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The development of Kurdistan's de facto statehood: Kurdistan's September 2017 referendum for independence

Kamaran Palani[a], Jaafar Khidir[b], Mark Dechesne[c] and Edwin Bakker[d]

[a]Governance and Global Affairs, Leiden University, Leiden, The Netherlands; [b]Political Science, Salahaddin University, Erbil, Kurdistan Region-Iraq; [c]Dual PhD Centre, Leiden University, Leiden, The Netherlands; [d]Terrorism and Counter Terrorism, Leiden University - Institute of Security and Global Affairs, Leiden, The Netherlands

ABSTRACT

This research aims to analyse the drivers which informed the decision and timing of Kurdistan's independence referendum on 25 September 2017. Here we argue that any proper examination of these drivers must begin by investigating the relationship between the fight to counter the Islamic State begun in 2014, the disputes arising as a result of Kurdistan's presidential election issue in 2015 and the internal political rivalry exacerbated by the question of whether to hold a referendum. The findings of this article highlight the centrality of de facto entities' internal governance in their struggle towards statehood. The fight against IS served as a primary driver in influencing the timing and the approach of the September 2017 referendum. While the 2015 political deadlock resulting in the illegal extension of Barzani's presidency was not a determining factor leading to the referendum, nonetheless it quickened the process and influenced the timing.

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Introduction

Since 2014, several radical political transformations have affected the de facto statehood of the Kurdistan Region-Iraq (KRI),[1] culminating in the 25 September 2017 independence referendum. On that day, eligible voters from the Duhok, Erbil, Sulaymaniyah, Halabja and KRI-controlled areas of the Kirkuk, Diyala and Nineveh governorates voted 'yes' or 'no' to the question: 'Do you want the Kurdistan Region and the Kurdistani areas outside the administration of the Region to become an independent state?' Upon tallying the votes, an overwhelming 92.73% majority voted for 'yes'.[2] While the Kurdistanis have made, almost, weekly headlines since 2014, few academic studies have examined the timing and drivers underlying why the independence referendum was held in 2017. This paper employs a qualitative analysis methodology including 23 informant interviews with senior members of KRI political parties, such as the Kurdistan Democratic Party (KDP), the Patriotic Union of Kurdistan (PUK),

CONTACT Kamaran Palani k.m.a.palani@fgga.leidenuniv.nl Governance and Global Affairs, Leiden University, Schouwburgstraat 2, 2511 VA, Leiden, 2300 RB, The Netherlands

and the Change Movement (Gorran); officials from the Kurdistan Regional Government (KRG), such as the Department of Foreign Relations; employees of the Ministry of Peshmerga,[3] the KRG Representation in London and Washington; and members of Parliament. These face-to-face and telephone interviews were conducted in Erbil and Sulaimaniyah between May 2017 and March 2018. Most of the interviewees preferred to be anonymous. In these interviews, we tried to identify what drove the decision and timing of the referendum, and what the lack of a unified internal mechanism in both political and military terms meant for the move towards independence. In addition, we observed the local political developments, attended the referendum campaign rallies in Erbil and participated in closed door meetings where key KRI decision makers and international diplomats presented their policies on different issues related to the referendum in summer 2017. To gain deep insights, we also benefited from an off-record meeting with Masoud Barzani on 20 August 2017 in his office in Pirmam town in Erbil. In the meeting, Barzani clearly explained the approach, method and reasons of the referendum.

Given the temporal proximity of the referendum, there is as yet a lack of comprehensive analysis on the drivers of the decision and timing of the vote. Hama and Jasim[4] and Park, Jongerden, Owtram and Yoshioka[5] provide good analyses of the negative consequence of the referendum decision, by focusing on the internal divisions mainly between Kurdistan's two centres of power, the KDP and PUK. However, they fail to contextualise the idea of a referendum in Kurdistan's broader transition from war to the moves towards independence in 2014–2017, and how various internal security and political dynamics contributed to the decision. Kaplan convincingly argues that KRI leaders' miscalculation over potential losses of foreign support in response to the vote was the key driver behind the decision to hold the referendum in 2017.[6] The decision and its drivers cannot, however, be reduced to this factor alone. The findings of this article suggest that, in addition to the gains Kurdistan made during the fight against the Islamic State (IS), internal security and political dynamics significantly influenced the referendum. This article provides insights into the fluid nature of Kurdistan's de facto statehood, an area which needs further scholarly attention in the de facto state literature.[7] Kurdistan's transition into de facto statehood has been shaped by a series of tensions, such as its changing de facto powers vis-à-vis Baghdad, prompting the entity to look both backwards and forwards. The unstable process which Kurdistan has gone through since 1991 provides important insights into the importance of internal organisation of de facto states in their struggle towards international recognition. The key to understanding such processes is the position of Kurdistan vis-à-vis Baghdad, and its changing strategies to gain recognition. Whereas much of the existing literature explains de facto states' non-linear progression towards statehood by pointing on the lack of international recognition,[8] we contend that the internal dynamics (such as system of government, internal democratisation, security forces, institutions, domestic legitimacy and political party rivalry) of Kurdistan played a key role in shaping the development, which culminated in the referendum of 2017. An analysis of what drives the changes in the development, nature and status of de facto states in their struggle towards independence has not received enough attention.

The outline of this paper is as follows. First, the paper provides a short overview of the theoretical framework. Second, we present a detailed background on key security and political developments concentrating on the fight against IS and its impact on Kurdistan's de facto statehood. To do this, we look at a spectrum of events and changes that strengthened Kurdistan's de facto powers, despite internal disputes and the lack of monopoly over

Peshmerga forces. Next, we evaluate Kurdistan's internal political problems, especially the presidential crisis, demonstrating how the dispute played an instrumental role in catalysing the move towards independence. In the final section, the paper focuses on the holding of the referendum, its aftermath and its implications for the future of Kurdistan's de facto powers.

