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Fluidity and dynamics of de facto statehood: the case of Iraqi Kurdistan
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Chapter 3

Strategies to gain international recognition: Iraqi Kurdistan's September 2017 referendum for independence¹³

¹³ This chapter is an adapted version of the article by *Palani, K., Khidir, J., Dechesne, M., & Bakker, E. (2019). Strategies to gain international recognition: Iraqi Kurdistan's September 2017 referendum for independence. Ethnopolitic. DOI: 10.1080/17449057.2019.1596467*

3. STRATEGIES TO GAIN INTERNATIONAL RECOGNITION: IRAQI KURDISTAN'S SEPTEMBER 2017 REFERENDUM FOR INDEPENDENCE

ABSTRACT

Despite the growing interest in the study of de facto states, our understanding of the conditions under which these entities construct and change strategies to gain international recognition remains partial. The aim of this article is to answer the following questions: firstly, what strategies did the Kurdistan Region of Iraq adopt in its pursuit of international recognition? And secondly, what internal and external dynamics are responsible for changing these recognition strategies? To do so, we analyse 68 speeches, interviews and statements from former KRI President Masoud Barzani, from the public announcement of an independence referendum on 7 June 2017 to the holding of the referendum on 25 September 2017, looking into his arguments for independence and how internal and external dynamics have shaped the KRI's recognition strategies. Drawing on the case of the KRI, the article tries to provide insights into how de facto states construct their arguments for statehood.

3.1 INTRODUCTION

Over the past two decades, under conditions of de facto statehood the Kurdistan Region- Iraq¹⁴ (KRI) has pursued different strategies to gain recognition as an independent state. It has made claims to independence based on the right of self-determination, the experience of genocides and gross human rights violations under Saddam Hussein's regime in the 1980s, its alleged success in creating a democratic and functioning entity from 2003 to 2014 (Voller, 2014), and

¹⁴ The KRI refers to the Kurdish autonomous region that emerged in northern Iraq after the institution of the No-Fly Zone in 1991. 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 Erbil and Baghdad. Since 1991, Iraqi Kurdistan has developed many state-like features (from security to visa regulation and border control, among others) that have laid the foundation for being a de facto state.

recently, as this research analyses, on the administrative failure of the central government of Iraq in ensuring the rights of the KRI (see Table 1).

Since 2014, several radical political transformations have affected the de facto statehood of Iraqi Kurdistan, culminating in the 25 September 2017 independence referendum. On this day, eligible voters from the Duhok, Erbil, Sulaymaniyah, and Halabja governorates, and KRI-controlled areas of the Kirkuk, Diyala and Nineveh governorates, voted either

Table 1. Rhetoric surrounding KRI's recognition (2003–2017)

| Period | Key words | Drivers of change | Audience | Political actors shaping the strategy |
|-----------|---|---|-----------------------|---|
| 2003–2010 | The Other Iraq, democratic and functioning governance. | Instability in Iraq, the weakness of Iraqi government, KRI's economic growth. | External | KDP and PUK |
| 2010–2014 | Economic independence, Baghdad's growing 'centralised and sectarian rule'. | KRG's oil contracts with international companies, Maliki/Barzani disputes. | External and internal | Largely KDP, and PUK |
| 2014–2017 | Independence referendum, the end of partnership with Baghdad, self-determination. | <i>Peshmerga's</i> central role in the fight against Islamic State, international support <i>Peshmerga</i> received during the war, the 2015 presidential crisis. | External and internal | Largely KDP-, with factions of PUK, the Islamic Union |

'yes' or 'no' to the question: 'Do you want the Kurdistan Region and the Kurdistan areas outside the administration of the Region to become an independent state?' Despite a low turnout in the governorates of Sulaymaniyah and Halabja,¹⁵ an overwhelming 92.73% majority voted for 'yes'. The KRI's referendum has made Kurdish statehood an international issue (Cockburn, 2017b); however, the unilateral referendum backfired, with many negative consequences for the entity. The reaction to the referendum highlights broad international consensus against creating new states in the region, with arguments based on stability and legality. The expulsion of the *Peshmerga* from Kirkuk and other disputed territories in October 2017, threatened the gains of

¹⁵ 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.

the previous twenty-five years, and importantly, Iraqi Kurdistan's existence as a de facto entity. Nonetheless, few academic studies have examined why the political leadership in the KRI changed its strategy in their pursuit of international recognition, and what internal and external dynamics are responsible for explaining the strategies.

To answer these questions, this article analyses 68 speeches, interviews and statements in Kurdish, English and Arabic from former KRI President Masoud Barzani (2005–2017) on Kurdistan's independence referendum, from 7 June 2017 when the date for the referendum was set, to the holding of the referendum on 25 September 2017. In a visit to Barzani's office in Pirmam, Erbil on 21 January 2018, transcripts of Barzani's campaign speeches were collected. In addition, the study relied on the Kurdistan Region Presidency website for the briefs of Barzani's private meetings with officials and diplomats (see [Appendix 1, Chapter 3](#)). Using these documents, Barzani's arguments for independence, the construction of the arguments, and how internal and external dynamics influenced them, were analysed. Barzani was the driving force behind the referendum, and the first who officially called for the referendum in June 2014 (see "Iraq Kurdistan Independence Referendum Planned," 2014). Thus, to analyse the KRI narratives and strategies to gain support for the Kurdish quest for statehood, it is critical to analyse Barzani's arguments for independence.

