

Michigan Journal of International Law

Volume 15 | Issue 2

1994

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Recommended Citation

Richard Falk, *Problems and Prospects for the Kurdish Struggle for Self-Determination After the End of the Gulf and Cold Wars*, 15 MICH. J. INT'L L. 591 (1994).

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ESSAY

PROBLEMS AND PROSPECTS FOR THE KURDISH STRUGGLE FOR SELF- DETERMINATION AFTER THE END OF THE GULF AND COLD WARS

*Richard Falk**

I. FRAGMENTATION OF THE STRUGGLE AND ITS GOALS

At a dinner in Istanbul with Kurdish journalists and academicians in early 1992, I was told by a young sociologist that he had just finished a survey of Kurdish attitudes toward different solutions to the Kurdish problem. His principal finding was that Kurds living in the Middle East were generally in favor of modest solutions within the boundaries of existing States, while Kurds living in exile were overwhelmingly in support of the establishment of a single sovereign State, to be called Kurdistan, that would provide a homeland for all Kurdish people. Whether or not the study would satisfy social science standards of rigor, it did seem to correspond with my own impressions, and to identify important conceptual issues: what is the authoritative way to express the overriding Kurdish demand for self-determination? Who, if anyone, is empowered at this stage to speak on behalf of the Kurdish people as a whole? Or alternatively, should Kurdish self-determination be understood in pluralist terms, as having several distinct embodiments paralleling the separated existence of the Kurdish people over the course of the last seventy years?

Such issues of political identity bedevil almost all movements of peoples for self-determination but seem more currently central to the Kurdish situation as compared, say, to the Tibetan or Palestinian movements. In part this reflects the long, imposed period of fragmentation of the Kurdish people during the present century and the evolution of Kurdish political consciousness under diverse and difficult circumstances in a series of distinct sovereign States. In fact, the Kurdish struggle in recent decades has been primarily waged on a State-by-State basis with seemingly autonomous movements in each country that on occasion are

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openly hostile toward one another.¹ There are also variations of the contention found in some scholarly writing that the Kurdish people have been traditionally disunited, even beset by inner antagonisms as a consequence of a predominantly tribal organization and consciousness, a reality accentuated by their living in largely mountainous terrain.²

A further reinforcement of this impression of contemporary Kurdish disunity is the absence of any pan-Kurdish leader with high international visibility of the sort possessed by the Dalai Lama or Yasir Arafat. The outstanding Kurdish leaders in recent decades have all been associated with national scale Kurdish movements, although success in a particular setting is generally celebrated at the international level of Kurdish activity as a step toward achieving the wider Kurdish program. But even this assertion needs to be qualified, as efforts by Iraqi Kurds to consolidate their autonomy during 1991 came into conflict with the use of Iraq as a sanctuary and base area by guerrillas of the revolutionary Kurdistan Workers' Party of Turkey (PKK).³

Despite these intra-Kurdish tensions, the following statement expresses this wider sentiment of Kurdish solidarity in relation to the establishment of Iraqi Kurdistan as a constituent element within a federated Iraq: "The declaration of federalism has been greeted in all the regions of Kurdistan as the beginning of concretization of the dream of self-determination of the Kurdish people."⁴ The same source goes on to assert that these Iraqi developments constitute a "highly symbolic act" that needs to be associated with the Treaty of Sèvres,⁵ which proposed,

1. See, e.g., Chris Hedges, *An Odd Alliance Subdues Turkey's Kurdish Rebels*, N.Y. TIMES, Nov. 24, 1992, at A1 (reporting that Iraqi Kurds are helping Turkish forces fight Turkish Kurds).

2. See, e.g., LEE C. BUCHHEIT, *SECESSION: THE LEGITIMACY OF SELF-DETERMINATION* 153 (1978). The transition from tribal to national consciousness may have been both deferred and prolonged by a variety of Kurdish circumstances, including the geographic setting, the presence of strong contending non-Kurdish regional forces, and the relatively noninterventionary quality of Ottoman administration.

