



Oil and Borders: How to Fix Iraq's Kurdish Crisis

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What happened? On 16 October 2017, the Iraqi federal government launched an operation to restore Iraqi sovereignty over the disputed territories, including Kirkuk and its oil fields. This reversed the situation in place since the Iraqi army collapsed in the face of an onslaught by the Islamic State in June 2014.

Why did it happen? The action was triggered by the independence referendum staged by the Kurdistan Regional Government on 25 September, in which Kurds overwhelmingly cast “yes” votes.

Why does it matter? These actions have broken what remained of the tense relationship between Baghdad and Erbil. Yet the only sensible way forward is a return to UN-led negotiations, supported by the U.S., EU, Iran and Turkey.

What should be done? Future talks should centre on the issues that gave rise to the current crisis in the first place: the unresolved status of the disputed territories, and the question of oil revenue-sharing.

I. Overview

In the early hours of 16 October, Iraqi federal forces launched a drive toward Kirkuk city that Prime Minister Haider al-Abadi said was aimed at retaking oil fields, an air base, the airport and federal installations lost in June 2014 when the Iraqi army collapsed in the face of an onslaught by the Islamic State (ISIS). The military move, which met with relatively little resistance, reportedly was enabled by a deal between the Abadi government and a faction of the Patriotic Union of Kurdistan (PUK).¹ The PUK mostly withdrew, while forces of the rival Kurdistan Democratic Party (KDP) of Masoud Barzani, president of the Kurdish region, who staged a popular referendum on Kurdish independence in late September, fled. In the end, federal forces established control not only of the oil fields, but of an even more emotional prize, the city of Kirkuk.

¹ “Peshmerga general command accuses PUK officials of betrayal amid Kirkuk crisis”, NRTTV, 16 October 2017, <http://nrttv.com/EN/Details.aspx?Jimare=17018>.

At the root of the conflict in Kirkuk – and potentially in other parts of the disputed territories as well – is the failure to resolve the status of these areas through negotiations since 2003. A constitutional article (Article 140) that prescribed a process by which to do so never was implemented. This triggered great frustration with Kurdish leaders, who long had laid claim to these areas. Their acquisition of Kirkuk and its oil fields and other strategic installations in June 2014 was a windfall. They filled the security vacuum and continued to entrench their positions for the next three years. Barzani repeatedly declared that these areas were now “Kurdistani” and would stay in Kurdish hands.

The federal government considered the Kurdish parties' control as unilateral and temporary, to be reversed – by undetermined means – once ISIS was defeated. That opportunity arrived in early October with the rapid defeat of ISIS in Hawija, a district town in Kirkuk governorate, which brought battle-ready Iraqi troops closer to Kirkuk city and the oil fields. It was triggered by Abadi's need to reassert Iraqi sovereignty over these areas in the wake of the Kurdish independence referendum, which took place not only in the Kurdish region but also in Kurdish-controlled parts of the disputed territories such as Kirkuk. And it was enabled by intense inter-Kurdish rivalries between the KDP and PUK, as well as an intra-KDP power struggle between Masoud Barzani's son, in charge of the region's security file, and his nephew, its prime minister.

In commanding his troops to advance, Abadi must have realised he had the wind in his back: almost unanimous international anger concerning Barzani's decision to proceed with the referendum over their clearly stated objections allowed him to make his move with the support of the country's two powerful neighbours Turkey (Barzani's ally until even a month ago) and Iran, and with the apparent green light of the U.S.² While Abadi declared that his objectives were limited to Kirkuk oil fields and installations, swift military success led his forces, led by the U.S.-trained elite counter-terrorism unit and the army's 9th armoured brigade, to enter the city of Kirkuk. It may propel them further, to other parts of the disputed territories, including Khurmala Dome, the northern-most operating part of the super-giant Kirkuk oil field. There are other changes on the ground: KDP forces reportedly left the disputed Sinjar area near the Syrian border on 17 October, and the PUK appeared to have withdrawn from Khanaqin near the Iranian border as part of the deal. Whether Iraqi forces will press their advantage and try to recuperate disputed territories in the Ninewa Plain north and east of Mosul from KDP control is the next question.

These short-term military advances spell long-term trouble. To prevent further escalation that might escape the respective leaders' control, and bend the chain of events toward a negotiated outcome, outside parties with most influence in Iraq – the U.S., Iran and Turkey – need to step up their pre-referendum mediation efforts. In principle, all three share an interest in stabilising the situation. All three were irked if not outright angered by Barzani's decision to proceed with the September referendum. All support the territorial unity of Iraq. All accept the integrity of the Kurdish region and have consistently opposed unilateral attempts at settling the status of the disputed territories.

² Crisis Group interviews, U.S. officials, 16 October 2017.

The basis for mediating a settlement is therefore there, but serious obstacles remain. First, and notwithstanding the objective alignment in the external parties' interests, tensions among them – and particularly between the U.S. and Iran, which were exacerbated by President Trump's decision to decertify the nuclear deal – could well get in the way. Crisis Group warned of the spillover potential of the president's decision, and Iraq could be the first victim.³ Second, the outbreak of violence could make a settlement far harder if not impossible to reach, especially should the parties, fuelled by domestic political imperatives, escalate. To avert this outcome, forceful mediation should be undertaken at once; a renewed UN role could be critical in this respect, as it would give cover to efforts made by these three states in their individual capacities.

Beyond that, if and when fighting has been halted, a peaceful way to settle the deeper issues that are driving this conflict exists. Indeed, the current crisis offers an opportunity to resume a track that was abandoned amid election fervour eight years ago. In 2008-2009, the UN Assistance Mission in Iraq (UNAMI) carried out an extensive study on what it called Iraq's "Disputed Internal Boundaries" (DIBs) and proposed specific ways forward to settle the question of the Kurdish region's boundary and the disposition of the income derived from the sale of oil and gas located there.