This analysis is complemented by the researchers' personal observations and experiences in attending to key events where Barzani and the KRI officials presented their arguments for independence during the referendum campaign in Erbil in summer 2017. Through an analysis to the case of Iraqi Kurdistan, this article provides insights into the internal and external dynamics that de facto states face in adopting their recognition strategies— a point around which the literature has not paid enough attention, as argued by Caspersen (2015a). In addition, the article explores under what conditions aspiring states change their recognition strategies, and how the de facto state authorities use different arguments to gain recognition in addressing both internal and external audiences. To understand the changes that have taken place over the past two decades in de facto states' strategies of recognition, we argue that it is crucial to

reassess internal dynamics of these entities together with external ones. By combining the two, this article contributes to the literature by arguing that internal dynamics are as important as external dynamics, when de facto states construct and prioritise certain strategies to gain international recognition.

The outline of this article is as follows. The next section introduces strategies pursued by de facto entities to gain recognition over the past two decades. Then the article offers a brief background on the development of Kurdistan's de facto statehood from 1991 to 2017, which is instrumental in understanding the evolution of Iraqi Kurdistan and its recognition strategies. In the following sections, we examine the KRI's recognition strategies through analysing Barzani's campaign speeches surrounding the 2017 September referendum, and evaluate them in relation to internal and external dynamics that contributed to a changing strategy for recognition. In conclusion, the article argues that the main strategy adopted by the KRI for gaining international support combined a claim on failure of partnership and power sharing arrangements with the central government of Iraq, with a claim to national self-determination based on past grievances. This new strategy represents a significant shift from Kurdistan's previous strategy of 'earned sovereignty' based on alleged success in democratisation and state-building to demonstrate its right as an independent state.

3.2 STUDYING RECOGNITION STRATEGIES

Within the discipline of International Relations, there has been an increasing interest in analysing de facto states and to distinguish these 'anomalies' from other forms of statelessness: non-state actors, and separatist and secessionist movements. However, the theoretical discussion is still in its nascent stages (Gürbey, Hofmann, & Syder, 2017, p. 4), 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, a plethora of terms have been used: 'de facto states' (Bartmann,

2004; Florea, 2014; Lynch, 2004; Pegg, 1998; Voller, 2014); 'contested states' (Geldenhuys, 2009; Ker-Lindsay, 2015); 'unrecognized states' (Caspersen, 2012); 'quasi-states' (Kolstø, 2006); 'states-within-states' (Kingston & Spears, 2004); and 'state-like entities' (King, 2001). All these classifications point to a condition in the continuum between formal recognised statehood and other forms of statelessness. This article adopts a definition of de facto states as entities that meet normal criteria for statehood, but lack international legal recognition. In the words of Pegg (1998, p. 26), de facto states derive from

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.

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 (2012, p. 11). The literature shows that there is significant variation in the degree of statehood achieved by de facto entities (Caspersen, 2012). Based on the degree of the above criteria achieved by Iraqi Kurdistan over the past two decades, scholars like Harvey and Stansfield (2011), Caspersen (2012), Voller (2014), Gunter (2014), MacQueen (2015), Jüde (2017) and Richards and Smith (2015) categorised Kurdistan and the political nature of its polity among a group of de facto states.

While the de facto state literature shows that the lack of international recognition does not consign de facto states to pariah status (see Caspersen, 2012), the current international order

places a great deal of importance on recognition as a condition for sovereign statehood (Florea, 2017, p. 337). Therefore, de facto states not only aim to maintain their de facto independence, but they also pursue different strategies to achieve international recognition (Caspersen, 2012, p. 106), which remains their ultimate goal (Richards & Smith, 2015, p. 1717). Since the survival of de facto statehood is not guaranteed, leaders of these entities need to determine how they can maintain their status when the conditions do not grant space for *de jure* statehood. While seeking 'recognition remains an existential issue for de facto states' (Caspersen, 2015a, p. 398), still little is known about recognition strategies (Caspersen, 2015a, p. 393). Very little research exists on how and when the leaders of these entities decide to change their recognition strategies.

To gain international recognition, the de facto states authorities have relied on different arguments and strategies, which can be grouped around three claims: *self-determination*, based on national identity, historical continuity, and past grievances; *remedial secession*, based on alleged human rights violations; and *earned sovereignty*, based on the creation of effective, legitimate and democratic entities. These strategies and claims 'are continuously being refined and renegotiated in view of changes in the international norms and practice of recognition' (Caspersen, 2012, p. 68). Since the late 1990s, there has been a gradual change from claims based on national identity and past grievances, to claims related to the effectiveness and democratic nature of the entities, therefore being worthy of state recognition (Caspersen, 2012; Richards, 2014; Voller, 2014). In the post-Cold War era, the introduction of a new set of moral norms (such as respect for human rights, protection of minorities, and democracy) have determined whether an entity should be recognised as a state, and thus have also determined practices and strategies for recognition and legitimation (Ryngaert & Sobrie, 2011). Earned sovereignty has become 'a valuable ticket of admission into the international arena' (Florea, 2017, p. 342). One of the main important consequences of the post-Cold War's new normative criteria of statehood, as mentioned above, has been the emphasis on the internal functions and organisation of de facto states. In this struggle for status and recognition, de facto states not

only face external pressures, but also significant internal constraints, as the struggle for statehood serves to legitimise the leadership and popular mobilisation (see Caspersen, 2012). In examining the strategies adopted by Somaliland, Abkhazia, Transnistria, Nagorno Karabakh, and Taiwan to gain international recognition, Caspersen (2015a, p. 407) finds that

the claims made by aspiring states do not directly mirror changes in the practice of state recognition and the normative criteria applied. These strategies are subject to important internal and external constraints, and this explains the considerable degree of continuity observed.