3. Iraqi Kurdistan has become dependent on official Turkish benevolence since 1991 as a consequence of Baghdad's continuing hostility and internal blockade of the Kurdish region. See Chris Hedges, *Kurds in Iraq Warned by Turkey, Iran, and Syria*, N.Y. TIMES, Nov. 15, 1992, at A9. International protection of Iraqi Kurdistan has depended on Turkish permission to use bases integral to Operation Provide Comfort. [Editor's Note: Operation Provide Comfort was a humanitarian operation begun by the U.S. military in April 1991 to provide relief to Kurds fleeing Iraqi forces in the aftermath of the Gulf war. See Michael E. Harrington, *Operation Provide Comfort: A Perspective in International Law*, 8 CONN. J. INT'L L. 635 (1993).]

4. See INFO. & LIAISON BULL. (Institut Kurde de Paris), Nos. 91-92, Oct.-Nov. 1992, at 2.

5. Treaty of Peace between the British Empire and Allied Powers (France, Italy, Japan, Armenia, Belgium, Czecho-Slovakia, Greece, the Hedjaz, Poland, Portugal, Roumania and the Serb-Croat-Slovene State) and Turkey, Aug. 10, 1920, 113 BRIT. & FOREIGN ST. PAPERS 652 [hereinafter Treaty of Sèvres].

in the aftermath of the collapse of the Ottoman Empire, the creation of a single Kurdistan covering the entire Kurdish region.⁶ Also mentioned was the establishment of the Kurdish Republic of Mahabad⁷ in 1946 by the Iranian Kurdish people.⁸ Of course, the nonsustainability of these latter symbolic experiences suggests a double ambiguity when it comes to their invocation: first, the impulse to celebrate historical failures as successes tends to accentuate, rather than diminish, the modern Kurdish tragedy; second, the lumping together of the Iraqi federation, Mahabad, and Sèvres emphasizes the uncertain links between affirming aspirations for a single Kurdish State and for the more limited plan of seeking self-determination within the existing and firmly entrenched State structure in the region.

Often in discussions of the Kurdish right of self-determination these issues are not clearly identified. On the one side, the situations of Kurds in Iraq, Turkey, Iran, Syria, and the former Soviet Union are discussed as essentially separate concerns, but at the same time the plight of the Kurds is, nevertheless, treated, even in the technical literature, as a single, integrated misfortune.⁹ Clarifying these issues of self-definition, to the extent possible, is itself a political challenge of some importance to the Kurdish people, and has a decisive bearing on the capacity to pose the overriding question of self-determination for the Kurdish people within international arenas in a convincing way at this time.

Current uncertainty about the appropriate focus for the expression of Kurdish self-determination can be grasped by setting forth the main alternative approaches:

- (1) The right of self-determination is to be understood as inhering in the Kurdish people, and to apply to the whole of historic Kurdistan.
- (2) The right of self-determination is to be now understood as belonging to the Kurdish peoples, and to apply separately in relation to the States wherein these peoples live; however, the form and depth of self-determination may vary in its implementation from State to State depending on both the political will of the Kurdish movement and its degree of success in achieving its goals.

6. See INFO. & LIAISON BULL., *supra* note 4.

7. [Editor's Note: The Republic of Mahabad constituted the only successful attempt at an independent Kurdish State in the period since World War I. It was created in what is now western Iran in December 1945. It ceased to exist in December 1946 when it was occupied by Iran. A.R. GHASSEMLOU ET AL., *PEOPLE WITHOUT A COUNTRY, THE KURDS AND KURDISTAN* 135-52 (Gerard Chaliand ed., Michael Pallis trans., 1980).]

8. See INFO. & LIAISON BULL., *supra* note 4.

9. See, e.g., GHASSEMLOU ET AL., *supra* note 7.

- (3) The right of self-determination is not yet clearly associated with either (1) or (2), or alternatively, (2) may be a stage in a process that would only be consummated by (1); a further possibility here is that an ambiguity of intention with respect to the scope and depth of self-determination serves the current interests of the Kurdish people as a whole, combining tactical flexibility in existing contexts of struggle — which are national in scope, internal in depth, and uneven in prospect — with an underlying strategic vision that remains committed to the eventual establishment of a single Kurdistan.