Progress on the DIBs could be interpreted by both sides as a face-saving way out, as both need the internal border to be defined and a fair and workable resource-sharing deal in place. It also would serve the interests of Iran and Turkey, the key de facto veto holders on Kurdish statehood, as it would bind Baghdad and Erbil more closely together and thus offer at least a temporary reprieve from the Kurds' secessionist agenda. Western states have been strong supporters of this approach. Its resuscitation therefore could be a win-win for all main stakeholders.

What is required following a ceasefire is a UN Security Council resolution providing a renewed mandate for UNAMI, with support from all key outside parties, to address the DIBs question as a matter of priority. A serious effort to solve that critical concern would maintain Iraq's unity without pre-empting the Kurds' right to self-determination nor prejudging how it might be expressed in the future.

II. A Controversial Independence Referendum

On 25 September, the Kurdistan Regional Government (KRG) of Iraq staged a referendum in areas under its security forces' control (both inside and outside the region's boundaries) that asked voters to tick "yes" or "no" to a single question: "Do you want the Kurdistan region and the Kurdistan areas outside the [Kurdistan] region to be an independent country?"⁴ Preliminary results suggest that some 93

³ See Crisis Group Statement, "Saving the Iran Nuclear Deal, Despite Trump's Decertification", 13 October 2017.

⁴ The question was written in Kurdish, Turkish, Arabic and Assyrian, reflecting the north's diversity of communities, but also the KRG's desire to bind minority groups to its independence project. The KRG uses the term "Kurdistani areas outside the [Kurdistani] region" to reaffirm its claim to these areas, whose status it disputes with Baghdad, as part of a future Kurdish state.

per cent of voters affirmatively answered that question, with a participation rate among registered voters of 72 per cent.⁵

The vote, which Kurdish leaders alternatively claimed to be either binding or non-binding, consultative or representing Iraqi Kurds' immutable decision about their aspirations,⁶ took place without UN support or independent international monitoring, and was opposed by most states as well as the federal government in Baghdad, which termed it unconstitutional. In the absence of independent monitoring, there is no way of telling whether voting was free and fair, a question particularly pertinent in the disputed territories. The KRG's Independent High Elections and Referendum Commission has yet to release final results (participation rate and outcome by district), and may not have such figures. Voting did not occur in parts of the disputed territories not controlled by Kurdish forces.⁷

Whether intended or not, though certainly predicted by the U.S. administration and others,⁸ the decision to proceed with the referendum precipitated a serious crisis, as all sides hardened their positions in its aftermath.⁹ In light of a history in which Kurds, wherever they may be residing, have been denied the chance of statehood as a nation, and given that regional actors fear that Kurdish independence in Iraq could inspire similar efforts elsewhere, these reactions were predictable; any bid, however symbolic, was highly likely to face countermeasures by neighbouring states that vigorously oppose it. At the same time, Barzani has long argued in the Kurds' defence that the status quo in Iraq was intolerable, just as destabilising and that Kurds have an inalienable right to self-determination. Any further delay in exercising it in the face of obstinacy and active blocking from Baghdad, he said, would blow up what still remained of moribund Baghdad-Erbil relations.¹⁰

The referendum provoked a strong reaction from Baghdad as well as neighbours Iran and Turkey, and even from the U.S. and Europe, none of which accept Iraq's breakup. Initially, Baghdad and the neighbours' responses remained limited to fierce rhetoric, threats and sabre-rattling. There were some concrete measures as well: closure of Iraqi Kurdistan's airspace to international flights, and joint military manoeuvres by Iraqi troops with their Iranian and Turkish counterparts on their

⁵ "Kurdish court approves result of independence referendum", *Rudaw*, 7 October 2017, <http://rudaw.net/english/kurdistan/061020173>.

⁶ Katy Collin, "The Kurdish referendum won't deliver independence—here's why it matters anyway", Brookings Institution, 19 September 2017.

⁷ See Christine MacCaffray van den Toorn, "The Kurdistan Region's 'yes' vote in the independence referendum does not translate to unconditional support for independence in the short term", *Sada*, 11 October 2017.

⁸ "US warns Kurdistan over independence referendum", *Financial Times*, 20 September 2017, <https://ft.com/content/69b5b776-9e58-11e7-8cd4-932067bf946>.

⁹ On 11 October and the following days, KRG security sources suggested that Iraqi forces and irregular Shiite forces known as *hashd* were preparing to attack parts of Kirkuk governorate, but official Kurdish military sources, as well as the Baghdad government, denied this. *Iraqi News*, 11 October 2017; Kurdistan Region Security Council communiqué, "Alarming buildup of Iraqi military and Popular Mobilization Forces near Kirkuk", 13 October 2017. Minor firefights between Kurdish and Shia forces reportedly took place in the disputed territories in preceding days. "Hashid-Peshmerga battles near Kirkuk raise spectre of war", *Iraq Oil Report*, 12 October 2017.

¹⁰ "Barzani on the Kurdish referendum: 'We refuse to be subordinates'", *The Guardian*, 22 September 2017.

respective borders. The possibility of violence was there all along: continued Kurdish control of Kirkuk's oil – together with the KRG's ability to sell it on international markets – as well as of other disputed areas combined with the Iraqi armed forces' newfound strength and sense of mission after ISIS's defeat, was combustible.