The changes that occurred in recognition and legitimation practices in the 1990s and the 2000s made democratisation a central element in de facto states' arguments for statehood (Broers, 2013; Pegg, 2017). The 'standards before status' policy for Kosovo's recognition created a perception among the leaders of de facto states that by creating democratic and effecting entities along international normative standards of statehood, they could gain international recognition. However, the lack of achievement of such standards did not prevent Kosovo from achieving recognition. This policy was replaced by 'status before standards' (Caspersen, 2015a, p. 397). This has complicated existing uncertainties over recognition strategies. As a result, the normative conditionality for statehood that had been introduced in the 1990s appeared to have given way to another strategy: great-power politics and support. A new trend to ensure great-power support among aspiring states is on the rise. As Caspersen (2015b, p. 189) observes, 'Kosovo's recognition was to a large extent dependent on US support, while Abkhazia and South Ossetia would never have been (partially) recognised had it not been for the role of Russia.'

3.3 BACKGROUND TO IRAQI KURDISTAN'S DE FACTO STATEHOOD

After the ashes of the 1991 Gulf War, an uprising broke out in northern Iraq. In response to Saddam Hussein's retaliatory massacres against the uprising, resulting in the displacement of

hundreds of thousands of the Iraqi Kurds, the US-led Multi-National Forces launched Operation Provide Comfort to defend civilians attempting to flee. When the UN enacted Security Council Resolution 688, and the US, the UK and France began enforcing a no-fly zone north of the 36th parallel in April 1991, Baghdad's authority in Iraqi Kurdistan almost vanished. Ba'ath Party administrators and military forces withdrew from the Duhok, Erbil and Sulaymaniyah governorates in October 1991. The Iraqi Kurds took this opportunity to elect their first parliament and government in 1992, and have been effectively autonomous ever since, with increasing de facto recognition. The Kurdistan Front¹⁶ leaders decided to hold a general election in May 1992 in order to attain domestic legitimacy, fill the administrative vacuum left by the Saddam regime, settle disputes between different political parties, and importantly, attract the international community by holding elections along internationally accepted lines (Bengio, 2012, p. 202; Voller, 2014, p. 71). However, the new social and political structures of Iraqi Kurdistan were not ready for competitive politics and hard-fought elections. Above all, the political parties did not have the experience in governing cities. As the Secretary General of the Patriotic Union of Kurdistan (PUK), Jalal Talabani, stated, 'we came from the mountains, we were trained as fighters, and now we had to run cities' (Stansfield, 2003, p. 123). The Kurdistan Democratic Party (KDP) gained a slight advantage over PUK with 51% of votes opposed to 49%. The two agreed to a 50:50 division of seats in order to administer jointly the autonomous region. The 50:50 system prevented the outbreak of fighting, but when a balance of power between the two changed, the system increased the risk for a decline into confrontation. Kurdistan had a very difficult inception, which is still impacting its development. In 1994, fighting between the KDP and PUK erupted due to a residue of past animosity dating back to the 1960s, disputes over land rights, conflict over revenues and disagreements over the 1992 election results (Ahmed, 2012; Stansfield, 2003). In 1998, the US brokered the Washington Agreement to end the civil war, which created two separate administrations in Erbil and Sulaimaniyah. The Washington Agreement was critical in ending the fighting, but the emergence

¹⁶ The Kurdistan Front was established in 1988 by Kurdish parties to organise opposition against the Saddam regime.

of two administrations constrained the subsequent democratisation and state-building processes. As Caspersen (2012, p. 81) argues, 'Kurdistan overcame threats to its internal stability through the institutionalization of divisions.'

The US-led 2003 invasion of Iraq gave the Kurdish leaders an opportunity to unify the two administrations. From 2003 to 2014, the main strategy adopted by the Kurdish leadership aimed to improve the status quo, benefiting from the participation in rebuilding the new Iraq, and ensuring greater access to the international system through Baghdad. KRI's two major parties, played kingmaker in Baghdad, and occupied the posts of president, minister of foreign affairs, and other key positions. They also played a major role in bringing the constitution to fruition in 2005. The new constitution recognises the Kurdistan Region as the only federal region within Iraq's borders replete with protected privileges, including control over security forces, economy and body of law independent from that of the government of Iraq, as per Section 5, Article 117. These, further, should not contradict the Iraqi constitution. Kurdistan became more stable, particularly as a result of the 'Unification Accord' between the KDP and PUK that came into effect in 2006 when a coalition government of unity replaced the previous two administrations. While unification progressed a great deal during this time, it has eventually failed to unify and institutionalise the key ministries of finance, *Peshmerga*, the interior and intelligence agencies. In other words, despite the development of the government institutions, the centre of power has remained outside the reach of the government. Nevertheless, during this period the new power sharing agreement at the top level enabled Erbil to speak with one voice to Baghdad.