If indeed the dominant Kurdish position is currently understood as some variant of (3), it should be appreciated that such a view possesses both serious weaknesses from the perspective of building a Kurdish support movement on an international level and definite strengths in terms of accommodating the complex historical circumstances of power and struggle. These weaknesses center on the impression of incoherence and amorphousness that has come to be associated with the Kurdish movement, making it far more difficult for non-Kurds generally sympathetic to the struggles of oppressed peoples either to identify closely with the Kurdish struggle or to accord it a high priority on the global agenda of unresolved grievances. Whether or not such solidarity at a global level is important for Kurdish success at this time is difficult to say. It should be appreciated that compared to the Palestinian and Tibetan struggles, the Kurdish struggle confronts even harsher geopolitical realities — both in the form of a regional consensus favorable to the maintenance of all existing States within their current boundaries and support for the regional status quo by influential outside actors, including the United States.¹⁰ In retrospect, perhaps the Kurdish turning-point was to swallow without any effective appearance of unified resistance the Treaty of Lausanne¹¹ that not only extinguished the pledges of Sèvres,¹² but also ratified a political framework that

10. A dramatic, recent expression of this regional consensus was the extraordinary meeting in Ankara on November 14, 1992 of the foreign ministers of Turkey, Iran, and Syria that openly condemned the establishment of a *de facto* State in northern Iraq, declaring such a development a threat to the territorial integrity of Iraq, a likely zone of chaos, and a threat to the national security of the three countries. See Hedges, *supra* note 3, at A9. The meeting was extraordinary because it brought together governments united by little else than their common anti-Kurdish consensus, and because the inclusion of Iran — which contravened U.S. foreign policy aimed at isolating Iran from regional frameworks — was not cleared with Washington.

11. Treaty of Peace, July 24, 1923, between the British Empire-Fr.-Italy-Japan-Greece-Rom.-the Serb-Croat-Slovene State, and Turkey, 28 L.N.T.S. 11.

12. Treaty of Sèvres, *supra* note 5.

effectively distributed the Kurdish people among five distinct political entities, each achieving sovereign status.¹³ Kurdish political self-consciousness seemed insufficiently evolved in the period after World War I to offer effective resistance to these essentially European colonial machinations.¹⁴ In this regard, Kurdish political consciousness may not have been less developed than that of many other peoples, considering that the colonial order remained firmly in control throughout the non-Western world, although the persistence of tribal loyalties may have facilitated oppression. Further, the regional colonial project in the Middle East was influenced by the success of Kemal Mustafa Ataturk's nationalist program in Turkey that promised "Westernization" and was compatible with British colonial designs in the region, which centered on oil and the maintenance of a strong buffering link with Central Asia and India. Ataturk absorbed a significant portion of the Kurdish people in the course of establishing the modern Turkish State; once Turkey was accepted as a political reality, then colonial interests, dominated by the British, were best served by keeping the remaining Kurds as national minorities in Iran, Iraq, and Syria, thereby creating better prospects for viable States in the region.

There are two further preliminary questions of a conceptual character. The right of self-determination to be realized in practice does not have a definitive content or status but reflects both a contest of political wills and the play of forces. It is possible that a territorial State will acquiesce under certain conditions to claims of self-determination, even of a maximalist, secessionist variety. It is reported, for instance, that the Belgrade government headed by Slobodan Milošević in the former Yugoslavia was prepared in 1991 to accept the secession of Slovenia, despite being resistant to other secessionist claims.¹⁵

Exercising fully a given right of self-determination need not imply separate statehood or the dismemberment of an existing territorial State. Self-determination in a variety of formats can be fulfilled *within* existing States and is sometimes referred to as *internal self-determination*.¹⁶ The

13. There was evidently significant Kurdish resistance activity, but it was effectively suppressed, and either ignored or misconstrued by later historical accounts. For an effort at revisionist historical assessment, see Kamal Madhar, *The Kurdish Revolt of 1925*, 1 KURDISH CULTURE BULL. 68 (1988).

14. See typical analysis along these lines in STEPHEN C. PELLETIERE, *THE KURDS: AN UNSTABLE ELEMENT IN THE GULF* 57-61 (1984).

15. For an account of the early stages of the breakup of the Yugoslav federation, see MORTON H. HALPERIN & DAVID J. SCHEFFER, *SELF-DETERMINATION IN THE NEW WORLD ORDER*, 32-38 (1992).