III. What Did the Kurds Gain?

From the outset the question was whether an expected massive “yes” vote would significantly alter the Kurdish region's post-referendum status from the status quo ante, even with a subsequent declaration of independence. Landlocked, the region remains at the mercy of its four neighbours, none of which has countenanced Kurdish statehood anywhere because of their own sizable Kurdish populations, each with their own aspirations. Weakened by intra-party divisions and recruitment based on political loyalty, the region's institutions have become vulnerable to external interference. Turkey and Iran both have security and intelligence operatives active in the region and have a rich history of meddling in Kurdish affairs. Moreover, the KRG lacks strong international support for its independence quest given concerns regarding risks to regional stability inherent in questioning any of the borders created after World War I.

In short, even a formal declaration of independence on the heels of a “yes” vote could not have been expected to deliver a viable independent state. At most it would have been a retread of the de facto independent entity that existed between October 1991 and March 2003, with similar internal divisions but more energetic efforts by the new state's neighbours to suppress it and less international support to protect it from economic strangulation and other sanctions.¹¹

Indeed, the Kurdish region's federal status under Iraq's 2005 constitution, which Kurdish leaders helped draft and Kurds massively endorsed in a referendum, already gave it significant freedom from the federal government. Unilateral steps by the KRG since then have broadened this to include creation of an independent revenue stream deriving from oil exports, which has allowed the KRG to make do with less than its officially allotted annual budget allocation from Baghdad.¹² A Kurdish flag already has been flying for years.¹³ A formal declaration would add

¹¹ During that period, during which Iraq continued to be ruled by Saddam Hussein, the Kurdish region was protected by the U.S. via Operation Provide Comfort, but otherwise subject to a partial economic blockade from Turkey and Iran. Travel in and out of the region was possible by road, but Kurds frequently complained of obstacles and harassment at the crossings. The two main Kurdish parties, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), agreed to a power-sharing deal following the region's first elections in May 1992, but two years later they began a violent struggle for control, which came to an end only in 1998 following U.S. mediation.

¹² The KRG has been allotted 17 per cent of Iraq's post-2003 national budget (minus deductions for so-called sovereign expenses), but disagreements with Baghdad over the KRG's oil exports and collection of resulting revenues have led to only partial disbursement of these allocations in recent years.

¹³ There is not a single flag upon which all Kurds agree. The Iraqi Kurdish region has one, supporters of the Kurdistan Workers' Party (PKK) in Turkey and Syria have another. Contrary to the Iraqi

nothing to this without international recognition, except for the name “Kurdistan” (which already has entered common parlance internationally).¹⁴

This, in turn, raises the question why, given that reality, Barzani and his party, the KDP, nevertheless proceeded with the vote. The answer is unclear though internal politics almost certainly played an important part. Personally, Barzani burnished his standing as the son of the founder of the modern Kurdish national movement, Mustafa Barzani: he may argue that by publicly soliciting Kurdish popular opinion he brought the prospect of an independent Kurdish state nearer, even if subsequent events in Kirkuk undercut that claim. Politically, he at least momentarily boosted his nationalist credentials at a time when his rule as president has been buffeted by criticism over failing political and economic governance, as well as over its continued legitimacy after parliamentary deal-making (2013) and parliament's closure (2015) allowed him to extend his tenure twice without elections. And the KDP's wing led by Masoud's son Masrour imposed its will on a rival wing led by Prime Minister Nechervan, Masoud's nephew, a man who has pursued a less ideologically driven approach and maintains better relations with Baghdad and Ankara; both are contenders to succeed Masoud Barzani when he passes from the scene.

Barzani also succeeded in bringing some of his political partners/rivals in the PUK back into parliament, which he reopened just before the referendum in order to endorse the exercise.¹⁵ While he could not heal the deep rift between the KDP and its political opponents – Gorran (“Change”) and other parts of a fragmented PUK – and indeed deepened it, his use of the nationalist card enabled him to co-opt enough of the PUK leadership and rank-and-file to neutralise opposition to the referendum.

The KDP's initial domestic gains notwithstanding, the referendum appears to have dealt Kurdish aspirations for statehood a clear blow. The response from Iran – not a friend of Barzani and the KDP – and Turkey – by contrast, a close ally and friend – has been uniform. While these two powers often find themselves at loggerheads over regional issues and alliances, preventing Kurdish statehood is one thing on which they readily agree and cooperate. Ankara began by threatening to impose sanctions on the KRG, including closure of the Kurdish oil export pipeline to the Mediterranean, and announced joint military drills with Iraqi troops along Turkey's border with the Kurdish region.¹⁶ Tehran told Abadi in June that Iraq's unity should

Kurdish parties, the PKK has pan-Kurdish ambitions. Its flag can therefore be seen in all parts of what it considers greater Kurdistan where it has a presence, including northern Iraq.

¹⁴ The name “Kurdistan” has entered the global political vocabulary through its use in the official name of the Kurdistan Region of Iraq.

¹⁵ “Iraqi Kurd parliament reconvenes to vote on independence referendum”, Reuters, 15 September 2017.