In addition, the constitution allocates 17% of the national budget to the KRI, based on population percentages. From 2005 to 2013, the Kurdistan Regional Government (KRG) budget increased from about \$2.5 billion to \$13 billion (Natali, 2015, p. 147). With oil prices at their peak between 2012 and 2013, Erbil experienced an unprecedented economic boom, with annual growth rates amounting to 12% ('Determined to Grow,' 2013). The abovementioned events greatly shaped the power configuration between Baghdad and Erbil. Although Kurdistan

emerged as a de facto state before 2003, it was in the post- 2003 period that the entity came into being for its population. The context of non-recognition, as argued by Richards and Smith (2015), played a positive role in the development of state-building in this period. The Kurdish leaders used the dysfunctional Iraqi government to increase their de facto powers, and began presenting the region as 'the Other Iraq' or as an 'island of stability', therefore strengthening Kurdistan's claim for international recognition. This, together with the emphasis put on the effectiveness of the entity, became an important argument in the efforts of the Kurdish leadership for gaining support for the Kurdish quest for statehood. In addition, in the first decade after 2003 the prospect of democracy was also high compared to other phases. Between 2003 and 2015, many considered the KRI's democratisation attempts as a good example of democracy in Iraq, in terms of relatively fair elections, rights for religious and ethnic minorities, women rights, and emerging active opposition in parliament. During this period, the Kurdish leaders started emphasising the entity's alleged success in democratisation and state-building, and these claims came to dominate Kurdistan's external legitimation strategy. However, despite Kurdistan witnessing positive developments in terms of democracy and state-building compared to the rest of Iraq, its democratic development has by no means been linear. In addition to an effort to consolidate the KDP and PUK's power over KRI especially after 2005 (MacQueen, 2015, p. 430), democratisation was notably driven by differentiating itself from the government in Baghdad. It has failed to strengthen the core of democratic institutions and institutionalise security and Peshmerga forces. The KRI's 2015 democratic deficit, as explained below, is a manifestation of this reality.

Iraqi Kurdistan's emphasis on effective governance was also combined with efforts to attract the regional and great-power support. Erbil's strategy to develop its oil and gas sector served the region's purpose of becoming economically independent from Baghdad (Stansfield, 2014, p. 4). In addition, the KDP and PUK benefit from wealth coming from oil for patronage and consolidation of their power (Mills, 2016, p. 41). As a result, Kurdistan has become 'one of the most active areas for onshore oil and gas exploration in recent years' (Mills, 2016, p. 17).

Attracting international oil companies like ExxonMobil, Rosneft, Chevron Total and Gazprom Neft in 2012, became a game-changing move (Stansfield, 2013, p. 273), with major political implications for Kurdistan's independence (Mills, 2016, p. 1). This development was significantly driven by the perception that, for gaining international recognition, the KRI needed to attract the interests of the great powers. Moreover, involving the international oil and gas companies might, it was believed, deter Baghdad and other neighbouring countries from taking punitive measures against the KRI.

3.3.1 A CHANGE IN RECOGNITION STRATEGIES

After 2003, a weak Baghdad looked with greater suspicion at the consolidation of Kurdistan's de facto autonomy. The weakness of the Iraqi government was one of the most important factors in the consolidation of Kurdistan after the regime change. Since the start of the era of Nouri al-Maliki, especially in his second term (2010–2014), serious disagreements between Erbil and Baghdad over different issues, such as status of the *Peshmerga*, revenue sharing, oil exportation and disputed territories, emerged. It was within this period that for the first time after 2003, the KRI leaders, mainly Barzani, introduced the idea of independence as a solution to the Erbil-Baghdad disputes (see Van Wilgenburg, 2012). In response to Erbil's push towards increased de facto independence, al-Maliki started imposing punitive military, political and economic measures on the KRI, such as deploying Iraqi Security Forces (ISF)/Dijla forces to Kirkuk to assert Baghdad's control in November 2012, with enduring and severe implications for future Baghdad-Erbil relations. Furthermore, the PM directed the Iraqi Ministry of Finance to cease paying the KRG's 17% national budget in 2014, accusing the KRG of not delivering the agreed amount of oil to the State Organisation for Marketing of Oil (Nader, Scotten, Allen, & Hanauer, 2016, p. 42). These changes aggravated pre-existing tensions between the two governments causing the parties to revert to a degree of Saddam-era distrust and acrimony.

The collapse of ISF in northern Iraq in mid-2014 as Islamic State (IS) advanced, created an opportunity for Kurdistan to expand its territory. As soon as ISF left these areas in June 2014, Barzani ordered the deployment of *Peshmerga* to hold Kirkuk, Tuz Khurmatu, the 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 constitution, which is designed to settle territorial disputes between Erbil and Baghdad, 'has been implemented and completed for us' ('Kurdistan's Barzani,' 2014). More than ever, the *Peshmerga's* ability to succeed where ISF failed to stymie 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. Thus, on 3 July 2014, Barzani instructed the KRI Parliament to begin preparations for the independence referendum. Then on 7 July of that year he announced that 'from now on, we will not hide the fact that independence is our goal' ('Iraq Kurdistan Independence Referendum Planned,' 2014).

While the advance of IS presented an opportunity for Iraqi 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. On 7 August of that year, 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 (Khateeb & Mehdi, 2014), financing the war against IS, the influx of 250,000 Syrian refugees and 1.5 million internally displaced populations, overwhelmed Kurdistan with a severe financial crisis. In combination, these challenges forced Erbil to postpone the calls for a referendum, yet it kept it as its declared goal.

Despite the aforementioned challenges, Iraqi Kurdistan maintained its position towards independence in different ways (Stansfield, 2017). Becoming a crucial strategic member of the

Global Coalition against Daesh (GCD), Erbil not only acquired military leverage (see Charountaki, 2018; Kaplan, 2019), but also gained the ability to conduct crossborder activities. For example, in October 2014, *Peshmerga* for the first time in its history officially crossed the border, when Erbil secured Ankara and Washington's agreement to send support to assist the defence of Kobanê (a Kurdish city in northern Syria) from IS in Syria; deploying *Peshmerga* to another country without the permission of the Iraqi government, is against Iraq's constitution. Interestingly, the deployment was part of GCD, showing Kurdistan's de facto engagement. To protect these gains, 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 (discussed below)¹⁷ 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.