Conceptualising the development of de facto statehood

Within the discipline of International Relations there has been an increasing desire to analyse de facto states and to distinguish these 'anomalies' from other forms of statelessness. However, the theoretical discussion is still in its nascent stages,[9] and a deeper understanding of de facto states' dynamics can be gained through novel case studies. To conceptualise entities that have managed to achieve degree of statehood in the absence of international legal recognition, different terms are used in the literature such as: 'de facto states',[10] 'contested states',[11] 'unrecognised states',[12] 'quasi-states',[13] 'states-within-states'[14] and 'state-like entities'.[15] All these classifications point to a condition in the continuum between formal recognised statehood and other forms of statelessness. In our definition, de facto states are entities that meet the Montevideo criteria for statehood, but lack international legal recognition. Pegg defines de facto states as:

> organized political leadership which has risen to power through some degree of indigenous capability, receives popular support, has achieved sufficient capacity to provide governmental services to a given population in a specific territorial area over which effective control is maintained, views itself as capable of entering into relations with other states, and seeks widespread international recognition as a sovereign state.[16]

Caspersen, in her seminal book *Unrecognized States*, expands on this, identifying five characteristics for an entity to be considered a de facto state: (1) the entity in question has achieved de facto independence and controls the majority of the territory it claims, (2) building state institutions accompanied by attempts to increase external and internal legitimacy, (3) a declaration of formal independence or at least clearly demonstrated aspirations for independence, for example through an independence referendum, (4) the entity has not gained international recognition and (5) the entity has existed for at least two years.[17] The literature shows that there is significant variation in the degree of statehood achieved by de facto entities.[18] Based on the degree of the above criteria achieved by Kurdistan over the past two decades, scholars including Harvey and Stansfield,[19] Caspersen,[20] Voller,[21] Gunter,[22] MacQueen,[23] Jüde[24] and Richards and Smith[25] categorised Kurdistan and the political nature of its polity among a group of de facto states. However, Kurdistan's development of de facto statehood has never been linear. The referendum, for example, highlighted the weakness of KRI state-like institutions,[26] the lack of monopoly over the means of coercion and the lack of a unified approach towards Baghdad.

The study of internal dynamics of de facto states is a significant contribution of the relevant literature, but only gained scholarly attention in the 2000s when scholars began conceptualising the longevity and survival of de facto states.[27] When it comes to the internal functions and organisation of de facto states, Caspersen suggests that de facto states 'cannot be reduced to their external dimension […] the success or failure of their state-building efforts also owes a lot to internal dynamics'.[28] She also argues that statehood in the absence of recognition is possible, but results in a specific form of statehood.[29] Within the de facto

state literature, one area that has attracted considerable attention in recent years is the impact of non-recognition on democratisation and state-building in de facto states.[30] Richards and Smith argues that '[t]he ongoing process of state building in an unrecognised state is underpinned and dictated by the mutually constitutive relationship between the quest for recognition and the need for continued stability and existence as a "state"'.[31] However, one of the distinct characteristics of de facto states, as argued by Caspersen[32] and Pegg,[33] is that the lack of recognition justifies the prioritisation of security above all other sectors. This will create an environment which is not conducive for democratisation. At the same time, Tilly's approach to state formation suggests that the more de facto state military leaders penetrate the society, the more they need to engage in institutionalisation and state-building.[34] Moreover, the lack of recognition makes de facto states move in and out of different categories: 'therefore what was once an unrecognized state can become a state-within-a-state, or perhaps a "black spot", and vice versa'.[35] In this context, the development of de facto statehood faces a series of dilemmas and tensions, at the same time looking backwards and forwards, 'independent and dependent, open and close'.[36]

The rise of IS and new opportunities for Kurdistan

The collapse of the Iraqi Security Forces (ISF) in northern Iraq in mid-2014 enabled Kurdistan to expand its territory, seize long-coveted Kirkuk and other territories whose administration has been a source of heated dispute between Baghdad and Erbil since the toppling of Saddam Hussein's regime in 2003. As soon as the ISF left these areas in June 2014, Barzani ordered the deployment of *Peshmerga* to secure Kirkuk, Tuz Khrumatu, Mosul Plain, Makhmoor, Shingal and other areas situated along the contested border between KRI and Federal Iraq. Following these events, Barzani surprisingly claimed that Article 140 of the Iraqi constitution, which is designed to settle the territorial dispute between Baghdad and Erbil, 'has been implemented and completed for us'.[37] These changes aggravated pre-existing tensions between Baghdad and Erbil causing them to revert back to distrust and acrimony which had previously come to a fever-pitch during the second term (2010–2014) of former Iraqi Prime Minister Nouri al-Maliki. Since then, these governments have regarded each other as mutual security threats with significant implications for the independence of Kurdistan.

More than ever, the *Peshmerga*'s ability to succeed where the ISF failed to stymy the IS' advances was pivotal to enhancing Erbil's political leverage with Baghdad. Based on the newly acquired control over a territory 50% larger than the Kurdistan Region's official size, and sure of its celebrated military strength, the political climate for independence appeared ripe. On 3 July 2014, Barzani instructed the Parliament to begin preparations for independence referendum. In an address to an international audience on 7 July 2014 he announced: 'from now on, we will not hide that independence is our goal'.[38]

While the advance of IS presented an opportunity for Kurdistan, it also brought new challenges beyond the capacity of Erbil's security and military forces. IS was heading towards Baghdad, and the Erbil leadership was focusing on independence rather than concerning themselves with potential attacks from IS. Beginning in August 2014, Erbil was plagued by a series of acute crises when IS barraged residents of Shingal, Mosul Plain and Makhmoor. On 7 August 2014, IS militants advanced as close as 25 miles from the KRI's capital, before US President Barack Obama ordered airstrikes against IS to drive them out of KRI-controlled territory. Moreover, the 2014 drop in oil prices and Baghdad's decision to freeze the share of

the KRI budget, costing the entity nearly one billion dollars a month, financing the war against IS, the influx of 250,000 Syrian refugees and 1.5 million internally displaced populations (IDP), overwhelmed Kurdistan with a severe financial crisis. In combination, these challenges forced Erbil to postpone the calls for a referendum.

