

# Explanation of article 140

## What is Article 140 of the Iraq Constitution?

The Kirkuk referendum is the Kirkuk part of a plebiscite that will decide whether the Kurdish regions within Iraqi governorates of Diyala, Kirkuk, Salah ad Din and Ninawa will become part of the Iraqi Kurdistan region. The referendum was initially planned for 15 November 2007, but was delayed first to 31 December, and then by a further six months.

The Kurdish Alliance emphasized that the delay was for technical and not for political reasons. As the election was not called by early December 2008, it was postponed again as part of the deal to facilitate the regional elections on 31 January 2009. No fresh date has yet been set.

Article 140 of the Constitution of Iraq states that before the Kirkuk referendum is carried out, measures should be taken to reverse the Arabization policy employed by the Saddam Hussein administration during the Al-Anfal Campaign. Thousands of Kurds returned to Kirkuk following the 2003 invasion of Iraq. The referendum will decide whether enough have returned for the area to be considered Kurdish.

### The Article 140 states:

First: The executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law.

Second: The responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law shall extend and continue to the executive authority elected in accordance with this Constitution, provided that it accomplishes completely (normalization and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31st of December 2007.

### The above mentioned Article 58 states:

A. The Iraqi Transitional Government, and especially the Iraqi Property Claims Commission and other relevant bodies, shall act expeditiously to take measures to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work, and correcting nationality. To remedy this injustice, the Iraqi Transitional Government shall take the following steps:

1. With regard to residents who were deported, expelled, or who emigrated; it shall, in accordance with the statute of the Iraqi Property Claims Commission and other measures within the law, within a reasonable period of time, restore the residents to their homes and property, or, where this is unfeasible, shall provide just compensation.
2. With regard to the individuals newly introduced to specific regions and territories, it shall act in accordance with Article 10 of the Iraqi Property Claims Commission statute to ensure that such individuals may be resettled, may receive compensation from the state, may receive new land from the state near their residence in the governorate from which they came, or may receive compensation for the cost of moving to such areas.
3. With regard to persons deprived of employment or other means of support in order to force migration out of their regions and territories, it shall promote new employment opportunities in the regions and territories.
4. With regard to nationality correction, it shall repeal all relevant decrees and shall permit affected persons the right to determine their own national identity and ethnic affiliation free from coercion and duress.

B. The previous regime also manipulated and changed administrative boundaries for political ends.

The Presidency Council of the Iraqi Transitional Government shall make recommendations to the National Assembly on remedying these unjust changes in the permanent constitution. In the event the Presidency Council is unable to agree unanimously on a set of recommendations, it shall unanimously appoint a neutral arbitrator to examine the issue and make recommendations. In the event the Presidency Council is unable to agree on an arbitrator, it shall request the Secretary General of the United Nations to appoint a distinguished international person to be the arbitrator.

C. The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent constitution has been ratified. This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories.

— Article 58, Law of Administration for the State of Iraq for the Transitional Period

— Article 140, Constitution of Iraq.