¹⁶ Turkey's rhetoric was strident before the referendum and furious in its immediate wake. At the UN General Assembly meeting in New York on 19 September, President Recep Tayyip Erdoğan called on the KRG to cancel the referendum; see “Erdoğan on Kurdish referendum: ‘We call on the Iraqi government to abort the initiative!’”, YouTube, 20 September 2017, <https://youtube.com/watch?v=UZM4Mowl-zI>. On the day of the vote, his office released a statement on referring to a phone call between Erdoğan and Iranian President Hassan Rouhani earlier that week, stressing the need to preserve Iraq's territorial integrity and threatening chaos if the referendum were to go ahead; see Press TV, 24 September 2017, <http://presstv.com/Detail/2017/09/24/536353/>

be maintained,¹⁷ and on 24 September announced that it had cancelled all flights to and from the Kurdish region “at the request of the central government of Iraq”.¹⁸ Both nations threatened to close their borders with the Kurdish region and/or help the Iraqi government do so.¹⁹ Abadi closed Kurdish airspace to international flights and came under strong pressure from the Iraqi parliament to take even harsher steps, including the deployment of Iraqi troops in parts of the disputed territories currently controlled by Kurdish forces.²⁰ He also rejected the possibility of talks with Erbil unless it cancelled the referendum’s results.²¹

The KRG responded with strident language of its own that appeared to preclude a move toward compromise, insisting that the referendum outcome would have to be the necessary foundation for talks with Baghdad, which had to focus on independence.²² In the end, it was Abadi who acted first, sending federal forces to regain by force territory over which the federal government by constitution retains the right of governance until its status is resolved according to the process outlined in Article 140.²³ These forces were joined by irregular Iran-backed elements of the Hashd al-Shaabi, or Popular Mobilisation, which operate nominally under Abadi’s overall

Iran-Turkey-Iraq-Kurdistan-Hassan-Rouhani-Recep-Tayyip-Erdogan-referendum. As the vote proceeded, Ankara announced military drills with Iraqi troops on the border; see “Iraq, Turkey in joint drills after Kurdish vote”, Al Jazeera, 26 September 2016. The next day, Erdoğan delivered a televised speech in which he threatened an embargo on trade in oil and food against the Kurdish region and thundered: “If Barzani and the Kurdish Regional Government do not go back on this mistake as soon as possible, they will go down in history with the shame of having dragged the region into an ethnic and sectarian war”; quoted in *The Guardian*, 26 September 2017, www.theguardian.com/world/2017/sep/26/iraq-kurdish-leader-barzani-claims-win-in-independence-referendum.

¹⁷ “Iran’s Khamenei says Tehran opposes referendum in Iraqi Kurdistan”, *EKurd Daily*, 21 June 2017, <http://ekurd.net/khamenei-referendum-kurdistan-2017-06-21>.

¹⁸ Press TV, 24 September 2017, *ibid*.

¹⁹ On 29 September, the spokesman for Iraqi Prime Minister Haider al-Abadi announced that land borders would be closed between Iraq’s Kurdish region and Turkey and Iran. The Iraq border agency announced that it was sending convoys of police officers and interior ministry officials to guard three key land border crossings between the Kurdish region and Syria, Turkey and Iran. Both Turkey and Iran staged joint military exercises with Iraqi troops there. “As Kurdish borders close, war of words heats up”, *The New York Times*, 29 September 2017. On 15 October, Iran closed its land borders with the Kurdish region ahead of the launch of the Iraqi army’s offensive in Kirkuk the following night.

²⁰ On 27 September, parliament passed a resolution declaring the referendum unconstitutional and outlining retaliatory economic, administrative and security measures. These included inter alia: a call on the prime minister as commander-in-chief to take steps to preserve Iraq’s territorial integrity and redeploy security forces in the disputed territories, including Kirkuk; restoring the federal oil ministry’s authority over oil fields in the disputed territories; closure of foreign representative offices in the Kurdish region and their transfer to governorates outside the region; and an injunction against negotiations with the KRG until and unless it cancels the referendum results. “بالإقليم ضدّ بالإجراءات تفويضاً العبادي يُسَلِّم البرلمان”، *Al-Mada*, 27 September 2017, <http://almadaper.net/ar/news/536207/ب-الإجراءات-تفويضاً-العبادي-يسلم-البرلمان>.

²¹ Abadi told parliament that the government would not engage in dialogue with the KRG about the referendum outcome. See “Haider al-Abadi Speech, Parliamentary Session on Independence Referendum”, YouTube, 27 September 2017, <https://youtube.com/watch?v=pma-5nhD92g>; and “Kurdistan referendum: Iraq demands Kurdish authorities ‘cancel’ outcome of independence vote in northern region”, *The Independent*, 27 September 2017.

²² “KRG leader Barzani calls for talks with Baghdad after referendum”, *TRT World*, 28 September 2017.

²³ See “Violence as federal forces move further toward Kirkuk”, *Iraq Oil Report*, 16 October 2017.

command but are largely autonomous from the federal government. On 16 October, Abadi replaced Najmaldin Karim, the Kirkuk governor who had supported the referendum, with his deputy, Rakan al-Jubouri.

Abadi launched the operation based on his conclusion that he could not afford to appear weak following the independence referendum, with Kurdish forces remaining in control of Kirkuk oil fields ahead of next year's elections. He therefore may have decided to ride the wave of domestic chauvinism rather than being swept aside by it, given the intensity of anti-KRG feeling among his constituents and the opportunity many of his Iran-backed Shiite rivals see to undermine him.

IV. Baghdad's and Erbil's Need to Restart Talks

In June 2014, the Iraqi army collapsed in the face of ISIS's onslaught, including in Kirkuk. In the resulting vacuum, Kurdish party-affiliated security forces seized the various oil fields in Kirkuk governorate: the KDP took the Avana Dome of the Kirkuk oil field (it already held the Khurmala Dome), as well as the Bai Hassan field; the PUK took the Kirkuk field's old Baba Dome, located in the city, as well as the smaller Jambour and Khabbaz fields.²⁴ The Iraqi government never accepted this, but did not have the power to reverse the situation. Military successes against ISIS re-empowered the Iraqi military; the defeat of ISIS in Hawija in early October placed the federal government's combined forces in a strategically advantageous position to press forward. A possible deal with a faction of the PUK enabled their march on Kirkuk.