3.4 THE FAILURE OF PARTNERSHIP WITH BAGHDAD: A NEW STRATEGY

During the period 2014–2017, Kurdistan's legitimisation strategy shifted from emphasising democratisation and state-building, to claiming the failure of the partnership with Baghdad. An integral part of this argument was to emphasise the negative aspects of Baghdad, rather stressing the positive aspects of Kurdistan. The referendum campaign began with the claim based on Baghdad's failure to embrace the constitutional demands of Kurdistan. In addition to claiming that Baghdad had failed to uphold its social and constitutional contract with KRI, Barzani also referred to history as the rationale behind Kurdistan's independence project. The

¹⁷ Barzani's desire to hold the referendum while he is still in office shows the implications of the presidential issue for the timing of the referendum. He knew that his tenure would end in 2017 and would not be possible for him to remain in power any longer. Since then, the referendum became Barzani's number one priority.

date of the referendum was set on 7 June 2017, a day after Barzani issued a presidential decree (No. 106) explaining as following the reasons for the referendum:

Due to the Iraqi government and the Iraqi political leadership's exclusive policies, violations of the constitution, and ignoring the rights and demands of the people of Kurdistan [...] we reach the conclusion that we have to return to our people's opinion and will, and let them decide on their future. (Kurdistan Region Presidency, 2017)

Barzani's speeches and arguments for independence (see [Appendix 1, Chapter 3](#)) were shaped by examples deriving from Kurdish history in Iraq, still relevant, informing politics and decisions in the country. He divided the Kurdish-Iraqi government relations into two historical phases: the first phase, spanning from the post-First World War era and the foundation of the Kingdom of Iraq under British Administration in 1920, to the regime change in 2003; and the second from 2003 to 2017. Barzani argued that these two phases were similar, with the policies of genocide, denial and racial oppression in the first phase, and the refusal of partnership in the second phase. He also believed that while the regime may have changed in 2003, the mind-set of Baghdad's political class had not changed ('Exclusive: "No turning back" on independence vote,' 2017). This notion can be illustrated in the following quotes:

No crime was worse than the crime when Baghdad cut the source of living for the population of Kurdistan, including the milk of children. That is a crime no less than the chemical bombardment and the Anfal. (Barzani, 2017c)

After the IS war, Baghdad wants us to go back to the green line [referring to the line that separated *Peshmerga* from the army of Saddam before 2003], in order to attack Erbil with mortars [...] The culture of resorting to military force to resolve the Kurdish issue has not changed in Baghdad, after decades of genocide against Kurds at the hands of the Iraqi government. (Barzani, 2017e)

During the IS war, we did not receive any economic or military assistance from Iraq [...] Now, we have come to the conclusion that we are not welcome and not accepted as citizens and real partners [...] After sacrifices we made for the sake of building a

democratic Iraq, now it is time for the Kurds to protect their dignity, and reject subordination and oppression [...] Therefore, our friends in Baghdad should be blamed, not us, because they are the ones who pushed us towards holding the independence referendum. (Barzani, 2017d)

However, the problem with this claim is that despite the failures of the post-2003 Iraq governments, the new Iraq cannot be compared to Saddam's Iraq. Such an interpretation of history and politics in Iraq, was needed to convince the public that the future would remain the same, and thus the timing of the referendum was appropriate despite the arguments to the contrary. This argument did not gain support for the right to remedial secession, as the historical genocides and crimes against the Kurds, such as the 1988 Halabja chemical attack, and the *Anfal* campaign in the late 1980s, were committed by the Saddam regime, not the post-2003 governments in Baghdad. The KRI leadership knew that this claim to self-determination, grounded in past grievances and human rights violations, could not stand alone, and therefore needed to be bolstered by other claims. Nevertheless, neither could a unilateral referendum based only on the claim of the administrative failure of the Iraqi government in ensuring the rights of Kurdish citizens, could not provide a threshold for invoking remedial secession (Srihari, 2018).

While history drove Barzani's move towards independence, Kurdistan's arguments were not merely based on past grievances and victimhood. The 1920–2003 history served as a supporting argument to the Kurdish leaders' argument of the failure of constitutional and power-sharing arrangements in the post-2003 Iraq. For Kurdistan's political actors, the removal of the Saddam regime meant the beginning of a new Iraq in which partnership was meant to be the basis of the new state. Nevertheless, Barzani did not describe the participation of Kurdistan in the new Iraq as reintegration or unification, but as a voluntary union which could be, in turn, voluntarily dissolved. 'We voluntarily went to Baghdad,' Barzani insisted, 'we were not prisoners of war in order for them to impose their conditions on us' (Barzani, 2017e). His point was that this voluntarily union had failed and, importantly, was a mistake in the first place.

