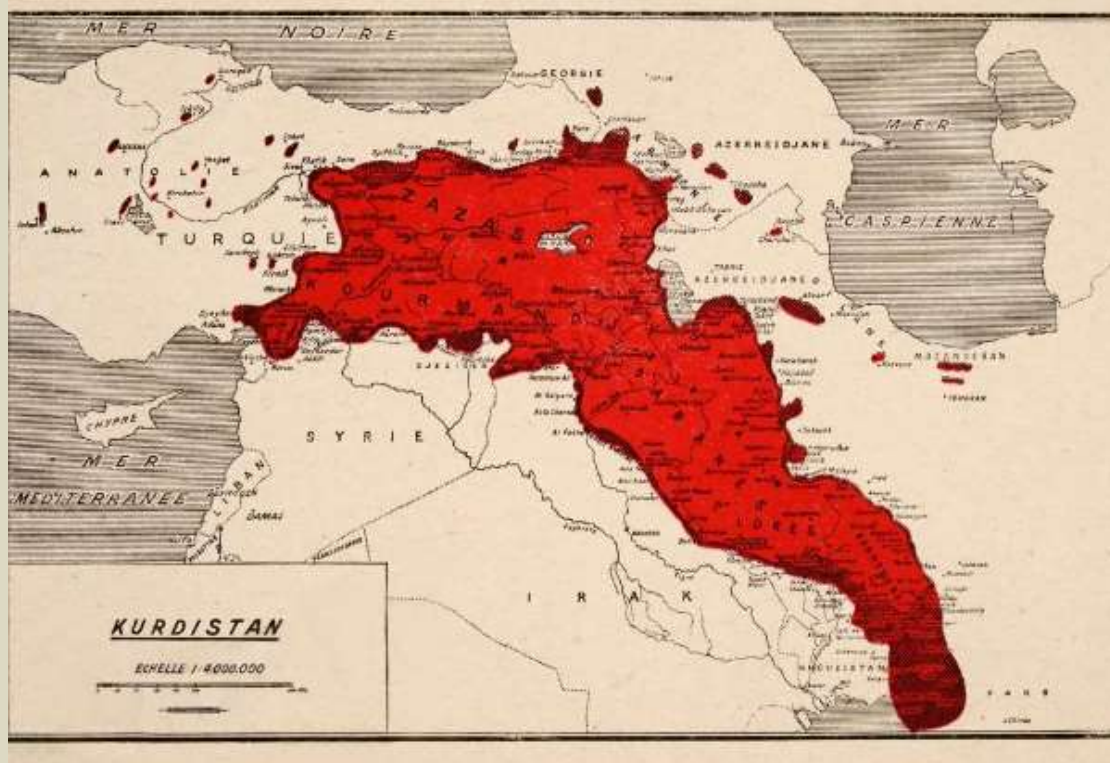


IENE Briefing Note No. 22



Towards A United Kurdistan: Prospects for Kurdish Self-Determination

December 2024

TOWARDS A UNITED KURDISTAN: PROSPECTS FOR KURDISH SELF-DETERMINATION

IENE BRIEFING NOTE NO.22

DECEMBER 2024

Written by Logman Radpey, *is a research member at the Edinburgh Centre for International and Global Law (ECIGL) at the University of Edinburgh, Scotland*

Institute of Energy for South East Europe (IENE)
3, Alexandrou Soutsou, 106 71 Athens, Greece
tel: +0030 210 36 28 457, 3640 278, fax: +0030 210 3646 144
website: www.iene.eu, e-mail: secretariat@iene.gr

Copyright ©2024, Institute of Energy for S.E. Europe

Legal notice

Neither the IENE nor any person acting on behalf of IENE is responsible for the use, which might be made of the information contained in the Briefing Note. The report does not represent any official position of IENE, nor do its contents prejudice any future IENE activities in any areas of its work.

A century has elapsed since one of history's most hypocritical, enduring, and consequential betrayals of principle. Following World War I (WWI) and the collapse of the Ottoman Empire, an independent Kurdistan was about to emerge. In Europe the Treaty of Versailles had implemented the principle of self-determination for ethnically-defined peoples, giving birth to new nation-states. Likewise in the Middle East, the Kurds were promised local autonomy and then independence from the Ottoman Empire within one year by the [Treaty of Sèvres](#) (10 August 1920). But the Allies shortly reneged and the Sèvres Treaty was eventually reversed by the [Treaty of Lausanne](#) (23 July 1923), forestalling the emergence of [Kurdistan as a sovereign state](#). Despite its official title as the 'Treaty of Peace with Turkey', the Lausanne Treaty fell short of establishing peace and stability in the region.

