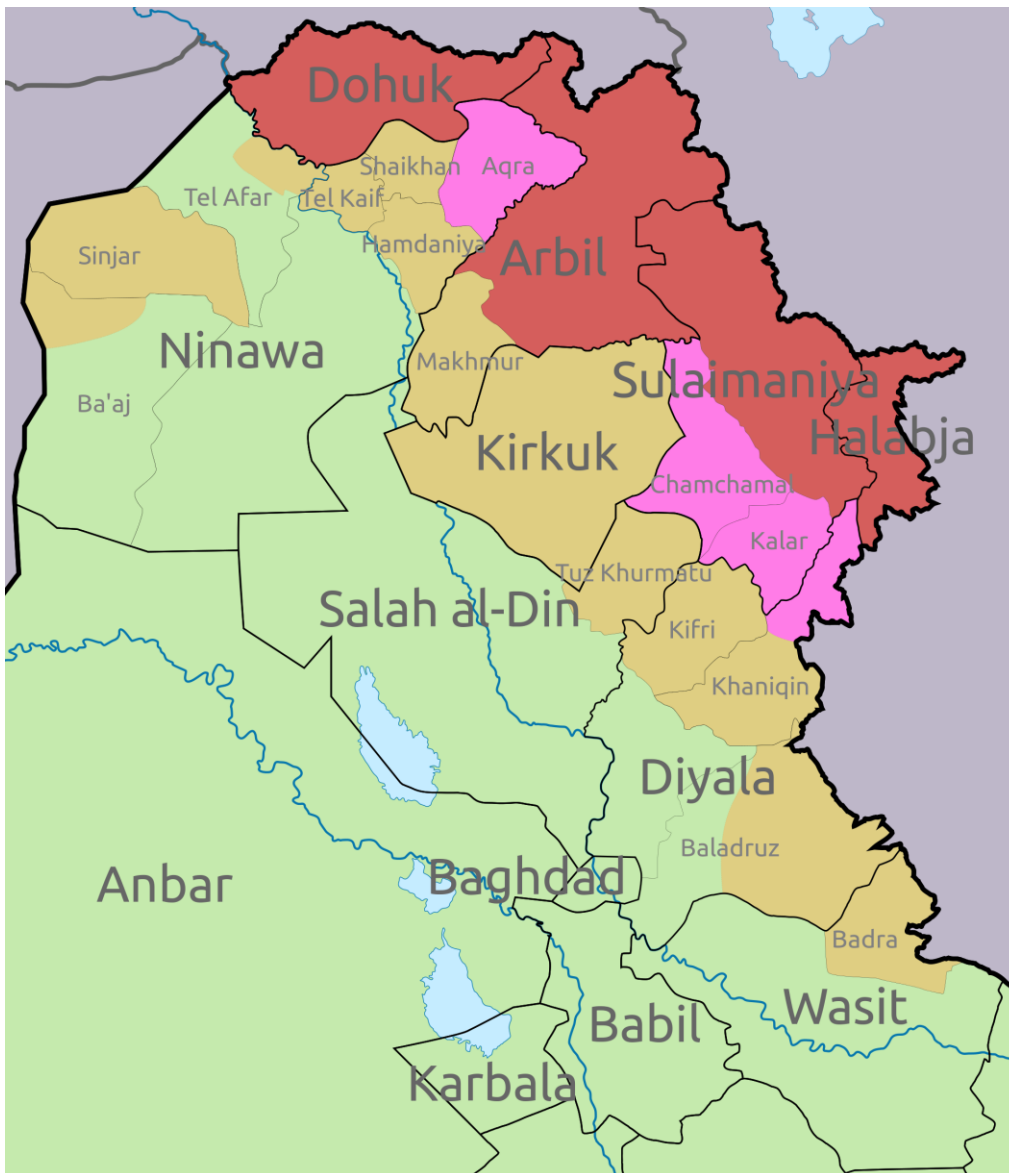


Kurdish Lobby Australia calls on the Australian Government to strongly condemn the use of military force to solve political disputes and to support negotiations leading to real outcomes within specified time frames following support for independence, as reflected in the referendum held in the Kurdistan Region and Disputed Territories of Iraq on 25 September 2017



-  Undisputed and part of the Kurdish Regional Government since 1991.
-  Undisputed and under the control of central government.
-  Disputed and part of the Kurdish Regional Government since 1991.
-  Disputed and under the control of central government until 2014.