The influx of the IDPs

Kurdistan faced pre-existing and evolving political, economic, security and humanitarian challenges. According to the joint KRG–World Bank report, the stabilisation cost for 2015 alone was estimated at US$1.4 billion in additional spending above and beyond the KRG budget.[39] In addition, IDP flows into Kurdistan further debilitated an already faltering economy by increasing pressure on a weak labour market and affecting social stability by increasing pressure on the demography and poor infrastructure of Kurdistan.[40] Influx of the IDPs and refugees changed the demographics of Kurdistan making up as much as 30% of its population.[41] Despite the challenges, the issue of the IDPs strengthened Erbil's power in different ways, which were later instrumentalised as arguments to support Kurdistan's independence referendum. A large number of the IDPs were from disputed territories, such as Mosul Palin, and the population of these areas are ethnically and religiously diverse. For the first time in its history, Erbil gained influence in these territories as well as their populations. After the displacement of large number of Arab Sunnis to Kurdistan, the nature of their relationship with the Kurds evolved, with Kurdistan authorities holding increasing sway over Sunni institutions. During this period, community leaders from Nineveh, Salahaddin, Diyala and Kirkuk sought refuge in Kurdistan, while the Nineveh Provincial Council, Mosul universities, schools, courts and other official institutions all moved to Kurdistan from 2014 up to the liberation of Mosul in summer 2017.

Moreover, since 2014, Kurdistan has provided a refuge for minorities fleeing turmoil as a result of sectarian violence and the IS war. The need to design policies addressing the crisis of the influx of millions of new IDPs and minorities into Kurdistan also provided opportunities for foreign governments, international agencies and organisations to directly communicate with the KRG as a de facto state centred in Erbil. This enabled Kurdistan to diversify its sources of external support and earn recognition as a legitimate de facto entity, which helped shift preconceptions of the 'Kurds' as upstart troublemakers to the 'Kurdistanis' as tolerant peace-builders.

Changing recognition strategies

Despite the aforementioned challenges, Kurdistan continued its transformation towards statehood in different ways.[42] *Peshmerga* continued to expand its territory, and the border between KRI and Iraq became 'a lot stronger than that between Iraq and Syria'.[43] Additionally, by emerging as an intrinsic partner in the Global Coalition against Daesh (GCD), Kurdistan not only acquired military leverage,[44] but also gained access to conduct cross-border activities. In October 2014, *Peshmerga* for the first time in its history officially crossed the borders, when KRG secured Turkish and US agreement to assist the defence of Kobanê (a Kurdish city in northern Syria) in the face of the IS attacks through the border crossing with Turkey. The effectiveness of *Peshmerga* also gave Erbil diplomatic interaction and financial support from the GCD member states.[45] Fighting IS brought Kurdistan into close security and military

cooperation with a number of important global actors, most notably the US, the UK, France and Germany. Kurdistan officially acquired a role as an important ally in the GCD, including intelligence sharing, joint operations and commissions between KRG and the GCD (Hemin Hawrami, Senior Advisor to former President Barzani, interview with author, 20 May 2017). In 2016 a Memorandum of Understanding between the Ministry of *Peshmerga* and the US Department of Defense was signed to boost their bilateral cooperation in combating IS.[46] The Memorandum was not only important to deliver a military support to *Peshmerga*, but was also an important sign that Kurdistan enjoyed an unprecedented international engagement.

The struggle for visibility

Kurdistan has 14 representation offices abroad to conduct 'parallel diplomacy' aiming at deepening and institutionalising its diplomatic relations through various channels (Falah Mustafa, Head of KRG's Department of Foreign Relations, interview with author, 31 May 2017). A total of 35 countries boast representation in Erbil, including the five permanent members of the UN Security Council, the EU Delegation and other international organisations.[47] The recent emergence of Kurdistan as 'an inseparable part of the politics of the region',[48] 'recognized and established features of the Middle East political life',[49] enhanced its diplomatic relations with recognised states. As a result, as Erbil became more effective in the fight against IS, it also earned greater engagement and international visibility. At the heart of these changes was Kurdistan's desire to act as if it was a state, not a proxy of other agendas. Erbil's desire to seek visibility is grounded in its desire to seek international recognition. The news of the Kurdistan leaders attended international events and conferences, specifically on countering terrorism, became an important tool to show that Kurdistan is worthy of recognition. For example, the Erbil leaders had a strong presence in the Munich Security Conference in Germany in 2015, 2016 and 2017. The Kurdistan delegation was invited separately from the delegation of the Iraqi government and held more meetings than the representatives of Baghdad (Hemin Hawrami, interview with author, 20 May 2017). It was within this context that many leaders from around the world visited Erbil in addition to Baghdad on official visits to Iraq.[50] German Defense Minister Ursula von der Leyen, for example, visited Erbil during the fight against IS four times.[51]

Two steps back: constrained democratisation and state-building

The presidential crisis

Although Barzani's term in office should have officially ended in 2013 after serving two four-year terms, his tenure was extended for two additional years. This extension was made possible through a parliamentary law issued by the KDP and PUK who were the two dominant political parties in the parliament at that juncture. A second extension took place in 2015 for two more years by the Consultative Council (Shura Council) after the political parties failed to reach a negotiated solution on Barzani's presidency. On 17 August 2015 the Shura Council, based upon a legal interpretation that the president's seat should not be vacant, decided to extend Barzani's term with his powers until the next Presidential elections planned to be held in 2017.