The Kurds were thereupon divided among the states of Turkey, Iran, Syria, Iraq, and the Soviet Union. In 1930, Stalin terminated the territorial entity of 'Red Kurdistan' (*Kurdistsanskii uezd* or *Krasnyi Kurdistan*) and incorporated it into Azerbaijan. With the deportation of Kurds to other Soviet republics, [Kurdistan was left](#) as a contiguous ethnic region divided across only four states. The Allied Powers' political and economic interests, especially those of Britain, France, and the Soviet successor state to Russia, played a decisive role in denying sovereign independence to the Kurds.

The aftermath of World War II (WWII) led to the brief establishment of a Republic of Kurdistan in Eastern Kurdistan within present-day Iran, terminated in 1946 when its leaders were executed by the Pahlavi royal regime in Iran. The act of executing Kurdish leaders mirrored a pattern observed in the Turkish state after the establishment of modern Turkey and its ensuing consequences. The [assassination of Kurdish leaders continued](#) as a serial crime committed by the Persian government under the Shah in Iran and, after 1979, by the ayatollahs striking in the heart of Europe.

The most fundamental right bestowed upon a people through the right of self-determination is [the right to freely establish their political status](#). However, the territorially-emphasised concept of a people disregards the geopolitical realities of Kurdistan. That is, the doctrine and its evolution have infringed upon the intrinsic idea of a people. The post-WWII process of decolonisation compounded the problem. Whether by oversight or cynical design, the principle of self-determination as codified after the creation of the UN failed to address the specifics of the Kurds as a fragmented people. A remedy can be either internal self-

determination within the existing states, or external via sovereign territorial independence through secession.

Effective participation of minorities in public affairs of states is crucial for achieving internal self-determination. Recognising ethnic differences constitutes the initial step towards ensuring meaningful participation, as individual political rights alone are insufficient to ensure minorities [an effective role in matters affecting them](#). With the tripartite [Treaty of Angora](#) concluded by Britain, Iraq, and Turkey in June 1926 to demarcate the boundary between Iraq and Turkey, the Kurds' host states valorised the respective domination of their own Fars, Turk and Arab ethnicities, while denying recognition to Kurds within their boundaries. These systemic disadvantages remain within Iran, Syria and Turkey.

Iran, Syria, Iraq, and Turkey rejected the Kurds' right to internal self-determination, fearing its potential to lead to secession. Under modern international law, the denial of internal self-determination implies the possibility of external self-determination, which includes the unilateral right to secede. Although the international community generally maintains an anti-secessionist stance, [there is recognition](#) of a [conditional right to secession](#).

The Kurds' host states have consistently otherised the Kurds, subordinating the Kurdistan areas with discriminatory ethnic and religious policies. Colonisation is manifested internally, and the regions remain non-self-governing. Tehran, Ankara, and Damascus have disregarded the development of the poverty-stricken regions. Despite natural resources including oil, water and gold, Kurdistan segments suffer the highest unemployment rates while the capital earned from their resources is diverted to benefit the ruling powers. [Militarisation and restrictions on Kurdish life](#) typify conduct by the dominant states. Yet conditions still fall short of the threshold for unilateral secession which involves severe human rights violations, denial of internal self-determination, and the exhaustion of all available remedies.

The Secession of Kurdistan

The Kurds' quest for self-determination involves four distinct yet interconnected territories within a single contiguous Kurdistan. Within territorially fragmented Greater Kurdistan, the terms Eastern Kurdistan (*Rojhilat* in Iran), Western Kurdistan (*Rojava* in Syria), Northern Kurdistan (*Bakûr* in Turkey), and Southern Kurdistan (*Başûr* in Iraq) are used as

geographic indicators, consistent with British government documents up to the 1920s and current Kurdish usage.

Human Right Records

Rojhilat (East)

The Kurds' existence within the borders of the Iranian state is not officially denied. Nevertheless, to erase Kurdistan attributes the state has emphasised Persian identity, Farsi language as the sole official language and Shi'ite religion, along with [militarisation and human rights violations](#). Persia's name change to 'Iran' in 1935 in fact led to the [subjugation, assimilation and suppression](#) of all other national and ethnic groups.

Systematic, extrajudicial killings and the excessive use of force against the Kurds are noted in [human rights reports](#). A disproportionately high number of Kurdish political prisoners receive the death sentence. Violations of Kurds' economic, social, and cultural rights [are commonly recorded](#). Even [nature and the ecosystems of Rojhilat have been securitised](#) and are not immune from Iranian state ecocide policies. As to the requirement that all remedies first be exhausted, the Kurds of Rojhilat have already reached a dead-end where political alternatives are not viable.