Gol: Government of Iraq
KRI: Kurdistan Region of Iraq
KRG: Kurdistan Regional Government
PMU: (Shia) Popular Mobilisation Units

Referendum on Independence

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 the Government of Iraq (GoI) and all countries except Israel, Russia and Jordan. The question put to the people of the KRI (Dohuk, Erbil, Sulaimani, Halabja) and disputed territories (Kirkuk (except Hawija), Tuz Khurmatu in Salahaddin province, the Khanaqin District, Mandali, Jalula and Qara Tabbah in Diyala province and districts in Nineveh province including Sinjar and Bashega) was:

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

This question was asked in Arabic, Kurdish, Syriac and Turkish. The KRI's Independent High Electoral and Referendum Commission (IHREC) oversaw the referendum and 12,000 polling stations. Voting was carried out without violence. Participation was 72 percent of all eligible voters or 3.306 million people. The result was 92.73 percent of all voters voting 'yes' in favour of independence.

Among the 28 percent who did not vote and the 7.27 percent who voted 'no' there were those who wanted the referendum delayed until the Kurdistan Parliament passed legislation related to the payment of public service salaries; the presidency; the establishment of an Oil and Gas Fund, and the eligibility of those in the disputed territories to vote in elections for the Kurdistan Parliament, i.e. lower voter turnout in some areas was largely the consequence of people aspiring to democracy and justice as much as independence.

The referendum results bound the Kurdish leadership to negotiate independence with the GoI. In the lead up to the referendum, KRI Acting President Masoud Barzani promised that the intention is to form a democratic federal republic of Kurdistan in which provinces 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.

Constitutional arguments

Iraqi political leaders, including Prime Minister Haider al-Abadi, called the referendum unconstitutional despite the preamble of the Constitution of Iraq (2005) stipulating that Iraq is a voluntary union of people and constitutional experts outside Iraq, such as Professor Branden O'Leary, Lauder Professor of Political Science at the University of Pennsylvania, arguing that 'By virtue of the conjunction of Articles 141, 110, 115 and 121 (2) it is entirely lawful and constitutional for Kurdistan to hold a referendum.'

In campaigning for a referendum on independence, KRI Acting President Masoud Barzani argued that it was Iraq that had not adhered to the constitution; that since 2005, Kurdish leaders have repeatedly asked for negotiations to resolve many disputes with the GoI, but Iraqi political leaders have refused to engage in dialogue or find solutions and that 'We do not face a democratic, federal state ... we face a religious and sectarian state.' He asked those in the international community who called for a delay or cancellation of the referendum to provide an alternative path for Kurdistan to achieve independence, but claimed no realistic alternative was put forward.

Responses to the Referendum

After the referendum the official position of the GoI (as well as Iran and Turkey) was that the referendum result was null and void and that the Kurdistan Regional Government (KRG) must 'cancel' the result. Iraqi forces began military exercises with Turkish and Iranian forces along the KRI borders. Prime Minister Haider al-Abadi refused all future dialogue between Baghdad and Erbil unless Kurdish leaders supported the unity of Iraq and the sovereignty of the federal government over all oil exports, security and borders, and over the disputed province of Kirkuk. The GoI stopped all international flights into and out of Erbil and Sulaimani international airports, demanded that all countries only deal with the GoI, that the KRG hand over all oil revenue and that all Peshmerga withdraw from the disputed territories they had defended since 2014. Abadi reiterated what the Iraqi Parliament had already voted on, that the GoI would shut down all ports and border crossings the KRI shares with neighbouring countries, take control of all customs checkpoints, and deploy Iraqi Security Forces to Kirkuk, where they and the Shia Popular Mobilisation Units were already located after liberating Hawija from ISIS in early October. The GoI filed a lawsuit to prosecute all those who orchestrated the referendum and the Iraqi Parliament is to vote on stripping 10 MPs of their seats in the Iraqi Parliament, replacing President Fuad Masum, who is a Kurd, and prosecuting any parliamentarians who voted in the referendum.