In 2003, Kurdistan was an independent state. We went to Baghdad to create a democratic and federal Iraq [...] Now I am acknowledging that in 2003, we made a big mistake when we went to Baghdad with a good heart and goodwill [...] They did not accept partnership, and now they should not blame us [...] We are voluntarily leaving it. (Barzani, 2017g)

When the KRI authorities define partnership, they refer to the status of Kurdistan as an independent de facto state before 2003, 'The Kurdistan Regional Government has exercised exclusive jurisdiction over the territory of Kurdistan, maintained a separate military [*Peshmerga*], and controlled Kurdistan's external borders' (KRG, 2017a). What's more, partnership for the Kurdish leaders also meant 'balance' and 'consensus' between the three components of Iraq, Arab Shia, Arab Sunni and Kurd. Barzani viewed the increasing calls for a majority government in Baghdad (in favour of the Shia parties) as a threat to the principle of the partnership and the future of the Kurds in Iraq (Barzani, 2017b). However, all post-2003 governments, including the current one, were formed by the participation of all major parties, including Kurdistan's two main parties the KDP and PUK. Essentially, this system centred on a consensual power-sharing arrangement among the country's three ethno-sectarian groups, the Arab Shia, the Arab Sunni and the Kurds, leaving little space for a majority government. According to this informal system of power-sharing in Iraq, the prime minister's post is held by an Arab Shia, an Arab Sunni is speaker of parliament, and a Kurd holds the presidency. This might be justified to prevent exclusion, but has also contributed to political *Muhas'asa* (Arabic for confessionalism), resulted in fragmenting state institutions, and the division of resources between political parties.

3.4.1 BAGHDAD'S CONSTITUTIONAL VIOLATIONS: ANOTHER ARGUMENT FOR

INDEPENDENCE

Another element in Barzani's speeches was putting the blame on Bagdad for violating the constitution:

It is a shame for them to talk about the constitution. Every step they took was in violation of the constitution. (Barzani, 2017f)

Which article of the constitution gave you the right to cut the bread of the people of Kurdistan? Which article gave you the right to violate and ignore Article 140? (Barzani, 2017f)

Those [Iraqi officials] who question the constitutionality of the referendum should first read the constitution carefully. The constitution's charter clearly stipulates that adherence to the constitution is the guarantor of the unity of Iraq. The question here is, have they implemented the constitution? (Barzani, 2017b)

We have tried all other alternatives to independence, but none of them worked. Now, we consider the independence of Kurdistan a solution to the problems, a cure for our pain. Iraq's lack of commitment to the constitution, and its wrong policies, are what have threatened the unity of Iraq. (Barzani, 2017c)

In line with this argument, KRG issued an extensive report submitting its arguments on why Kurdistan should have independence. It based its claims on the constitutional right of Kurdistan to achieve international recognition. The report shows that Baghdad violated 55 Articles of the constitution's 114 Articles, and that another 12 Articles were not fulfilled or implemented (KRG, 2017a). This argument was also consistently used by other pro referendum figures and parties, such as Kosrat Rasul, the Secretary General of PUK; Najmadin Karim, the Governor of Kirkuk at the time; Salahaddin Muhammad Bahaaddin, the Secretary-General of the Islamic Union; and Muhammad Haji Mahmoud, head of the Kurdistan Socialist Party. It is true that the ambiguities of the constitution, and the different interpretations of what the central government is required to provide KRG, have led to disagreements between Baghdad and Erbil (see Nader et al., 2016), but the core of the issue is the lack of trust and the existence of two different visions. Despite Erbil's criticisms regarding Baghdad's unwillingness to implement the constitution, especially Article 140, Kurdistan has long been exercising some of its key powers beyond the limits granted by the constitution. For

example, Erbil is still exerting full control over borders with Turkey and Iran, and has its own visa regime separate from Baghdad. While *Peshmerga* is legally part of the Iraqi security forces, on the ground it acts as the army of Kurdistan. Such practices and procedures are not constitutional, but are functions of the KRI's de facto status.

3.4.2 THE UNCERTAINTY OF THE STATUS QUO

Kurdistan consolidated its de facto statehood by maintaining and improving the status quo for more than a decade, but the status quo has always been subject to both internal and external constraints. The ambiguous status of Kurdistan was not the most fundamental factor determining Erbil's decision to hold the referendum; nonetheless, it contributed to a general sense of prevailing uncertainty. This sense of uncertainty also contributed to the feeling that 'the Kurds have no future within Iraq.' In one of the meetings with religious scholars in Erbil on August 9, Barzani showed that he is unconvinced that KRI's future and security will be guaranteed by the status quo.

Shall we keep living in uncertainty, in a condition where we do not know when we will be attacked [...] I swear by God if I am certain about the status quo, then we would leave the project of independence for a future generation [...] but I am afraid, and I am certain, that when the IS war is over, Baghdad will come and demand us to leave Khanaqin, Kirkuk, Shingal and Makhmoor, and tell us that we must go back to the 2003 border. (Barzani, 2017e)

Despite this claim, the pre-referendum status quo was the highest level of de facto independence the entity had ever achieved since 1991, with total control over disputed territories, and this was largely practically (and tactically) accepted by Baghdad, Tehran, Ankara, and the international actors from 2014 to 2017. Considering that Kurdistan had already enjoyed the powers of de facto statehood, the consequences of the negative reactions to the referendum led many Kurds to believe that the referendum had been a bad idea, and that they should have been content with the powers the entity had previously. However, in the context of

non-recognition, there was no answer to the question of how to ensure long-term sustainability. Barzani believed that remaining in Iraq was the greatest threat to the people of Kurdistan, describing it as subordination (Barzani, 2017i). At the time, Barzani believed that the uncertainty around Kurdistan's status justified the referendum. However, the lack of international support for this call created further uncertainty among the people. When asked about the reactions of Iran and Turkey, he could not provide clarity and certainty about what would happen the day after the referendum.

