territories and KRI airspace, border crossings, customs, oil and other trade;
- In the meantime, pressure the GoI to pay the KRG its established share of the national budget and allow the KRG to have access to international humanitarian assistance for IDPs;
- Support the KRG in holding parliamentary and presidential elections as soon as possible, and to finalise a constitution, unify the Peshmerga and establish transparent ministries in return for financial assistance and support for negotiations and outcomes that have international guarantees;
- Apply incentives and disincentives in support of the GoI implementing the constitution and moving faster on reconstruction with assistance from



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international private and public sectors at the provincial and district level;
and lastly,

- If the GoI refuses the constitutional rights of the KRI and disputed territories, stop using Kurds as a lever to encourage political reforms in Baghdad. Instead support an independent Kurdistan either in or outside a confederation, contingent on the KRG making the necessary reforms.

At the international level, the UN Security Council issued a statement about the destabilising effects of the referendum, but failed to condemn Iraq's use of military force to resolve political disputes. The problem for people who voted in support of independence is that there is no international law related to non-consensual unilateral succession. For the 27 countries that emerged by succeeding since 1991, (and before this, for example, Algeria from France and Singapore from Malaysia) all were negotiated. In cases where there was no consent, such as Kosovo, the International Court of Justice in The Hague refused to certify Kosovo's independence. Fifteen nations emerged from the collapse of the Soviet Union. Within five years of the fall of the Berlin Wall, Czechoslovakia became two nations as a result of negotiations, and Yugoslavia became six nations after much bloodshed. 'Optimal' political jurisdictions change with time, demographics, politics, culture and technology. Many Kurds in Turkey, Iran and Syria advocate federal systems. Having seen the GoI fail to implement federalism in Iraq, the people of the KRI and disputed territories voted for independence. With so many countries ignoring minority rights, it is time for international law to establish appropriate mechanisms to address these vacuums.

Conclusion

Since 2014, the Kurds of Iraq, Syria and Turkey have experienced huge victories and reversals of fortune. In Syria, four days after the military occupation of Kirkuk, the Kurdish-led Syrian Democratic Forces declared the liberation of Raqqa. They and their political counterparts in the multi-ethnic Federation of Northern Syria secure and administer 23 percent of Syrian territory, compared to the regime's 50 percent, and the opposition militias' 16.5 percent. They advocate a unified federal Syria, but Turkey opposes them taking part in all political negotiations. Their project is now jeopardised by Iraqi forces wanting exclusive control of all border crossings. The Syrian Kurds and their allies see what is happening in Iraq, and wonder who will protect them when the Syrian regime and/or Turkey attack, and who will support them in reconstruction and a political transition. In Turkey, two months after the pro-Kurdish People's Democratic Party (HDP) won 80 parliamentary seats in the June 2015 election, the Turkish state launched a civil war against alleged PKK militants that involved extensive destruction of Kurdish-majority towns, civilian deaths and displacement. Since the failed coup in July 2016, the Turkish state has stripped five HDP MPs of their parliamentary seats and removed 83 of 102 elected pro-Kurdish



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mayors from office. In November, 11 HDP MPs and nearly 100 pro-Kurdish mayors remain in prison.

Post-World War I, US President Woodrow Wilson advocated the right of people to self-determination, but the UN, US and Europe support the status quo. Those who contributed to the status quo in the Middle East continue to fight wars without a post-war plan. Yet the devastation of war provides opportunities to rethink and use the necessary stabilisation, demining, reconstruction and reconciliation programs as levers to create better functioning systems of governance. Until the twentieth century, the Kurds had autonomy within successive empires. In the twenty first century, federalism or confederalism could provide some form of autonomy to the people of Iraq and Syria.

How the international community faces the multiple post-ISIS challenges will be critical to winning the hearts and minds of Muslim people everywhere and can determine regional, if not world, dynamics for decades to come. Although the UN has shown a lack of efficacy in political negotiations on Syria, and the US appears to be losing to a militaristic theocracy that plays the long game, there is still time to match rhetoric with action, rather than outsource to Russia, China, Iran, Turkey, Saudi Arabia and non-state actors. Or are we witnessing the slow death of a super power and the global structures that it has supported since World War II? The future is uncertain but the Kurds' dream of self-rule is not dead, and will not die.

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