Given the latest developments, the only sensible way forward is to de-escalate the military situation and return to negotiations. The Abadi government has reason to settle for talks rather than continue military escalation. His elite troops may be able to retake oil fields through a political deal with the PUK and a swift surprise advance, but his army otherwise remains weak and has proved to be poor at holding territory. Washington so far has acquiesced in Baghdad's moves, but the prospect of fighting between two U.S. allies (which many see as benefitting Iran) is unsettling and its patience could wear thin. Most importantly, there is no long-term security solution to the challenge of the disputed territories: it requires a negotiated solution.

The KDP-dominated KRG also should have every reason to engage in talks. Barzani overplayed the Kurdish hand by pressing ahead with the referendum over the international community's near-unanimous objections and refusing to negotiate with Baghdad about anything except Kurdish independence; meanwhile, his supporters used Twitter storms to whip up international, especially U.S., sympathy for his cause by claiming a heavy Iranian hand behind Baghdad's rejection of the referendum and subsequent military moves. Yet the U.S. was unmoved, sticking to its long-expressed strategic objective of protecting Iraq's unity and angered by Barzani's rejection of its relatively far-reaching proposal to postpone the referendum in exchange for U.S. support for immediate and time-bound Erbil-Baghdad negotiations

²⁴ The KDP also seized three small oil fields in Mosul governorate. Robin Mills, *Under the Mountains: Kurdish Oil and Regional Politics*, The Oxford Institute for Energy Studies, January 2016.

on all critical issues.²⁵ Thus, Barzani arguably set back the cause of Kurdistan instead of advancing it by frittering away international goodwill for the Kurdish cause. He too would be well served by mending fences with his erstwhile allies.

V. The Need for External Mediation

Assuming a halt to current fighting once federal forces have reaffirmed control over the disputed territories, and the military has handed over policing responsibilities to local police forces, the next challenge will be to get the parties to go back to the negotiating table. This will require external mediation. The institution best placed to assume this role remains the UN, with support from the U.S., EU, Iran and Turkey, as well as Russia, whose role in Iraq is limited but which does have interests there. U.S. backing will be critical, but its leverage in Iraq has been reduced as a result of its deteriorating relationship with Turkey and, even more seriously, with Iran.

Still, Washington continues to enjoy good relations with both the KRG and the federal government, and both of them remain heavily reliant on U.S. support. The KRG no longer can rely on unquestioned support, but still receives Western backing in the fight against what remains of ISIS. It also still enjoys a residue of goodwill for having been a reliable U.S. ally until the referendum. It has every reason to seek to get back into Washington's good graces. Abadi needs U.S. support as a counterweight to Iranian influence. Like his predecessors as prime minister, he has played a precarious balancing act between the two powers. U.S. support for his military's elite units has been critical in the fight against ISIS, and remains so; it also proved indispensable in this bid to restore Iraqi sovereignty over the disputed territories.

The Trump administration would have much to gain by shepherding the two parties back to the table and averting a situation where it will be forced to take sides. Although evidently angered by Barzani's open defiance of its requests to cancel the referendum, Washington is not prepared to give up on an important partner. Likewise, the U.S. sees in the Abadi government a critical buffer against Iran, and fears that the balance of power may shift toward Iran if it distances itself from Baghdad or if Abadi cannot hold on to the disputed territories his forces have just retaken.²⁶ Helping Iraqi/KRG negotiations restart would solidify U.S. ties to both, ensure they cooperate in what remains of the fight against ISIS and help move toward

²⁵ "Tillerson letters show U.S. nearly averted Kurdish referendum", Bloomberg, 13 October 2017, <https://bloomberg.com/view/articles/2017-10-13/tillerson-letters-show-u-s-nearly-averted-kurdish-referendum>.

²⁶ Crisis Group interview, U.S. official, Washington, 16 October 2017. On 25 September, the U.S. State Department declared that the U.S. was "deeply disappointed" by the KRG's decision to go ahead with the referendum, and said the U.S. opposed "violence and unilateral moves by any party to alter boundaries"; "Iraqi Kurdistan Regional Government's Referendum", press statement, U.S. State Department, 25 September 2017, <https://state.gov/r/pa/prs/ps/2017/09/274419.htm>. U.S. Secretary of State Rex Tillerson put it even more starkly four days later, saying: "The United States does not recognize the KRG unilateral referendum held on Monday. The vote and the results lack legitimacy and we continue to support a united, federal, democratic and prosperous Iraq". "Iraqi Kurdistan Regional Government's Referendum", press statement, U.S. Secretary of State Rex Tillerson, 29 September 2017; <https://state.gov/secretary/remarks/2017/09/274522.htm>.

a negotiated outcome based on preservation of Iraq's territorial unity, at least for now. That too would meet immediate U.S. interests: an Iraq friendly to both Washington and Tehran would be a more effective buffer against broader Iranian influence than an embattled independent Kurdistan whose legitimacy would be widely contested.

VI. A Way Forward

If and when the two sides are brought back to the negotiating table, the talks should centre on the issue that has long divided Baghdad and Erbil, whose non-resolution helps explain the KRG's frustration and decision to go ahead with the referendum in the first place, and which helped trigger the current violence. This is the disposition of what in the Iraqi constitution are called the "disputed territories" and the hydrocarbon resources they contain, that is to say, the demarcation of the boundary between the Kurdish region and the rest of Iraq.²⁷

The KRG can stage referendums and perhaps even declare independence, but as long as the boundary of whatever entity it governs is not delineated, the large borderlands between Kurdish and Arab Iraq, which stretch all the way from Iran to Syria, will remain contested and therefore unstable. Given the stakes (just under an estimated nine billion barrels of oil),²⁸ the federal government and the KRG will find themselves repeatedly facing off in those areas. The Kurds have proved hardy fighters in the mountains but poor defenders of their cities in the plains, as illustrated by the easy capture of Kirkuk by Iraqi forces on 16-17 October.²⁹

Drawing a sustainable border will be difficult in areas that have ethnically and religiously mixed populations. The main challenge will be to find a solution, whether permanent or transitional, for Kirkuk, given its complex demographic composition and the presence of a super-giant oil field. The Kurds have long claimed these territories as theirs, and contend that previous regimes reduced their demographic presence in them through Arabisation policies since the 1960s.