16. Internal self-determination is also used as a way to reinforce the norm of nonintervention in the internal affairs of a State and to ground legitimate sovereignty on

pursuit of internal self-determination is more easily reconciled with some conceptions of international law and may be more in accord with the political prospects and relative capabilities of a captive people or nation. At the same time, as the experience of the Iraqi Kurds during the past twenty years in particular shows, internal self-determination may itself be a snare and delusion, leaving predominant power in the government of the encompassing State, thereby consigning the captive people to a circumstance of permanent vulnerability.¹⁷ Those in control of the central governing process can bide their time, reasserting oppressive control as opportunities arise, a pattern descriptive of the relationship between Iraqi Kurds and Baghdad during the period of Saddam Hussein's rule. Of course, the presentation of historic opportunities works in both directions, and the current success of Iraqi Kurds in achieving de facto autonomy seems organically connected with the Gulf War and its horrifying aftermath.¹⁸

II. THE EVOLUTION OF THE RIGHT OF SELF-DETERMINATION

An understanding of the evolution of the right of self-determination is important for appreciating the complexities and ambiguities of the Kurdish experience. The idea of self-determination expressed, in part, the gradual identification of statehood and political legitimacy with the theory and practice of nationalism, as opposed to that of empire with its multination character. Its relevance was dramatized by Woodrow Wilson's espousal of self-determination as a constitutive principle of peace in the altered international order that he favored in the aftermath of World War I. Wilson's concerns were explicitly directed at the future

respect for fundamental human rights. In effect, as self-determination inheres in the people rather than the State, it presupposes a measure of internal freedom. For helpful discussion see Antonio Cassese, *Political Self-Determination — Old Concepts and New Developments*, in UN LAW/FUNDAMENTAL RIGHTS 137-65 (Antonio Cassese ed., 1979).

17. Both the relative achievements and the anguishing vulnerabilities of Iraqi Kurds are expressive of the broader issues at stake. The autonomy agreement of March 1970 between the Iraqi Kurdish representatives and the Baghdad government was most forthcoming compared to Kurdish circumstances elsewhere, but the subsequent disregard of the commitments and genocidal suppression of Kurdish resistance in both the late 1970s and again in the late 1980s visited a worse fate on Iraqi Kurds than was being endured elsewhere. For a brief account of both aspects, see HURST HANNUM, *AUTONOMY, SOVEREIGNTY, AND SELF-DETERMINATION: THE ACCOMMODATION OF CONFLICTING RIGHTS* 190-94 (1992).

18. A major theme of the concluding Part of this essay is the extent to which self-determination prospects are arbitrarily conditioned by the vagaries of geopolitics. These vagaries work grave historic injustices on certain peoples; the Kurdish people have been and continue to be victimized. The State of Israel was effectively established in the aftermath of World War II, facilitated by the grim revelations of massive genocide against the Jewish peoples. See Richard Falk, *The Cruelty of Geopolitics: The Fate of Nation and State in the Middle East*, 20 MILLENNIUM 383-94 (1991).

political arrangements planned for the defeated Austro-Hungarian and Ottoman Empires, but their realization was thwarted and distorted by the interposition of the colonialist schemes of the victorious European States. Self-determination was not written into the Covenant of the League of Nations and was relevant to postwar arrangements only to the extent consistent with geopolitical considerations. As Hannum expresses this pattern: "It should be underscored that self-determination in 1919 had little to do with the demands of the peoples concerned, unless those demands were consistent with the geopolitical and strategic interests of the Great Powers."¹⁹

Also at this time self-determination was subordinated to considerations of territorial unity for existing States. In a dispute concerning the future of the Aaland Islands, which the League confirmed as part of Finland despite acknowledging both the Swedish ethnic character of the population and its preference for union with Sweden, it was definitively concluded in 1920 that the wishes of a part of an existing State had no legal basis for claiming a right of secession and that claims of self-determination on behalf of an ethnic minority were not legally relevant.²⁰

The strengthening of the right of self-determination has been a gradual process, given a definite, if opportunistic, push by the Soviet-led socialist countries as an aspect of their wider struggle to oppose and weaken the colonial order. Self-determination is affirmed in the U.N. Charter, both in Article 1, paragraph 2 and Article 55, but ambiguously as a "principle" rather than as a "right." In both Charter references, self-determination is coupled with the "equal rights" of States, suggesting more the notion that all States are entitled to pursue their own course free from outside interference rather than that captive "peoples" are entitled to autonomy, or possibly even secession, if that is their will.