The power structure in Kurdistan is the central underlying factor in explaining the root causes of the crisis. Power in Kurdistan has long been divided between the KDP and PUK. The two emerged as the dominant political parties ever since the establishment of KRG in 1992. However, since 2009 Kurdistan has witnessed a gradual decrease of popular support to these traditional parties. In the 2009 parliamentary elections a new party called Gorran, under the leadership of a former PUK leader Nawshirwan Mustafa, emerged. The KDP and PUK's share of the votes dropped from 89% in 2005 elections to 57% in 2009 elections. As a result, Gorran was able to gain 24% and unseated the PUK as second largest party after the KDP. Gorran assumed the opposition status and demanded 'de-party-isation' of KRI state-like institutions, mainly *Peshmerga* and security forces, limitation and redistribution of the president's powers,[52] as well as changing the draft KRI constitution; especially the governing system from a Semi-Presidential to a Parliamentary one. Notably, the rise of Gorran has changed the balance of power, and sent shock waves across the KRG establishment. As Gorran split from the PUK, it undermined a KDP–PUK balance of power in Kurdistan, which long served as the basis for Kurdistan's state-building process.[53] Barzani's presidential issue was the manifestation of this changing power structure, which Gorran helped to change.

As political parties failed to reach an agreement before the 19 August deadline; Barzani continued to remain as president beyond his term limit but maintained his function as head of the de facto state despite the protests of other parties. Interestingly, in this period, the international community did not press Kurdistan on democratisation initiatives. Rather, the main focus was on the fight against IS. The secretary-general of the Kurdistan Socialist Democratic Party, Muhammad Haji Mahmoud confirmed:

> American and British representatives in the meeting both advised us and warned us […] they told us this is not the right time to reform, with Kurdistan facing the Islamic State, and it can't deal with other issues […] The UK and US representatives told us that if Kurds distract themselves with internal issues, they won't have the support of the UK and the US in fighting the Islamic State.[54]

In this period, Kurdistan also saw a brief spell of violent demonstrations over delayed salaries of government employees. These demonstrations significantly affected the entire political process. The KDP accused Gorran of inciting the demonstrators against it in the Sulaymaniyah governorate. The conflict resulted in reshuffling the KRG's coalition government. On 12 October 2015, the KDP unilaterally removed four members of the cabinet from Gorran. Furthermore, the Parliament Speaker Yusuf Muhammad was prevented from entering Erbil, where the Parliament is based, which resulted in the deactivation of the Parliament for two years.

Statehood vs. democracy

Amidst fighting against IS, Kurdistan was divided along two opposing political discourses which later influenced the timing and process of the independence referendum. The KDP's argument was that Barzani is a stabilising actor, the extension was needed to lead the nation in the fight against IS and lead the entity towards independence.[55] The argument to extend Barzani's tenure was put forward as such independence should be given priority. This crisis also created a discussion around what strategy should be used to achieve independence, what preconditions should be in place and when to determine the best time to launch an

independence campaign. The KDP argued that Erbil needs a strong leadership to move towards independence, rather than hard-fought democracy in a fragile political transition; therefore, any issue impeding independence process should be left to post-Kurdistan state setting. It was within this context that Abdul Hakim Khasro, Member of the KRI Constitution Drafting Committee, declared that 'statehood is not only considered to be a precondition for the creation of a democratic political system, but to create a Kurdish nation, too' (Abdul Hakim Khasro, interview with author, Erbil, 14 August 2017).

In contrast, Gorran, Kurdistan Islamic Group (Komal) and factions of the PUK presented a different argument. They described the extension of Barzani's term as undemocratic and unlawful. At the heart of the argument propounded by this group was that the lack of statehood is not an obstacle to democracy. As the former Head of Gorran Bloc in the Parliament Rabin Maroof stated 'The Kurds do not only want a state, they want a democratic state, too' (Rabin Maroof, former Head of Gorran Movement Bloc in KRI Parliament, Erbil, 11 June 2017). Gorran believed that the relationship between the referendum and the extension of Barzani's presidency was a matter of political rhetoric to suspend democratic process,[56] and called it 'a party-based and illegal decision'.[57]

Though, the Shura's decision provided continuity, it seriously obstructed efforts to gain support of all the parties for the referendum at that point in the Kurdistan history. Barzani was able to lead the fight against IS, but the extension brought Kurdistan into a deadlock, created an institutional vacuum, constrained democratisation and further divided the Kurdistani house. As the crisis was left unresolved, one of the serious fallouts has been its impact on the community at large; it has become a bottom-up conflict shaping the entire political process. The emphasis on independence, and the unfounded belief that it would be a panacea to address all of Kurdistan's internal problems, pushed the Barzani-led KRG to take practical and tangible steps towards independence, such as setting the date for the referendum in June 2017. Barzani's statements on his desire to hold the referendum while he is still in office show the implications of the presidential issue for the timing of the referendum. In 2015, Barzani said 'the day we have an independent Kurdistan, I will cease to be the president of that Kurdistan'.[58] He knew that his tenure would end in 2017 and it would not be possible for him to remain in power any longer. Since then, the referendum became Barzani's number one priority. When asked about the internal political disputes on his presidency and the referendum, Barzani stated 'the independence of Kurdistan is bigger than parliament and political parties'.[59]

Setting the date of the referendum

> Our conviction is that after the war against IS, the interest, the opportunity [for independence] will also disappear.[60]

In the fight against IS, *Peshmerga* sacrificed 1800 fighters, 9000 injured and 60 missing. This created a perception among the Kurdistani policy makers that '*Peshmerga* fought on behalf of the free world', and deserves recognition. The Erbil leadership attempted to leverage its counter-terrorism successes into political support to the referendum. When asked how Kurdistan will continue if it became isolated after the referendum, Barzani replied '[t]his issue is different. One of the reasons given for isolating Qatar is that they are sponsoring terror.