²⁷ In an interview, Kirkuk's governor, Najmaldin Karim, suggested that this was indeed an acceptable way forward from his perspective. "Q&A: Kirkuk Gov. Najmaldin Karim", *Iraq Oil Report*, 13 October 2015.

²⁸ Figure for 2009. Munim Al-Rawi, "Kirkuk. A silent giant oilfield", *GEOExPro*, 2015, www.geo-expro.com/articles/2015/02/kirkuk-a-silent-giant-oilfield.

²⁹ In August 2014, Iran and the U.S. had to rush military aid to Kurdish forces to prevent ISIS from advancing on an undefended Erbil as Kurdish resistance collapsed in Makhmour. That same month, KDP fighters fled in advance of an ISIS march on Sinjar, where ISIS subsequently launched attacks against Yazidis that the UN Human Rights Council described as a genocide. "They came to destroy": ISIS Crimes Against the Yazidis", Human Rights Council, 15 June 2016, http://ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/A_HRC_32_CRP.2_en.pdf.

VII. A Reinvigorated Role for UNAMI

The foundation for progress on this matter exists. In 2008, after a constitutional deadline for resolving the question passed without result,³⁰ UNAMI undertook a comprehensive district-by-district study of the disputed territories to provide guidance on how to peacefully resolve the matter of the disputed internal boundaries. UNAMI presented its findings and recommendations to the primary stakeholders in 2009, but elections loomed and political will was lacking in both Baghdad and Erbil to take the next step. The study never was published, and the effort died a premature death. It proposed various options for Kirkuk, including that it would gain the status of a special region with a high degree of autonomy within Iraq, to be confirmed by the people of Kirkuk in a referendum.³¹

The international community would need to renew the push it made in 2007-2008 to re-energise UNAMI, whose political role has been subsumed almost entirely by pressing humanitarian concerns in the past few years. This could be achieved by giving it a new mandate via a UN Security Council resolution, and ensuring implementation through the UN leadership team in Baghdad, Erbil and Kirkuk. The resolution generally should address the current crisis and suggest ways of de-escalating it, but explicitly bestow a new role on UNAMI to tackle the disputed internal boundaries and oil revenue-sharing questions.³²

A newly outfitted UNAMI would first need to update the study it completed in 2009 to reflect more recent political and military changes; then hold extensive discussions with Iraqi actors and neighbouring states; and finally be prepared to publicise its new report within one year of the start of its new mandate. In 2009, its work was overwhelmed and suppressed by fervour ahead of local and, a year later, parliamentary elections, and its own political timidity prevented it from sharing its findings and recommendations more widely.³³ In 2018, its work should proceed throughout the election season (should elections take place according to schedule) and be completed directly afterward in order to inform the policy of whatever new governments emerge in Baghdad and Erbil.

³⁰ Article 140 of the 2005 Iraqi constitution stipulated that the matter of the disputed territories be resolved by 31 December 2007 following what it refers to as “normalisation”, a population census and a popular referendum. See Iraq’s constitution of 2005, https://constituteproject.org/constitution/Iraq_2005.pdf?lang=en.

³¹ For a description of this effort by a former UNAMI staff member who was involved in the study, see Sean Kane, “Iraq’s Disputed Territories”, United States Institute of Peace, 2001, https://usip.org/sites/default/files/PW69_final.pdf.

³² UNAMI’s current leadership claims that Baghdad, to whose authority it appears to defer in defining its mandate, has not allowed it to broaden its activities to include a renewal of discussions over the disputed territories. Crisis Group interviews, senior UNAMI officials, November 2016 and March 2017.

³³ The UN claimed that the findings were too politically sensitive to be shared publicly. However, the report’s main analytical field-based parts on individual districts are extremely valuable and in and of themselves do not prejudice status outcomes, even if they may suggest a way forward. Kirkuk is a more sensitive issue, but there is nothing in the report of which the actors are not already aware. Specific proposals for resolving the DIBs question could be held confidential until talks kick off. In any event, the 2009 report has circulated in very limited form as a result of the UN having provided it to all the main stakeholders.

VIII. External Actors' Interests

For Iran and Turkey, any discussion that would not lead to Kurdish statehood is tolerable, and perhaps even desirable. Iran, which has predominant influence in Iraq, consistently has insisted on the need to preserve Iraq's territorial unity and for Kirkuk to stay under Baghdad's control. However, it did not oppose the earlier UNAMI effort, precisely because negotiations between Baghdad and Erbil as well as finding a peaceful solution to the DIBs question held the potential for solidifying relations between the two and thereby cementing Iraq's unity, even if the Kurdish region enjoyed extensive autonomy.

Iran does not have close relations with the KDP – as opposed to its ties to the PUK and, to a lesser extent, Gorran – but it has the influence of a powerful neighbour; Iranian officials and senior officers, including Quds Force Commander Qasem Soleimani, are frequent visitors to Erbil, and Soleimani has been front and centre in the latest crisis as well. Iran's main objective is thwarting a Kurdish move toward independence by keeping the Kurdish polity divided. It also wants to push back U.S. influence, although in the long term it seems less concerned about a U.S. it considers a fickle passer-by in the region than about the strong aspiration of Kurds who are an integral part of it.