3.5 ADDRESSING INTERNAL AND EXTERNAL AUDIENCES

Depending on which audience Barzani was appealing to, two different strategies were dominant. Addressing Baghdad, regional powers and the international community, together constituted one strategy, whilst addressing the demands and expectations of the internal audience required the development of separate arguments. From the beginning, the attempt at pleasing the two audiences created confusion among the local people, because when Barzani addressed the outside world, he used cautious language with more focus on dialogue and negotiation with Baghdad. Barzani wrote in a Washington Post opinion piece on 28 June 2017, that 'the timing and modalities of our independence will be subject to negotiation with Baghdad and consultation with our neighbors and the wider international community' (Barzani, 2017a).

When asked about the reactions of Baghdad, Barzani responded as follows:

I explained to him [Haider al-Abadi, PM of Iraq, 2014–2018] that this referendum is a normal, legal right of our people, and that afterwards we want negotiate the results of the referendum in a peaceful way through dialogue. He had an understanding of that [...] He was receptive and understanding. (MacDiarmid, 2017)

In addressing the international community, Barzani included the emphasis on Kurdistan as a factor of stability in the region.

In the past 25 years we have proven that we are not a threat to any country, we are friends and a factor for stability in the region and we will continue to be so, and we will respect the principles of the international law. (Barzani, 2017j)

As the speeches analysed for this article show, Barzani did not directly address audiences Iraq, Iran and Turkey despite their influence and leverage on the issue. He primarily addressed audiences in Western and Arab countries. When addressing the Western media, Barzani referred to the right to self-determination, the historical injustices, and the *Peshmerga's* contribution in the fight against terrorism, and he made promises ensuring that the referendum will not have a negative impact on the GCD's achievements (Barzani, 2017a). On the other hand, in addressing the Arab world, Barzani mainly emphasised the sectarian nature of the Iraqi state, and Baghdad's constitutional violations, especially during the era of Maliki (see Charbel, 2017), perhaps because Maliki is widely seen as a sectarian leader among Arab Sunni countries. On the domestic front, Barzani focused more on past grievances, and the belligerent attitude Baghdad continued to have against the Kurds. He delivered most of his speeches in Erbil and Duhok provinces, with the exclusion of one speech delivered in Sulaimaniyah (outside of the KDP-controlled territory) and one speech in Kirkuk. This shows that the referendum campaign mainly concentrated on and was more welcomed in the KDP-held areas of Erbil and Duhok, compared to the PUK- and Gorran (the Change Movement)-held areas of Sulaimaniyah, Garmian and Halabja. The referendum being seen as a KDP project, appeared to be the most significant reason for the low turnout in these areas.

There was fear and uncertainty among the people about the outcomes of the referendum, and until the last days before the referendum many people had doubts about the sincerity of the call. For this reason, he initially argued that the international community did not reject the idea of the referendum, but only had objections about the timing. He also rejected any possibility of Iranian or Turkish military intervention, or armed confrontation with the Iraqi forces. However, when the official campaign for the referendum began on 5 September, Barzani's speeches became more consistent, straightforward and tough. Unlike in his Washington Post piece,

Barzani now claimed that ‘the date of voting is the date of declaring independence. If possible, we will declare independence before Newroz [March 2018]. If possible, we will do it even earlier’ (Barzani, 2017g). In response to the countries that opposed the vote and its timing, Barzani said

it is the people of Kurdistan who will give legitimacy to the referendum, not the outsiders [...] We thought that in reward to the sacrifice of *Peshmerga* who broke the myth of IS—they would say that you the people of Kurdistan, independence is your right. Since they do not take our sacrifices into consideration, we do not take theirs either, not even a bit. (Barzani, 2017h)

3.6 THE DIMINISHING IMPORTANCE OF THE ‘EARNED SOVEREIGNTY’ STRATEGY

For years, the attempt to create an entity that was deemed internationally acceptable, therefore worthy of recognition and support, significantly impacted Kurdistan’s development of de facto statehood. Voller (2014) argues that the pursuit of legitimacy based on its success in state-building, governance and democratisation, has been a defining feature of Kurdistan’s de facto statehood and its legitimation strategy. However, since 2015, the democratisation process in Erbil has been complicated by the dispute over Barzani’s presidency. Barzani’s term in office should have ended in 2013, after serving two four-year terms, but his tenure was extended for two additional years. This extension was made possible through a parliamentary law issued by the KDP and PUK. A second extension by the Consultative Council took place in 2015 for two more years after the political parties failed to reach a negotiated solution on Barzani’s presidency. As the political parties failed to reach an agreement before the August 19 deadline, Barzani continued to remain as the president beyond his term limit, despite the protests of other parties, notably Gorran. In October 2015, KRI saw a brief spell of violent demonstrations over delayed salaries and the ongoing dispute on Barzani’s presidency. The crackdown on demonstrations significantly affected the political process in Kurdistan. KDP accused Gorran of

inciting the demonstrators against it in the Sulaymaniyah province. The conflict resulted in a reshuffle of the KRG's coalition government. On 12 October 2015, KDP unilaterally removed four members of the cabinet from Gorran, and the Parliament Speaker Yusuf Muhammad was prevented from entering Erbil, where the Parliament is based. As a result, the Parliament was deactivated and was not convened until September 2017.