But the anticolonial struggle, as it gained momentum after World War II, established self-determination as a right of peoples subject to colonial rule to pursue and achieve full political independence. As expressed in the famous Declaration on the Granting of Independence to Colonial Countries and Peoples,²¹ the scope of the right of self-determination is broader than the explicit circumstances of colonial

19. HANNUM, *supra* note 17, at 28. As will be considered in the next Part of this essay, the abandonment of the Sèvres pledge to establish Kurdistan was almost completely a matter of changing British colonial calculation between 1920 and 1923 and had virtually nothing to do with any sense of a reduced justification for establishing a Kurdish State.

20. *See id.* at 29, 370-71.

21. G.A. Res. 1514, U.N. GAOR, 15th Sess., Supp. No. 16, U.N. Doc. A/4684 (1961) [hereinafter Declaration on Colonial Countries].

subjugation. For instance, the first two operative clauses of the Declaration state:

- (1) The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.
- (2) All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.²²

But one must also acknowledge the Declaration's characteristic limitation on the exercise of self-determination: that "[a]ny attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations."²³

The next important formal step in the U.N. era was the inclusion of the right of self-determination in the common article 1 of the human rights covenants of 1966, the International Covenant on Civil and Political Rights²⁴ and the International Covenant on Economic, Social and Cultural Rights.²⁵ In these covenants the enunciation of the right in the context of setting forth a framework for the general exercise of human rights is not tied to the colonial setting: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."²⁶ Here, the right of self-determination seems to pertain to peoples, including those trapped within existing States, and is so located in the treaties as to constitute a collective precondition to the exercise of individual human rights. Also, it is not qualified by any reference to the primacy of the principle of territorial integrity of existing States, implying a guarantee of fundamental human rights for all peoples regardless of their political circumstances.

The Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with

22. *Id.* at 67. The vote on the Declaration was 89 in favor, 0 in opposition, with 9 abstaining including the United States, United Kingdom, and France. Subsequent developments have authoritatively embodied the right of self-determination as specified in the Declaration as an operative norm of international law. Cf. HANNUM, *supra* note 17, at 27-49.

23. Declaration on Colonial Countries, *supra* note 21, ¶ 6.

24. *Opened for signature* Dec. 19, 1966, S. EXEC. DOC. E, 95th Cong., 2d Sess. (1979), 999 U.N.T.S. 171 [hereinafter CPRC].

25. *Opened for signature* Dec. 19, 1966, S. EXEC. DOC. D, 95th Cong., 2d Sess. (1979), 993 U.N.T.S. 3 [hereinafter ESCRC].

26. CPRC, *supra* note 24, art. 1(1); ESCRC, *supra* note 25, art. 1(1).

the Charter of the United Nations²⁷ further solidified the importance of the right of self-determination and set forth some influential, although confusing, language about its appropriate application. The right of self-determination is treated as one of seven basic principles of international law, and it is acknowledged that it can be realized by different modalities, whatever status is “freely determined by a people,” whether it involves claiming a new State or some kind of association with or within an existing State.²⁸ The idea of territorial integrity is reaffirmed, but in more conditional terms that leave openings for exceptions. The language is important enough to set forth:

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.²⁹

The formulation raises the question, “What if the State in question is not conducting itself in compliance . . . ?”

Also, exceedingly important in assessing the evolving right of self-determination are patterns of practice indicative of boundaries and trends in the exercise of the right of self-determination.³⁰ The statist character of the Cold War period was very strong. No instance of secession, save that of Bangladesh, which was facilitated by the interposition of the Indian Army, occurred in the period 1945–1990. But with the ending of the Cold War, statist discipline broke down, especially in connection with the breakup of the Soviet Union and Yugoslavia. In both instances, for various moral and political reasons, powerful States either welcomed the breakup or were indifferent to its consequences.³¹ The earlier bias in favor of territorial unity of existing sovereign States was cast aside without any serious attempts at principled justification. It is difficult to

27. G.A. Res. 2625, U.N. GAOR, 25th Sess., Supp. No. 28, at 121, U.N. Doc. A/8028 (1970).

28. *Id.*

29. *Id.*

30. For helpful surveys of practice see HALPERIN & SCHEFFER, *supra* note 15; HANNUM, *supra* note 17.

31. *But see* HALPERIN & SCHEFFER, *supra* note 15, at 27–38 (noting U.S. reluctance to validate self-determination claims resulting in secession even in relation to the former Soviet and Yugoslav federations).