Although clearly desirous of bolstering its Iraqi allies, Iran's current role suggests it is seeking to play things out through the Abadi government (despite its close ties to the U.S.) with the use of federal forces, rather than primarily through irregular Shia fighting groups, the Hashd. In this respect, it appears to be playing its hand deftly: backing both Abadi and its Shia allies, ensuring Baghdad remains dependent on – and fearful of the loss of – Tehran's support. At a time of intensifying U.S./Iranian tensions, Tehran is presenting Washington with a dilemma: because it is expanding its role in Iraq by working through the same government the U.S. backs, it is making it all the more difficult for the U.S. to counter its influence.

Iran is also deepening and exploiting intra-Kurdish divisions. It apparently helped ensure the PUK would not put up a fight as Iraqi troops advance, and may have intended to help the PUK counter the KDP in an internal power struggle by publicly humiliating Barzani through military defeat, thereby taking him down a notch in the eye of Kurds who may support his independence bid but are weary of his rule. That could be a miscalculation, however, as KDP supporters and other Kurds have accused the PUK faction that struck the Kirkuk deal with Abadi of treason. Either way, the Kurds will not emerge united from these manoeuvres, and this advances Iran's interest in thwarting any move toward Kurdish independence. This is typical of Tehran's overall divide-and-rule approach, and it is topped by making all factions dependent on its assistance. Tellingly, Soleimani has been shuttling between Baghdad, Suleimaniya and Erbil, demonstrating Tehran's access to and influence with all sides.

For Turkey, renewed negotiations between Baghdad and Erbil are even more important. While Ankara has been distressed about what it sees as U.S. willingness to hand Iraq over to Iran after 2003, it also has realised that the best way to serve its interests and defend against spreading Iranian influence is to bring the Kurdish region economically within Turkey's embrace and at the same time help midwife a workable arrangement between Erbil and Baghdad focused on Kirkuk and its oil.

Such a scenario would give it access to the Iraqi market and investment opportunities, as well as to Iraq's southern oil fields, which produce significantly more oil than the Kirkuk fields.³⁴

While angered by what it sees as Barzani's betrayal of the trust built between Turkey and the KRG since late 2007, Ankara still needs the KDP (and thus improved ties between Erbil and Baghdad) for two reasons. First, to fight or at least contain the Kurdistan Workers' Party (PKK), whose forces have come down from their Qandil headquarters and fanned out in northern Iraq since 2014; second, to keep the oil (and, in the future, gas) flowing from Iraq to its Mediterranean export terminals in Ceyhan. These realities may give Barzani some leverage, but Turkey carries disproportionate economic weight, enabling it to shape the KRG's behaviour through diplomatic and economic pressure more than the other way around.

Russia has economic stakes in the Kurdish region – Rosneft, an oil company majority-owned by the Russian state, signed a contract with the KRG in September 2017 to invest a reported \$1 billion in a natural-gas pipeline³⁵ – but lacks the kind of influence in Iraq that it enjoys in Syria. While sounding sympathetic to Kurdish aspirations, and wanting to maintain ties to Kurds both in Iraq and Syria, it has indicated its continued support of Iraq's territorial unity.³⁶ It too cannot afford to alienate Baghdad, or Arabs more broadly, particularly at a time when it is seeking to reestablish its position as a major power in the Middle East.

Finally, the EU can play an important role in pushing the dispute toward negotiations. A week before the referendum, High Representative Federica Mogherini referred to it as “counterproductive” and called on the KRG to avoid such unilateral actions. Importantly, she offered EU support for a constructive dialogue between Erbil and Baghdad within the framework of the Iraqi constitution.³⁷ Pursuing such a course would advance EU interest in stabilising a country that has been a significant source of migrants and asylum-seekers, and in preserving its significant investments in reconstruction and institutional capacity-building. Like the U.S., the EU has maintained good relations with both Baghdad and Erbil, and is therefore in a strong position to take part in a concerted diplomatic effort to bring the parties to the table, following on the combined effort to defeat ISIS.

³⁴ In January 2017, Iraqi oil production stood at almost 4.5 million barrels per day (bpd). “Iraq can produce 5 million barrels a day in second half of 2017, oil minister says”, CNBC, 7 March 2017, <https://cnbc.com/2017/03/07/iraq-can-produce-5-million-barrels-a-day-in-second-half-of-2017-oil-minister-says.html>. In September 2016, Kirkuk was producing about 0.5 million bpd. “A squabble at Iraq's oldest oil field could rock global supplies”, Bloomberg, 2 April 2017, <https://bloomberg.com/news/articles/2017-04-02/how-a-squabble-at-iraq-s-oldest-oil-field-can-roil-world-supply>.

³⁵ The pipeline is expected to be able to carry up to 30 billion cubic metres of gas per year. “Russia's Rosneft clinches gas pipeline deal with Iraq's Kurdistan”, Reuters, 18 September 2017. Rosneft has additional investments in the region's hydrocarbons industry.

³⁶ “Comment by the Information and Press Department on the referendum in Iraqi Kurdistan”, Russian ministry of foreign affairs, 27 September 2017, http://mid.ru/en/web/guest/kommentarii_predstavatelya/-/asset_publisher/MCZ7HQUMdqBY/content/id/2875494.

³⁷ “Statement by High Representative/Vice President Federica Mogherini on the proposed Kurdish referendum in Iraq”, 19 September 2017, https://eeas.europa.eu/headquarters/headquarters-homepage/32450/statement-high-representativevice-president-federica-mogherini-proposed-kurdish-referendum_en.