But for us, we broke the myth of terror. We gave blood to break the myth of terror and defeat terror'.[61] In an interview with *The Guardian*, he confirmed: '[a]fter the big sacrifice of the *Peshmerga* and breaking the myth of Isis, we thought they would respect this right [self-determination]'.[62]

To protect Kurdistan's gains during the war, Barzani blazed ahead with referendum plans. Barzani had to move fast to run the referendum, considering important developments such as the approaching end of his term in office and the scaling down of the war against IS as the Mosul operations were concluding and *Peshmerga* retook all areas claimed by Erbil by summer 2017. Barzani believed that in this new era *Peshmerga* was no longer needed, and a move like the referendum was viewed as a necessary step to protect the achievements of *Peshmerga* in the 2014–2017 period. On 7 June 2017, the KDP, the PUK, the Islamic Union of Kurdistan (Yekgirtu) and smaller parties announced that Kurdistan would hold an independence referendum on 25 September 2017. Once the date of the referendum was set, regional and international actors believed that they would be successful in convincing the Erbil leadership to postpone the referendum. They thought that the Kurdistan authorities would ultimately understand how grave the repercussions would be if they pursued a secessionist agenda. Initially, Baghdad, Tehran and Ankara did not react strongly. This view is best illustrated in Turkish President Recep Tayyip Erdoğan's statement: 'Until the very last moment, we weren't expecting Barzani to make such a mistake as holding the referendum. Apparently we were wrong'.[63] In addition, the international community, as Alistair Burt, UK's Minister of State for the Middle East, confirmed, viewed the call for the referendum as a negotiating power with Baghdad.[64]

Internally, different political actors opposed the timing of the referendum. Some PUK leaders such as Bafel Talabani (the oldest son of the late PUK leader Jalal Talabani) were also in favour of postponing it. Gorran and Komal had different opinions about the timing, method and preparations of the referendum. While they stated 'the right of independence is a natural and a just right for all Kurdistan people',[65] they wanted the referendum and the presidential and parliamentary elections, which was planned to be held on 3 November, to be held together on the same day. They feared that pro-referendum parties would use the independence card for their political gains. Another aspect of the tensions is that the KDP has been historically unpopular in Sulaymaniyah, a stronghold of both the PUK and Gorran. The referendum being seen as a KDP project appeared to be the most significant reason why the referendum was less popular in the province. It was within this context, a month before the referendum, the Movement of 'No for Now' was announced. The Movement was led by Shaswar Abdulwahid, the owner of a media conglomerate which includes NRT TV. He described the referendum as 'an excuse by Kurdish leaders to remain in power'.[66] However, the Movement's effect remained limited to Sulaymaniyah and Halabja provinces. The sacredness of independence for the majority of the Kurdish people provided the Movement with a very limited space.

Two visions for statehood

The KDP–Gorran power struggle generated two different discussions on the Kurdistan statehood, which again influenced the approach and timing of the referendum. The first discussion was led by the KDP and shared by factions of the PUK, Yekgirtu and other smaller parties.

They gave priority to seizing the opportunity to gain independence above issues concerning internal politics and democratisation. This is clearly illustrated in the following quotes:

> If we wait and wait to solve all of the issues beforehand, and if we wait until the region is stabilized, we're probably going to be waiting a long time.[67]

> If we wait for all the problems to be resolved, we will have to wait forever.[68]

Another important aspect related to this argument is the prevailing uncertainty towards the future of Kurdistan caused by the lack of international recognition. There was awareness of risks, but remaining in Iraq was perceived as the greatest risk:

> We have a choice […] The first of which is to accept the status quo where others determine our fate while we march backward. The other choice is to make a collective decision and take serious steps towards sovereignty and independence.[69]

> If moving toward independence is risky, staying in Iraq is certainly catastrophic.[70]

In contrast, Gorran, Komal, factions of the PUK and the newly founded Movement of 'No for Now' advocated for democracy first. They argued that Kurdistan is not ready for independence. In August 2017, Gorran stated:

> The Change Movement believes that the pillars for an independent state of Kurdistan, namely a strong economic infrastructure, national institutions, citizens' trust in authority and national unanimity are not in place. These pillars of an independent state of Kurdistan makes it stand against all kinds of dangers and threats, but nowadays these pillars are not in place.[71]

Similarly, the Movement of 'No for Now' stated:

> The referendum must be held when the proceedings for an independent state are already fulfilled. There is a need for the democratic means of a successful state to be met before a referendum of independence. The basis of establishing a state must include a constitution and the social promise for the status of our nation. Peaceful and political coexistence between all different constituencies in the Kurdistan Region must exist.[72]

Alternative path to the independence referendum

As soon as Kurdistan's Independent High Elections and Referendum Commission announced the campaign for the independence referendum on 5 September 2017, the whole process entered to a new phase. The stronger Barzani's language became, the more people welcomed the call. It was in this period when the US, the UK, France and the UN began to present an alternative path to the referendum. Barzani made it clear that Erbil would not compromise on the objective of the referendum (namely independence) but the referendum itself was negotiable.[73] On 15 September 2017, a meeting to discuss the alternative path was held between the Erbil leadership and UN, US and UK representatives. Heather Nauert, spokesperson for the US Department of State, described the alternative as 'a serious and sustained dialogue with the central government, facilitated by the United States and United Nations, and other partners, on all matters of concern, including the future of the Baghdad–Erbil relationship'.[74] In addition, the UN presented another alternative, offered postponing the vote for two years 'until a meeting in the United Nations discusses the Iraqi file, including

the Kurdistan Region and the independence referendum'.[75] As a last attempt, US Secretary of State Rex Tillerson sent a draft letter to Barzani on 23 September 2017 recognising the concerns of Kurdistan and its constitutional rights. This alternative proposal outlined a streamlined approach for negotiation with the Iraqi government and the nature of the future relationship between the two.[76]