assess what sort of precedents have been created, especially as the ultra-nationalist fallout from this spate of secessionism has yet to abate. It is possible that this recent experience will produce a backlash that weighs sentiments against self-determination claims with separatist implications.³² More likely, however, is the more tentative reaction that continues to accede to or resist self-determination claims based on the play of geopolitical forces rather than upon the relative merits of the moral and legal case. In this sense, despite the evolution of the rights of self-determination, itself largely a reflection of political pressures, the overall situation remains not drastically altered from what it was in the period after World War I, except that colonialism of an overt sort has passed from the scene.³³

III. GEOPOLITICS AND THE PROSPECTS FOR KURDISH SELF-DETERMINATION

The complex Kurdish experience over the course of the century highlights both the relevance and cruelty of geopolitics. Kurdish vulnerabilities have been consistently manipulated by outsiders, offering either temporary encouragement for the active pursuit of self-determination or occasions for the abrupt abandonment of the Kurdish struggle in the course of striking a bargain with anti-Kurdish statist forces in the Middle East. The lesson here is not one of determinism, but of relevance. It is important on the Kurdish side to assess their geopolitical options in any given setting as an aspect of their struggle, taking risks and setting goals accordingly, not only avoiding naive trust in the motives of outsiders but also grasping real opportunities presented by a shifting historical scene.

The moral, political, and legal strength of Kurdish claims to self-determination remains in the background. This strength was acknowledged at the very outset of the development of the right, as Wilson intended, above all, for self-determination to apply to the non-Turkish peoples caught up in the Ottoman Empire. In Wilson's Fourteen Points (of 1918), Point Twelve addressed the issue directly: "XII. The Turkish portions of the present Ottoman Empire should be assured a secure sovereignty, but the other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely

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32. See, e.g., Amitai Etzioni, *The Evils of Self-Determination*, 89 FOREIGN POL'Y 21-35 (1992).

33. For an attempt at a more systemic explanation, see Falk, *supra* note 18.

unmolested opportunity of autonomous development. . . .”³⁴ Presumably, even in 1918, not all of historic Kurdistan was situated within the Ottoman Empire, part having been incorporated into the modern Persian country of Iran and a small part belonging to the Soviet State.

Kurdish aspirations were directly safeguarded in the Treaty of Sèvres³⁵ negotiated between Great Britain and defeated Turkey in 1920. It provided for independence from Turkey in those parts of Anatolia where Kurds were in the majority³⁶ and set forth a political mechanism for the establishment of a Kurdish State that was to have encompassed the vilayet of Mosul (later located in Iraq), including imposing a legal commitment both on the Turkish government to facilitate the process and on the Allied Powers to accept such an outcome.³⁷ Sèvres was never ratified, and the political realities were decisively altered by Ataturk’s victory in Turkey, consummated by the defeat of Greece in 1921. The British easily accommodated these changed circumstances, entering into the Treaty of Lausanne with Turkey in 1923, which never even specifically mentioned Kurdish national rights. In the new order, Mosul, constituting what would have been southern Kurdistan, became a part of Iraq. The basic British concern being the oil in Mosul — a subject of an earlier British/French rivalry and compromise, Britain’s interest in Kurdish self-determination was both instrumental and short-lived. Arguably, this outcome was influenced by Kurdish miscalculations, generally earlier siding with Ataturk in the struggle against the Armenian Christians, unduly reliant on assurances of Kurdish autonomy. Perhaps, also, the Kurdish people were insufficiently united and organized in defense of their own aspirations, and failed to realize what a crucial moment in history the circumstances in their region after World War I presented.

Few observers in 1918 would have guessed that the vague promise of a Jewish homeland in the Balfour Declaration would result in Jewish statehood before the acknowledgements of Kurdish national identity would have led to Kurdish statehood. There are important lessons to be learned, of success and disappointment, in these two disparate experiences, each shaped and deformed by the outcome of major wars within the region and beyond. Perhaps the central lesson is the relevance of a focused movement that represents and unifies the people in question. A secondary lesson is the importance of becoming a subject of geopolitics rather than being continuously cast in the role of object.

34. President Woodrow Wilson, Address by the President of the United States (Jan. 18, 1918), in 56 CONG. REC. at 680, 681 (1918).

35. Treaty of Sèvres, *supra* note 5.

36. *Id.* art. 62.

37. *Id.* art. 64.