IX. Perspectives in the Disputed Territories

For any renewed UN-led effort to settle Iraq's boundary and revenue-sharing questions, it will need to gain purchase among residents of the disputed territories that have grown sceptical that a solution that addresses their interests – instead of, or in addition to, Baghdad's and/or Erbil's – is possible. Crisis Group research in the disputed territories since 2003 has shown that people there constantly are pulled in opposite directions by the two capitals, but that their primary loyalty remains with their own local society, whose historically rich diversity they prize. They experience outside influence as disruptive, yet cannot resist it in a situation of enduring instability and uncertainty about if and how Iraq will survive as a country.

UNAMI's 2009 findings hinted that districts that were less diverse in ethnic composition might logically choose to remain under Baghdad or join the Kurdish region, hence enabling the drawing of a sustainable boundary. The challenge has been to find a solution for districts whose makeup is thoroughly mixed. This is true, in particular, for the city of Kirkuk, where a distinct "Kirkuki" identity remains pronounced and solid, even among Kurdish residents. This is partly because of a long history of intermarriage and partly perhaps because of the absence of open conflict since 2003. It would be impossible to peacefully draw a boundary through the city;³⁸ the fact that it sits on an oil field (the Baba Dome of the Kirkuk field) and provides a home to its administration, the North Oil Company, further complicates any notion of non-forcible division.

The best way forward therefore likely is for these areas to be shared – in administration and revenue – by both Baghdad and Erbil, leaving considerable autonomy in the hands of the local population. Hence UNAMI's proposal for a special status with an intercommunal power-sharing arrangement for Kirkuk in particular, and possibly for other similarly diverse towns as well – a solution Crisis Group proposed as early as 2006.³⁹ Subsequent repeated informal but structured talks among a cross-section of Kirkuki political actors have further emphasised both the possibility and desirability of such an arrangement, which would be based on and reinforce that distinct unifying identity.⁴⁰

The disputed territories' population may well welcome a renewed effort by UNAMI. That said, they also are tired of initiatives that fail to deliver results. A breakdown of future UNAMI-mediated talks could persuade local inhabitants of the futility of negotiations, heightening risks of civil war well beyond the current violence.

³⁸ The same would be true for towns similar to Kirkuk, such as Khanaqin, Tuz Khurmatu, and smaller localities with a highly diverse ethnic and religious makeup.

³⁹ Crisis Group Middle East Report N°56, *Iraq and the Kurds: The Brewing Battle over Kirkuk*, 18 July 2006.

⁴⁰ The Friedrich Naumann Foundation (2008-2012) and the Dialogue Advisory Group (since 2009 and ongoing) each have convened roundtable discussions with Kirkuki political and civil-society actors, as well as representatives from the Iraqi and Kurdish regional governments. Crisis Group was present as a non-partisan technical advisor at many of these events. Some had a capacity-building focus, while others were directed toward finding a political solution to the conflict between Baghdad and Erbil over Kirkuk. See, for example, "The Berlin Accord" – Third Friedrich Naumann Foundation conference on the future of Kirkuk adopts signal document", Friedrich Naumann Foundation, December 2008.

X. Conclusion

In order to end the fighting in Kirkuk, states and other actors committed to the stability of both Iraq and the Kurdish region should mediate an immediate ceasefire and come together around an agenda that would sustain a longer-term understanding among them. The objective should be to reach a deal on the disputed territories and oil revenue-sharing, while also supporting improved governance and political participation in both Baghdad and Erbil. Such an outcome would provide the two sides with a face-saving solution.

In such talks, the first order of business must be to forge a bridge between them so that they can proceed based on a formula in which they can claim that they have not compromised (in the case of the Kurds) on the principle of self-determination and (in the case of Baghdad) on that of territorial integrity; then convene talks on the disputed internal boundaries and oil revenue-sharing. These steps should be urged publicly and privately by Western states as well as by Iran and Turkey.

The next step is for the UN Security Council to pass a resolution outlining ways to further de-escalate tensions and providing a new mandate to UNAMI explicitly focused on resolving the conflict over the DIBs. More generally, states should use whatever leverage they have to convince the two sides that they stand to lose far more by further escalation and possibly open conflict than by a return to talks, with a timetable, to settle the immediate, practical issues that divide them.

Washington has a key role to play both in helping to bring about a ceasefire and restarting Baghdad-Erbil talks. Subsequently, it could lend its support to efforts to draft a Security Council resolution on the DIBs. Whether an administration facing considerable other challenges – both external and internal – will be willing and able to acquit itself of this critical task is an open question.⁴¹ The EU and its member states should step in to support whatever effort Washington can muster, or take the initiative in the Security Council themselves. Given the longstanding positions of Iran and Turkey on the DIBs and oil (Turkey: in favour of a deal between Baghdad and Erbil; Iran: not opposed to one), these two states are unlikely to try to block renewed UNAMI-led talks, and might even lend them their direct or indirect support.

Of course, the current rise in tensions between Washington and Tehran over the fate of the nuclear deal is an unwelcome and unnecessary complicating factor that could be spilling over into Iraq as well. Even if both Baghdad and Erbil are more likely to look to the U.S. than to Iran for guarantees enabling a deal, Tehran has more than enough capacity – and Iraqi allies – to play the role of spoiler. Just one more reason to lament President Trump's decision to call that accord into question and to add yet another potential crisis to a region that has had more than enough.

Brussels, 17 October 2017

⁴¹ One reason why Barzani decided to press ahead with the referendum may have been that, in the end, he did not receive the level of support from Washington for the Kurds' cause that he had hoped for or expected, but the referendum's outcome will not have changed the U.S. position in his favour, and may even have hardened it against.



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