Tillerson's letter represented a high mark in international engagement with Kurdistan. Its rejection, nonetheless, turned out to be a grave strategic miscalculation. There are several reasons why the Kurdistan leadership rejected the alternatives. Firstly, since June 2014, Barzani called for holding a referendum several times. In 2016, for example, he promised that referendum would be conducted before the presidential elections in the US. Though the date was formalised in June 2017, many aired suspicions about the feasibility of holding the vote on the named date, 25 September 2017. Any postponement would have badly damaged Barzani's leadership because he referred to it in almost every appearing. Second, the main concern was not the referendum itself, but a possible military confrontation with Baghdad. The leadership in Erbil believed that the US would prevent any military confrontation between its two allies Baghdad and Erbil. They also believed that if the ISF backed by Iranian-aligned militias attacked *Peshmerga* in disputed territories, the US will stand against such a move. This conception was based on the assumption that the US policy was to reduce Iranian influence in Iraq. Additionally, Turkey's rivalry with Iran over political clout will block the expansion of Iranian-aligned militias and the realisation of Iran's dream to have unimpeded access to the shores of the Mediterranean Sea (anonymous, interview with KDP's senior official by author, 22 November 2017). Third, many believed that Kirkuk, due to its historical and strategic importance, would be the area where Baghdad and Erbil would clash. This is so because Kirkuk has been a stronghold of the PUK since 2003. Pro-referendum figures including the First Deputy for the Secretary General of the PUK Kosrat Rasul, the Governor of Kirkuk Najmadin Karim and the Head of *Peshmerga*'s 70th division Sheikh Jaafar all had a strong presence in Kirkuk. The main perception in Erbil was that the PUK's *Peshmerga* forces in Kirkuk would fight if necessary. Masrour Barzani later confirmed '[w]e never believed that the *Peshmerga* force of Kurdistan, especially those forces of the PUK, would listen to these people [referring to Bafel Talabani and Lahur Talabani who had a secret agreement with Baghdad to leave the city indefensibly]. We thought that they will endure, fight, and prevent any attack'.[77] However, the withdrawal of the *Peshmerga*, including the KDP-affiliated forces, across the disputed territories remains obscure. While KDP officials argue that their withdrawal was to avoid potentially grave internal civil conflicts, such as split administrations and perhaps civil war, the KDP's retreat from the front lines has come under vitriolic criticism as well. Fourth, by the time Tillerson's letter was received, the referendum had already become a *fait accompli*. KRI's High Council for Referendum received the letter late on 23 September. The Council felt that the alternatives presented no solid promises of future statehood and demanded stronger wording in the letter in the form of guarantees.[78] Fifth, Barzani believed that Washington could not bind the future Iraqi government as Baghdad would not accept referendum in the future. Kurdistan's fear about the change of policies in the next cabinet in Baghdad was understandable, especially as the political fate of PM al-Abadi, also known as 'the US man', was ambiguous. However, Erbil was wrong in assuming that Baghdad would agree to such an arrangement as the Iraqi government was under strong populist, religious and sectarian pressures against secessionist attempts in Erbil. Importantly, by September 2017, Iraq was largely free from the IS reign. This new dynamic

generated an atmosphere of a military victory and sense of strength and pride among the ISF and Hashd al-Shaabi. The inclusion of Kirkuk and other disputed territories in the referendum exerted tremendous pressure on Baghdad to assert itself and preserve its positive momentum. Sixth, another important explanation why Barzani believed that the referendum should not be postponed is related to the history of Kurdistan since its creation in 1991. Kurdistan has achieved most of its powers since 1991 via imposing the realities on the ground in a mode of de facto imposition. A case in point is the status of *Peshmerga* after 2003. Barzani throughout the referendum campaign tried to convince the people that the result of the referendum will accepted as de facto with the passage of time. 'After years of experience, now I have learnt how to deal with the countries asking for postponing the referendum [mainly referring to the US]. They first threaten you, and then will deal with the facts on the ground'.[79] Finally, refusing the alternatives and the advices of the international actors, including the allies, can be explained in the desire of the Kurdistan leadership to be seen as an independent actor. In this vein, Cockburn explains that 'minority communities and small nations must occasionally kick their big power allies in the teeth'.[80] Similarly, Hawrami confirmed 'for the first time in 100 years the referendum shows that, we are not a proxy of external actors, we are no longer just reacting to the actions of others; we are an independent player' (Hemin Hawrami, second interview with author, 21 January 2018).

The aftermath

Though Erbil leaders tried to explain that the referendum should not be perceived as an immediate threat, the referendum meant what it says.[81] Kurdistan's initial plan was to conduct the referendum and negotiate with Baghdad on independence for 1–2 years. If negotiations failed, then independence would be declared. On 25 September 2017, Kurdistan proceeded with the referendum with the aim of entering into a new phase of policies vis-à-vis Baghdad, through achieving a popular and legal mandate to negotiate with the government of Iraq. However, former PM al-Abadi strongly refused to discuss the results, demanding its outcomes be nullified. In addition to Baghdad, Washington already warned Erbil that 'if this referendum is conducted, it is highly unlikely that there will be further negotiations with Baghdad, and the above international offer [referring to alternatives] of support for negotiations will be foreclosed'.[82] Baghdad, with an appetite for revenge against Erbil's unilateral decision, adopted a multi-sectoral isolation policy against the de facto powers of Kurdistan. Erbil's unsupported decision left al-Abadi with almost unanimous support from Iraq's parliament, regional countries and the international community, including the US, when he emphasised his own '[obligation] as commander-in-chief of the armed forces to take all legal and constitutional steps to protect the unity of Iraq and its people',[83] including deploying ISF to replace *Peshmerga* in all disputed areas, banning international flights to Erbil and Sulaimaniyah, and demanding KRG relinquish control of its airports, border gates and crossing points. On 16 October 2017, ISF, backed by *Hashd al-Shaabi* militias, seized Kirkuk and all other disputed areas, causing *Peshmerga* to retreat from all territory taken from IS since late 2014. These actions reverted the KRI boundaries along the disputed frontier to those drawn in 2003, striking a punishing political blow to some of the Kurdistan's hard-won de facto powers.