On 29 September Grand Ayatollah Ali al-Sistani issued a statement saying that all disputes must be resolved according to the constitution. On 30 September the Kurdistan Parliament unanimously agreed that all implemented and proposed measures against Kurdistan were against Articles 9, 110, 115 and 140 of the constitution. These articles outline the exclusive and shared responsibilities of the different levels of government and stipulate that all legislation not under the exclusive authority of the Iraqi Parliament can only be implemented in the KRI after it is approved by the Kurdistan Parliament. Article 140 refers to the status of the disputed territories being resolved in a census and referendum by 2007.

Divisions within the GoI became apparent on 7 – 8 October, when PM Abadi announced that the GoI's position was not that agreed upon by Iraqi Vice Presidents Ayad Allawi and Osama al-Nujaifi and Masoud Barzani, namely to immediately start an open dialogue without preconditions, and to lift all punitive measures against the KRI. On the night of the 12/13 October, 20,000 Iraqi troops, the majority being Iran-backed Hashd al-Shaabi, accompanied by Islamic Revolutionary Guard Corps (Iran) and Iranian army personnel, advanced on two towns in Kirkuk province. The Peshmerga withdrew three kilometres. On 14 October President Fuad Masum met with commanders in Kirkuk to outline six demands made by the GoI: the Kurdish authorities must hand over Kirkuk airport, the K-1 military base, all oil fields, and all ISIS militants held by the Peshmerga to federal authorities. As well, the Kurdish authorities must allow the Iraqi army back to all places they were stationed before withdrawing in 2014, and the Kurdish Kirkuk Governor, Najmaldin Karim, must be removed. On 16 October tens of thousands of Hashd al-Shaabi and Iraqi Security Forces equipped with US supplied tanks, armoured vehicles and weaponry, accompanied by Islamic Revolutionary Guard Corps and Iranian army personnel, advanced on multiple fronts and took over the aforementioned sites and entered Kirkuk city where they secured government buildings. In some locations these forces clashed with Peshmerga, with more than 100 Peshmerga being killed. In other locations Peshmerga were ordered to withdraw. About 100,000 Kirkuk residents escaped the city, heading to the KRI. Hashd al-Shaabi set up checkpoints inside the city, and Abadi appointed an Arab governor to replace Najmaldin Karim. Despite US supplied weaponry and equipment being used by Iraqi forces, despite the presence of Iranian forces in the multi-pronged advance, and despite these actions by the GoI setting a post-ISIS precedent in using military force to solve political disputes, the US has yet to take sides.

Turkish President Recep Tayyip Erdogan supported the hard line taken by the GoI. His immediate response to the referendum was to threaten an invasion, the closure of the Turkey-KRI border, and the shut down of the oil pipeline through which Kurdistan oil is exported to the port of Ceyhan in Turkey. Shutting the oil pipeline has major geopolitical and economic implications for international oil companies, Turkey and other countries and has yet to be done. However, Turkey is blocking some movements across the border and there are unconfirmed reports that Turkey is withholding oil revenue from the KRG. Erdogan was particularly angered by what he claimed was Masoud Barzani's betrayal, and has repeatedly called for Barzani to resign. From 26 September Turkey began military manoeuvres on the border with the KRI, which were co-ordinated with a small contingent of Iraqi Security Forces, and Erdogan is working on a co-ordinated response between Turkey, Iran and Iraq.

Iran's Supreme Leader, Grand Ayatollah Ali Khamenei, called the referendum an act of treason and a Zionist plot to create a 'new Israel'. Like Turkey, Iran threatened military action and the closure of its border with the KRI. Iran closed its borders to all trucks exporting KRI oil and with Iran-backed Iraqi Shia Popular Mobilisation Units (PMUs) has conducted military exercises along Iran's border with the KRI. Like Turkey, Iran is concerned that the referendum and push towards creating an independent

Kurdistan will inspire its own Kurdish population and other, and also fears the break up of its client state: Iraq.

The UN, US, Europe and Russia continue to promote a united, federal democratic Iraq. Only Israel has come out in support of the right of the people of Kurdistan to hold a referendum and achieve independence. Russia has been equivocal. In 2017 its investments in the KRI and disputed territories exceeded that of the US. Whilst some members of the UK Parliament and US Congress support an independent Kurdistan, the US and Europe are officially against this eventuality, although they insist all disputes must be resolved through dialogue. The political disengagement of world leaders has contributed to the escalating tensions. Impacting the war on ISIS, the US has not renewed its agreement with the Ministry of Peshmerga to pay Peshmerga salaries or equip two brigades. This agreement was made because the Gol has withheld revenue to the KRG, including Peshmerga salaries, since January 2014.