On the basis of the status of the right of self-determination and recent practice, the Kurdish legal position is strong, although not without severe obstacles and problems. The main challenge arises because as of 1993, the Kurdish population is spread out as a series of large national minorities in established, independent States that are members of the United Nations. There is no doubt that the U.N. coalition could have included among its Gulf War aims the grant of a right of secession to Iraqi Kurds, a posture justified by systematic and severe oppression, including crimes against humanity culminating in the use of poison gas against the village of Halabja in 1988, in the aftermath of the Iran/Iraq War.³⁸

The main coalition States seeking maximal regional support in opposition to Iraq realized that emphasizing Kurdish rights would be a divisive element. In addition, Kurdish pressure on an international level was minimal, easily being ignored by major States, especially the United States, with its main preoccupation being directed at preventing the spread of Islamic fundamentalism. This led U.S. policy planners to maintain Iraq's territorial unity in relation to Iran. The other regional countries with Kurdish minorities used all of their diplomatic leverage, especially Turkey, to discourage setting an Iraqi Kurdish precedent. If television had not dramatized the plight of Kurds fleeing to the Iraqi mountains in the immediate aftermath of the Gulf War, it seemed likely that nothing at all would have been done to oppose Saddam Hussein's vengeful and genocidal attempts to destroy the Kurdish people in Iraq.

Can reliance on the Kurdish right of self-determination help protect the Kurdish peoples and serve as the basis of their future emancipation? If self-determination is taken to be a foundation for the exercise of human rights, then the answer is clearly yes, although with varying prospects on a State-to-State basis. If self-determination is viewed as the basis for claiming a right of secession, then the answer is more ambiguous, given the strong States that would have to accede, their shared interest in discouraging effective Kurdish autonomy, and the interest of the United States in stabilizing the regional status quo. It is ambiguous because of the degree to which the distinct peoples caught up in the former Soviet Union and Yugoslavia were able to succeed in establishing their own States; it is no longer credible to block secessionist claims by reference to ironclad support for the territorial unity of existing States.

38. For background on oppression see generally PETER W. GALBRAITH & CHRISTOPHER VAN HOLLEN, JR., *CHEMICAL WEAPONS USE IN KURDISTAN: IRAQ'S FINAL OFFENSIVE*, S. DOC. NO. 148, 100th Cong., 1st Sess. For subsequent reports, see PETER W. GALBRAITH, *SADDAM'S DOCUMENTS*, S. DOC. NO. (III), 102d Cong., 2d Sess. (1992); PETER W. GALBRAITH, *KURDISTAN IN THE TIME OF SADDAM HUSSEIN*, S. DOC. NO. 56, 102d Cong., 1st Sess. (1991); PETER W. GALBRAITH, *CIVIL WAR IN IRAQ*, S. DOC. NO. 27, 102d Cong., 1st Sess. (1991).

The Kurdish position on self-determination needs to be recast in light of these various considerations, but especially, to the extent possible, in a manner that expresses a consensus among various Kurdish tendencies. One issue of importance is whether to accept the course of the last seventy years and define self-determination pluralistically in relation to distinct conditions in the various States, suggesting the existence of separate Kurdish movements, relegating the pan-Kurdish State to the domain of utopia or restricting its relevance to matters of cultural identity. It is also possible to reassert the pan-Kurdish State as a legitimate political goal, relying on the evidence that its failure to materialize was a casualty of colonial machinations and that its continuing denial is a violation of the normative order that evolved during the U.N. period and was associated with the repudiation of colonialism and related forms of alien subjugation. Given Kurdish numbers, self-identification, and association with specific territory over a period of at least 2,000 years, and given the consistent Kurdish experience of abuse and discrimination within the existing States in the region, a maximalist case for claiming rights of self-determination on behalf of the Kurdish peoples exists. Yet given the strength of statist and adverse geopolitical forces, as well as the fragmented character of the Kurdish movement, an argument for more modest or minimalist claims on behalf of the various Kurdish peoples may seem currently persuasive. Only the Kurds themselves can make these choices, but the failure to do so is likely to lead to new frustrations.

The current period of regional and global fluidity contains the greatest opportunities for the advancement of the Kurdish struggle since the Ottoman collapse, but it also is fraught with traps and dangers. It is urgent that the authoritative representatives of the Kurdish people act on the basis of this challenge with as much understanding as possible and within as united a political front as is attainable.

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