Bakûr (North)

Turkey exhibits [a mix of democratic and authoritarian characteristics](#), varying among regions. Democracy, legality, and citizenship rights are absent in Northern Kurdistan where for a century an entrenched discriminatory emergency rule has targeted ethnically conscious and politically mobilised Kurds. The Constitution affirms the Turkish Motherland and Nation as the indissoluble unity of the Sublime Turkish State (Preamble). Atatürk nationalism, Turkishness, and the TURKISH NATION [[upper case as in original](#)] are principles enshrined in the preamble of the Constitution. The supremacy of the Turkish language is decreed (Article 3), non-amendable and non-negotiable (Article 4).

Assimilation into the Turkish community is the only path to political representation at national and local levels. But the Kurds have resisted assimilation while seeking democratic norms. Despite limited gains in linguistic rights, Kurdish petitions to domestic and international judicial bodies have resulted in [state violence and a negative effect on political](#)

[rights](#). Identifying as ‘Turkish’ offers the only possibility of ascending within the government. Articles 9 and 70 of [Turkey’s Constitution](#) reinforce the same identity for the purpose of entering into public service and the exercise of juridical power by ‘[e]very Turk’ and ‘the Turkish Nation’. Without remaining remedies, the Kurds of Bakûr [appear to meet](#) the elements for a qualified unilateral secession.

Rojava (West)

Syria as an Arab entity was likewise founded on the denial of minorities within its boundaries as in its [2012 amended Constitution](#). Like its predecessor, the Constitution emphasises the ‘Arab identity’ of people in striving for ‘the unity of the Arab nation’ with the country considered ‘the beating heart of Arabism’ (Preamble), and ‘part of the Arab nation’ (Article 1).

Successive [Human Rights Watch reports](#) show that human rights violations justify a qualified right to secession for the Kurds in Rojava. Revealing of the Syrian official attitude was a security report on Cizîr (‘Jazira’), published on 12 November 1963 by a former secret service agent (Muhammad Talab al-Hilal) refuting the ‘history’, ‘civilization’, ‘language’, and ‘even [the] definite ethnic origin’ of the Kurds to deny their separate existence (Study of the National Social and Political Aspects of the Province of Jazira 1963). Later, the Secret Services anathematised the Kurds as equivalent to Israelis and Kurdistan as ‘Judistan’ and [advocated policies tantamount to genocide](#).

With the removal of Syrian state control from Western Kurdistan and the establishment of Kurdish self-rule there since 2012, no reports of egregious human rights violations have come to light, while the incumbent Syrian state is still accountable for the oppression inflicted on the Kurds before the 2011 civil war and its silence on [Turkey’s occupation of parts of Rojava since 2018](#), its recurring incursions and [drone strikes resulting in the loss of civilian lives](#). Rojavan self-rule remains formally unrecognised by Damascus. Syrian state’s violation of Kurdish human rights may or may not lead to the ultimate remedy of secession if Damascus tries to re-impose control over Rojava.

Bashûr (South)

The Kurds in Southern Kurdistan underwent an actual genocidal, ethnic cleansing assault in the [Anfal \(‘the Spoils’\) campaign](#) of the Iraqi Ba‘ath regime in 1988, with thousands upon thousands of Kurds disappeared,

executed, or gassed and 4,000 villages razed. The Kurds' claim to secession was bolstered by [the government's nerve-gas attack](#), leading to the state's forfeiture of its right to sovereignty, but no neighbouring states offered backing then to the Kurds. In contemporary Iraq there is currently no indication of flagrant, systematic, and persistent discrimination of Kurds that would justify the secession of the Kurdistan Regional Government. Therefore, the international community is not likely to endorse the secession of the Kurds in Bashûr without the consent of Baghdad.

Internal Self-Determination

The proposal put forth by the Kurdish movements for territorial autonomy as a model of internal self-determination to facilitate effective participation in public affairs, has been fully suppressed by the states of Turkey, Iran, and Syria. While autonomy within a federal arrangement may provide some degree of self-governance, it does not offer a viable path for the Kurds to achieve full sovereignty.

Modifying the states' constitutions is not a tenable option. Democratic political frameworks [are not available](#) for the Kurds inhabiting the host states. They lack representation in governing bodies and are divested of effective participation in decision-making processes affecting them directly. Parties oriented toward the Kurdistan question are considered illegal by the host states, leading to their dissolution. The Kurds participate in general elections only via mainstream parties. The principle of proportional ethnic representation is denied in parliament and government staffing.