Throughout this dangerous period, Kurdish leaders have continued to call for dialogue; the KRI continues to accept Sunni Arab IDPs and provide medical treatment free of charge; and Peshmerga continue to maintain frontlines against ISIS. In the first week of October, Peshmerga near Hawija (Kirkuk province) processed more than 1,000 ISIS fighters who preferred to surrender to Peshmerga rather than to Iraqi Security Forces or Shia PMUs. With PMUs positioned in Kirkuk, Sinjar and Nineveh, the current dilemma for Kurdistan leaders is how to respond to Iraqi aggression and whether to go ahead with elections on 1 November.

Arguments against an independent Kurdistan

Opponents of an independent Kurdistan say tensions and negotiations will disrupt the fight against ISIS and further destabilise Iraq and the region. They also point to the political divisions, and the lack of democratic processes and the rule of law in the KRI, claiming these features pose obstacles to independence, although such issues have not prevented other countries from achieving independence. Many opponents support negotiations but maintain that these should be about solving the disputes by encouraging major reforms in the Gol so it adopts the federal constitution and becomes functional and inclusive. Opponents also argue that the referendum was really about succession, and that there is no international law covering unilateral succession. Only instances of negotiated succession achieve international recognition, and most Iraqi political leaders are unwilling to negotiate on any matter that does not support a unified (Shia dominated) Iraq. Many opponents of Kurdistan achieving independence argue that more people would benefit if Iraq became a functioning federation or confederation of up to three independent states, in both cases diminishing the power of the central government. The problem is that the Gol and Iran would resist either scenario, militarily if necessary, as strongly as they resist an independent Kurdistan.

Arguments for an independent Kurdistan



Those who support the right for Kurdistan leaders to negotiate independence with the GoI argue that the post-World War I status quo in the Middle East is unravelling, propelled by the rise of Wahhabi jihadi extremists and an increasingly militant Iranian theocracy, and that it is time to rethink the status quo. They argue that the modern Kurdistan struggle for independence began in the nineteenth century and since the formation of the state of Iraq, successive governments, including the current government, have oppressed the people of Kurdistan, particularly the Kurds. For twelve years the Kurdish leadership has tried to negotiate with a dysfunctional and corrupt GoI, but the GoI has no intention of decentralising power and resources. Some predict that post-ISIS, Iraq is more likely to descend into a civil war than become a functioning federation.

Supporters of a democratic, federal republic of Kurdistan argue that the scale of the project makes it more likely to succeed compared to the resources and time it will take to build a democratic, federal republic of Iraq and that creating an independent Kurdistan is one way to prevent a consolidation of Iranian influence in Iraq and Syria. The KRI has only experienced one terrorist attack since 2014. If the international community was to support negotiations that led to the formation of a functioning multi-ethnic, multi religious, federal democracy in the heart of the Middle East, it would set a precedent that has numerous military, political-economic and social benefits, not only for the people of Kurdistan but for the region and the international community. These benefits include Kurdistan forces having proved to be reliable allies in fighting terrorism and dictatorship. Ending destabilising insurgencies would prevent wars between countries, save lives and have multiple political-economic and social benefits. Kurdistan could become a refuge, a centre for international business, agencies and mediation, and with its wealth of natural resources, it could enhance energy, food and water security in the region and beyond.

Call to Support Negotiations

The international community needs to take all measures to prevent further military conflict and support a sustained dialogue structured around clearly defined issues, outcomes and time frames. Initially, the process could be framed around implementing the constitution in resolving disputes related to the status of the disputed territories, budget allocations and the management of resources, particularly oil, as well as the disbandment of all militias outside those stipulated in the constitution. If the GoI refuses to implement the constitution within a specific time frame, then the international community must support Kurdistan in attaining independence, unilaterally if need be, as the constitution stipulates that the unity of Iraq is dependent on its implementation. With Iraq in need of massive reconstruction, and Kurdistan leaders wishing for Kirkuk to be part of an independent Kurdistan, there are many levers to pull in moving negotiations forward.