The practice, and also the claims, of democratisation, were undermined by the 2015 deactivating of the Parliament and the extension of Barzani's term. In addition to implications for the political stability of Kurdistan, the presidential crisis did not allow the Erbil leadership to use Kurdistan's 'democratisation' as an argument for independence. It could no longer claim that it is more democratic than the government in Baghdad. In fact, the dominant discussion put forward by the pro-referendum block, was that democracy requires internationally recognised statehood. Asked about internal problems, Barzani (2017g) described statehood as 'designing a new house, which you can design as you like, but first you need [the structure of] a house'. The lack of this 'house' constrained attempts to prioritise democracy in the 2014–2017 period. Not only KDP, but also factions of PUK, the Islamic Union of Kurdistan and other smaller parties, believed that priority should be given to seizing the opportunity to gain independence above issues concerning internal politics and democratisation. This is illustrated in Barzani's statement in June 2017: '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' ('Exclusive: "No turning back" on independence vote,' 2017). Similarly, Hoshyar Zebari, former Iraqi Foreign Minister and a member of the KRI High Referendum Council stated: 'If we wait for all the problems to be resolved, we will have to wait forever' (Kent, 2017).

The *Peshmerga's* effective role in counterterrorism gained international support for the Kurds, and replaced Kurdistan's 'democracy-for-recognition' strategy. The lack of international pressure for democratisation in KRI also contributed to this change. In this period, the main focus was on the fight against IS, and the GCD's military support was not conditioned on

democracy or rule of law. The secretary-general of the Kurdistan Socialist Democratic Party, Muhammad Haji Mahmoud, confirmed this:

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. ('Kaka Hama,' 2015)

Looking at the official statements of the US, the UK, the EU, France and the UN on the referendum, the objections were not based on the condition of democracy in Kurdistan. They were mainly concerned about the referendum's impact on the fight against IS and on the stability of the region. This is illustrated in the following quotes:

The United States has repeatedly emphasized to the leaders of the Kurdistan Regional Government that the referendum is distracting from efforts to defeat ISIS and stabilize the liberated areas. (The White House, 2017)

The referendum risks increasing instability in the region when the focus should be on defeating Daesh. (Foreign and Commonwealth Office, 2017)

[A]ny unilateral decision to hold a referendum at this time would detract from the need to defeat Da'esh. (UN Secretary-General, 2017)

Although the practice of democracy did not shape the strategy, Barzani consistently described the referendum as democratic. In the final weeks before the referendum, it appeared clear that the international community did not support the call for the referendum. As the following quote shows, he underlined his disappointment with the lack of international support for the referendum: 'It was surprising to see the reaction from the international community. Where is your democracy now? Where are the UN charters? Where is the respect for freedom of expression?' (Chulov & Johnson, 2017). In short, in addition to the lack of international pressure for democratisation, the emphasis on independence and the unfounded belief that it would be a

panacea to address all of Kurdistan's internal problems, marginalised the 'democracy-for-recognition' strategy.

3.7 CONCLUSION

Despite the unprecedented and extensive international engagement the KRI achieved in the 2014–2017 period, its efforts to achieve international recognition have thus far remained unsuccessful. In this article, we focused on various external and internal dynamics in constructing and changing recognition strategies, rather than just focusing on the international practices of recognition and statehood. Iraqi Kurdistan as a de facto entity long sought to preserve and improve on the status quo, especially when international recognition was deemed unobtainable after the 2003 war, as rebuilding Iraq became the main priority of the US-led coalition. Nevertheless, when there is a perceived opportunity, as an aspiring state Kurdistan will seek full-fledged statehood, as the 2017 referendum for independence has shown. From 2014 to 2017, the KRI benefited from the weakness of the Iraqi government to increase its international engagement, and the collapse of ISF in the face of IS in summer 2014 enabled the Erbil authorities to change their recognition strategy from preserving the status quo to seeking independence.

In the 25 September 2017 referendum, the KRI leadership used the failure of partnership with Baghdad as the main argument to justify Kurdistan's requirements for international recognition. The second argument was the right to self-determination, based on national identity, historical injustice and past grievances. Since 2014, the KRI has witnessed a shift from a strategy based on creating a democratic and functioning entity, to the claim of the failure of constitutional and power sharing arrangements with the government of Iraq, and the breakdown of the social contract.

In fact, in the years after 2003, the successes of the democratisation and state-building processes, as explained above, helped to gain international engagement without recognition.

This new shift reflects both internal and external dynamics and constraints. Though victories over IS strengthened KRI's ability to amass control over greater swathes of land, the region has not created a viable dynamic to democratisation and effective governance. Additionally, the 2015 political deadlock was also an inevitable outcome of two sharply opposing outlooks embedded in the party political struggle, mainly between KDP and Gorran. Internally, the democratic deficit in 2015 over Barzani's presidency, complicated democratisation process in the KRI. Externally, the shift also mirrors the lack of international emphasis on democratisation in the KRI. During this period, the international community focused more on Kurdistan's role in countering the threat of IS, and providing shelter to 1.8 million IDPs and refugees. Importantly, the GCD's support to *Peshmerga* was not conditioned upon democracy, human rights, or the rule of law in Kurdistan. This emphasise the importance of political considerations for state recognition.

After reflecting on the recognition strategies pursued by the KRI, three notable trends can be identified. First, Kurdistan's change of strategy seems to show that when there is an opportunity to gain international recognition, de facto states are ready to change their long-pursued status quo strategy, and to defy the international community. Second, the case of Kurdistan clearly shows that internal dynamics are central to understanding how and why de facto states construct and change their recognition strategies. This has long been under-studied in the literature of de facto states. Third, the recognition strategies adopted by the KRI's political authority do not correspond to the dominant theoretical argument in the literature of de facto states, that de facto states seek international recognition based on their claims to effective and democratic entity.

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