In Iran, legislative and local representation is supposedly guaranteed albeit subject to *de facto* and *de jure* discrimination. In periodic legislative and local elections (non-territorial arrangements) Kurdish candidates are filtered by state bodies, including the Guardian Council and intelligence agencies, to guarantee seats for pre-selected representatives in the Islamic Consultative Assembly and local councils. They represent the state, not the Kurdish people. This is the case with Kurdish representation in Turkey's government.

In Turkey, most [Kurdish mayors-elect were sacked and arrested](#) on allegations of politically-motivated offences, replaced by the government's appointees for longer than the legal tenure. Also, [Kurdish parliamentarians](#), meeting the [highest excessive and discriminatory electoral threshold in the OSCE](#), are stripped of their immunity

collectively, receiving long imprisonment. The ECtHR '[immediate release](#)' of Kurdish co-chairs of the pro-Kurdish Peoples' Democratic Party (HDP), with numerous members in prison since 2015, went nowhere. This process is continuing.

Conclusion

It is an irony of history: although a sovereign Kurdistan did not come to be after WWI, Kurdish self-determination then stood a better chance of independent statehood than after self-determination became part of international law. By any political theory of self-determination, it seems obvious that the Kurdish people should be living in a single sovereign state of their own. Why this remains unachieved reveals much about the biases of international law.

For over a century the Kurds' host states have pursued antagonism towards Kurds and Kurdistan. They have employed the terms 'terrorist', 'separatist', and 'territorial integrity' as pretexts for oppressing the Kurds' quest for their rights. Persianisation, Arabisation, Turkification, deportation and seizure of land and the migration of non-Kurds to Kurdistan, alongside the continued assimilationist policies and internal colonisation adopted by the Kurds' host states, have led to the territorial reduction of Kurdistan.

Recent developments in Iraq and Syria have brought about the establishment of Kurdish *de facto* self-rule entities in the form of internal self-determination in Southern and Western Kurdistan, while the Kurds in Northern and Eastern Kurdistan have not achieved any form of control. The consistent pattern of gross human rights violations may fulfill the criteria for remedial secession. However, the level of oppression is less than the recommended standard based on the cases of Bangladesh, Kosovo, and South Sudan. But there has been no consistent gauging of the seriousness of oppression for a qualified right to secession that is applicable to every situation. Thus oppression has to be relative to the particular conditions of groups and their relationship with states. Also, there is no case of recent states' revocation of autonomy arrangements or a diminished degree of territorial self-rule administration or loss of power at the national level. Thus the Kurdish situation may not yet call for the *ultimum remedium* of secession although there is still political exclusion, lack of access to the state or meaningful representation of the Kurds in governing bodies, and degrees of active discrimination and assimilationist laws aimed against Kurdistani identity and language by

the states. The ability of Kurds to exercise internal self-determination has long been frustrated with no remaining remedy.

The Kurds' expressed will for secession is difficult to demonstrate because referendums under the control of the states of Turkey, Iraq and Iran are inconceivable. Despite their legitimate grievances, the Kurds have reached an impasse due to the non-democratic systems of their host states. The insistence of the international community of states on the intangibility of territorial integrity is the main hurdle for Kurdish self-determination, even though their host states do not conduct themselves in compliance with the principles of equal rights and self-determination of peoples. The 2005 Iraqi Constitution provides the Kurds in Southern Kurdistan with their only constitutional recognition, empowering them through self-governance provisions complemented by ministry representation in the state's governing administration following eight decades of suppression by the Iraqi state. The other repressive, unitary, and nationalist states, despite being party to the human rights conventions, persist in non-recognition.

On the centenary of the Treaty of Lausanne, achieving outright Kurdish sovereign statehood in the name of a Greater Kurdistan comprising all four Kurdistani segments, is not presently warranted. Separate chances for each segment to achieve statehood are more likely. Should a Kurdish segment achieve independence, there will be three Kurdistani *irredentas* ('unredeemed') that might someday, through [irredentism](#), be able to move toward incorporation within their historical, ethnic boundaries and create a United States of Kurdistan.

Photo: Kurdistan, French map. Appears with Bulletin Mensuel du Centre d'Etudes Kurdes, issue No. 8, August 1949 (FO 371/75123). In Anita Burdett, Records of the Kurds: Territory, Revolt and Nationalism, 1831-1979: British Documentary Sources, vol 13 (CUP 2015). Use authorised by the National Archives, London, England.