Kurdistan's ill-fated referendum also changed the military balance in favour of Baghdad. The weakness of the Iraqi government, in military terms, was essential for the consolidation of Kurdistan after 2003. The Iraqi government managed to prevent Kurdistan from effectively making use of the territory of which it had gained control in war, and thus had very little incentive to engage in a comprehensive discussion with Erbil about a future power-sharing deal beyond the Iraqi constitution. Kurdistan suffered a loss of international sympathy and political backing,[84] with international actors blaming the Erbil leadership for the escalation with Baghdad. The KDP and other parties found it difficult to maintain the rhetoric of independence, and had to freeze the results of the referendum in an attempt to ease the political tensions with Baghdad and the international community. From moving towards independence, the strategy changed to protecting the constitutional entity of KRI as a federal region within Iraq. While Kurdistan's central role in the fight against IS presented a great opportunity for Kurdistan to move towards an independent state, the post-referendum crises also highlighted that a united force is certainly a key ingredient that Kurdistan is lacking.

Conclusion

Through a deeper look at both internal and external security and political dynamics, we analysed the drivers that shaped the timing, decision and method of the referendum. During the IS war (2014–2017), Kurdistan emerged as an independent actor with the desire for fully-fledged statehood. The fight against IS, as was coming to a close in summer 2017, enabled Kurdistan to expand its territory, strengthen its hard power and increase international support and engagement which, in turn, served as a primary driver shaping the move towards independence in September 2017. While the 2015 political deadlock resulting in the illegal extension of Barzani's presidency was not a determining factor leading to the referendum, it nonetheless quickened the process and significantly influenced the timing of the referendum.

As presented in the article, Kurdistan is a constant, dynamic and ambiguous entity with a modal tendency in a fluid political transition and development towards *de jure* statehood. A non-linear transition in the case of Kurdistan is defined by the entity's changing dynamics of its transition towards *de jure* statehood, Kurdistan's ambiguity with waxing and waning de facto powers vis-à-vis Baghdad, and the various internal security and political dynamics affecting its strategies to gain international recognition. For example, from 2014 to 2017, Kurdistan moved in two directions, alternating between a somewhat fragile entity (e.g. the 2015 political deadlock) and a functioning de facto state (e.g. success in fighting IS). Therefore, to better comprehend the development of Kurdistan's de facto statehood, we should not confine the development to a specific time period or case. Instead, we need to focus on a combination of multiple drivers constituting an unstable transition towards *de jure* statehood.

Kurdistan as a de facto state long sought to preserve the status quo, especially when international recognition was deemed unobtainable after the 2003 war. Nevertheless, when there is a perceived opportunity, as an aspiring state Kurdistan will seek full-fledged statehood, as the 2017 referendum for independence shows that. From 2003 to 2017, Kurdistan benefited from the weakness of the Iraqi government to increase its international engagement. Here, an important conclusion about de facto states can be drawn from Kurdistan's unilateral independence referendum. The timing, approach and move towards

independence are subject to internal security and political dynamics and constraints more than international practices of state recognition. This requires a deeper look at the internal governance of de facto entities and how their internal environment shapes their strategies to achieve independence.

In addition, Kurdistan's recent developments are useful for analysing the nexus between war and state formation. The IS war enabled Kurdistan to increase its military capability, territorial control and international engagement. However, the abrupt end of the referendum's hope for independence highlights the centrality of coercive control and the unification of security forces to both protect the de facto independence of an entity and move it towards international recognition. While there is no evidence to support the prediction that Kurdistan's unified military response to the attacks of the ISF and Hashd al-Shaabi would have provided international support for the referendum results, the lack of a unified and effective response gave the international community no reason to support Kurdistan.

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Notes on Contributors

Kamaran Palani, corresponding author, is a PhD Student at Leiden University, The Netherlands.

Jaafar Khidir is Assistant Professor of Political Science, Salahaddin University, Erbil, Kurdistan Region-Iraq.

Mark Dechesne is Associate Professor at Leiden University Dual PhD Centre.

Edwin Bakker is professor in Terrorism and Counter terrorism at Leiden University - Institute of Security and Global Affairs.

Notes

1. KRI refers to the Kurdistani autonomous region that emerged in northern Iraq after the institution of No-Fly Zone in 1991. Iraq's 2005 constitution recognised KRI as the only federal region within Iraq's borders replete with protected privileges, including control over a military, economy and body of law independent from that of the government of Iraq as per Section 5, Article 117. KRI consists of the four provinces of Erbil, Sulaymaniyah, Duhok and Halabja with a combined population of more than five million, as well as large sections of territory known as the 'disputed territories': claimed by both Baghdad and Erbil. Since 1991, Kurdistan has developed many state-like competences (from security to visa regulation and borders' control, among others) that have laid the foundation for being a de facto state.
2. The KRI's Independent High Elections and Referendum Commission has not published a breakdown of numbers per province. According to non-official numbers, turnout was high in the KDP-dominated provinces of Erbil and Duhok and the disputed province of Kirkuk. However, as the referendum was seen as a KDP project by many in the PUK-controlled areas of Sulaymaniyah and Halabja, the turnout was low there.
3. *Peshmerga* is a complex security organisation, and its loyalty is divided along party lines. However, simultaneously *Peshmerga* can be characterised as the army of Kurdistan. The Ministry of Peshmerga has gradually established a control over 14 mixed units of *Peshmerga*, and the Global Coalition against Daesh only recognises the units under the control of the Ministry; van Wilgenburg and Fumerton, "Kurdistan's Political Armies"; Fliervoet, *Fighting for Kurdistan?*

4. Hama and Jasim, "Loss of Disputed Territories."
5. Park et al., "Field Notes."
6. Kaplan, "Foreign Support."
7. Caspersen, *Unrecognized States*.
8. Broers, "Recognizing Politics."
9. Gürbey et al., "Introduction," 4.
10. Bartmann, "Political Realities and Legal Anomalies"; Lynch, *Engaging Eurasia's Separatist States*; Pegg, *International Society*; Florea, "De Facto States in International Politics"; Voller, *The Kurdish Liberation Movement*.
11. Geldenhuys, *Contested States in World Politics*; Ker-Lindsay, "Engagement without Recognition."
12. See note 6 above.
13. Kolstø, "The Sustainability and Future."
14. Kingston and Spears, *States-Within-States*.
15. King, "The Benefits of Ethnic War."
16. Pegg, *International Society*, 26.
17. Caspersen, *Unrecognized States*, 11.
18. Ibid.
19. Harvey and Stansfield, "Theorizing Unrecognized States."
20. See note 6 above.
21. Voller, *The Kurdish Liberation Movement*.
22. Gunter, "Unrecognized De Facto States."
23. MacQueen, "Democratization, Elections and the 'De Facto State.'"
24. Jüde, "Contesting Borders?"
25. Richards and Smith, "Playing in the Sandbox."
26. Jongerden, "Governing Kurdistan," 68.
27. Broers, "Recognizing Politics," 6; Kolstø, "The Sustainability and Future."
28. Caspersen, *Unrecognized States*, 76.
29. Ibid., 23.
30. Tansey, "Does Democracy Need Sovereignty?"; Kolstø and Blakkisrud, "De Facto States and Democracy"; Richards and Smith, "Playing in the Sandbox."
31. Richards and Smith, "Playing in the Sandbox," 1722.
32. Caspersen, *Unrecognized States*.
33. Pegg, "Twenty Years of De Facto State Studies."
34. Kingston, "Introduction."
35. Caspersen, *Unrecognized States*, 12.
36. Ibid., 106.
37. "Kurdistan's Barzani."
38. "Iraq Kurdistan Independence Referendum Planned."
39. "The Kurdistan Region of Iraq."
40. Costantini and Palani, *Displacement-Emigration-Return*, 12.
41. Joint Crisis Coordination Centre, *KRG's Humanitarian Leadership*.
42. Stansfield, "The Evolution of the Political System," 61–76.
43. House of Lords, *The Middle East*, 66.
44. Charountaki, "State and Non-State Interactions," 11.
45. House of Lords, *The Middle East*; Charountaki, "State and Non-State Interactions"; Kaplan, "Foreign Support."
46. Kurdistan Regional Government, "Kurdistan Region and the US."
47. "Current Foreign Representations in the Kurdistan Region."
48. House of Lords, *The Middle East*, 68.
49. Stansfield, "The Evolution of the Political System," 62.
50. For example, during the IS war Barzani received senior delegations and leaders from the US, UK, France, Germany, Italy, Netherlands and the regional countries of Turkey and Iran. The key themes discussed during the meetings were the war against IS, the international support to the *Peshmerga* and the IDPs and, recently, the KRI's move towards the independence referendum. Below is the breakdown of the visits per year:

2014: Barzani received 71 delegations.
2015: Barzani received 88 delegations.
2016: Barzani received 99 delegations.
2017: Barzani received 55 delegations. Source: Xebat newspaper from June 2014 to October 2017.

51. "German Defense Minister."
52. Stansfield, "The Evolution of the Political System," 66; Watts, "Democracy and Self-Determination," 159; Ala'Aldeen, "State-Building in a Fragmented Kurdistan," 2.
53. See note 23 above.
54. "Kaka Hama."
55. Danilovich, "Introduction," 3; Salih, "Iraqi Kurds in Limbo."
56. See note 4 above.
57. "Decision to Hold Referendum Is Party-Based."
58. Zaman, "Massoud Barzani Vows to Fight Corruption."
59. Ibid.
60. Barzani, "Barzani's Speech to the Vocational."
61. Macdiarmid, "Masoud Barzani."
62. Chulov and Johnson, "Barzani on the Kurdish Referendum."
63. McKernan, "Kurdistan Referendum."
64. Burt, "Kurdish Aspirations."
65. Gorran, "KIG Call for Delaying Referendum."
66. Diehl, "Why a Referendum Won't Solve Iraqi Kurdistan."
67. Perelman, "Exclusive."
68. Kent, "Can the Kurds Pull off Kurdexit."
69. "Barzani: We've a Choice."
70. Ali, "If Moving toward Independence Is Risky."
71. See note 65 above.
72. "No For Now."
73. Barzani, "Barzani's Speech in Amedi."
74. US Department of State, "Iraqi Kurdistan Regional Government."
75. "PUK: Kurdistan Should Take US, UK, UN Alternative."
76. Lake, "Tillerson Letters."
77. "Despite Losses, Kurds Have 'Promising Future.'"
78. Ibid.
79. Barzani, "Barzani's Speech to Religious Scholars."
80. Cockburn, "The Kurdish Referendum."
81. See note 64 above.
82. See note 74 above.
83. Council of Representatives of Iraq, Decision NO. (55), 2017.
84. Kaplan, "Foreign Support," 30.

ORCID

Kamaran Palani http://orcid.org/0000-0002-4463-0085
Mark Dechesne http://orcid.org/0000-0001-5929-7855
Edwin Bakker http://orcid.org/0000-0002-1200-9489

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