



The Sèvres Centennial: Self-Determination and the Kurds

Volume: 24 Issue: 20

By: **Loqman Radpey**

Date: August 10, 2020

TREATY OF PEACE WITH TURKEY.

Signed at Sèvres, August 10, 1920.

Introduction

On August 10, 1920, exactly a century ago, the political fate of the Kurdish nation along with its territory, Kurdistan were on the line, after the Allied Powers asserted their interest in national rights to self-determination following World War I (WWI). President Wilson wrote in his Fourteen Points for World Peace in January 1918: "[t]he Turkish portions of the present Ottoman Empire should be assured a secure sovereignty, but other nationalities which are now under Turkish administration should be assured an undoubted security of life and an unmolested opportunity of autonomous development." On November 9, 1918 in a joint declaration, Britain and France promised "the complete and final liberation of the peoples" who had been long oppressed by the Turks, through "native governments and administrations." These arrangements were to be established when nations, of "their own free will" would act upon "the principles of self-determination."^[1]

However, pursuant to the peace treaties, several territories were demarcated without consulting their peoples. In contrast, the drawing of states' boundaries in Europe took place mostly along national lines. Self-determination via sovereignty was thus in practice a Eurocentric concept, whereas in the Middle East self-determination meant self-government rather than internationally-recognized statehood. The result has been an untenable diversity across regions affected by the War in the varieties of self-determination, continuing to the present, suggesting that some peoples' nationhood is less legitimate than that of others.

By 1920, self-determination was being realized only internally within states, whereby minorities were entitled to maintain their separate identities through guaranteed linguistic, cultural, and religious rights, but were not given full sovereignty. Minorities' rights were included in the Covenant of the League of Nations as a result of this fall-back from sovereign self-determination. In contrast, the principle of self-determination was not addressed at all in the Covenant of the League of Nations. Instead it created the Mandate System, in which "*peoples not yet able to stand by themselves*" were entrusted to "*advanced nations*" in Article 22. Self-determination after the War thus became a principle that only applied to some, based on racial, religious, and cultural criteria.

The Treaty of Sèvres (1920): National Self-Determination Within Reach

Since the Treaty of Zuhab (Qasr-e Shirin) in 1639, which integrated the Kurdistan region into the Ottoman and Persian Empires, the Kurds have proactively sought to create an independent territorial state of Kurdistan. The secret Sykes-Picot deal (May 15-16, 1916)^[2] among Britain, France, and Tsarist Russia created new boundaries for the peoples of the Middle East, although these frontiers were recognized neither by the United States nor by the Bolsheviks. By that deal, Kurdistan would have been partitioned into British, French, and Russian-administered zones, as well as the Persian sphere.^[3] Upon Russia's retreat and forfeiture of all its claims, and pursuant to the deal of December 23, 1917 between France and Britain, Kurdistan was assigned to the "English zone" of 'influence'.^[4]

After WWI, at the Inter-departmental Conference of February 23, 1920, France proposed "a partition of Kurdistan between the British and the French ... and the setting up of a federal organization."^[5] Owing to the lack of a unified position within the British government, Lord Curzon, chairing the Conference, announced the British withdrawal from Kurdistan, paving the way for Kurdistan "to form itself into an autonomous State," with the Turks evacuating from "all Kurdish areas." The Conference held that "the final decision on the future of Kurdistan would depend on the conclusion of the [Paris] Peace Conference."^[6] The Ottoman Empire signed the Treaty of Sèvres (the Treaty), the outcome of that conference, on August 10, 1920.^[7]

Article 62 of the Treaty (Section III, Kurdistan) empowered a commission of British, French, Italian, Persian, and Kurdish representatives to determine any changes in the Ottoman frontier. It also empowered another commission composed of a delegation of British, French, and Italian officials to draft within six months "a scheme of local autonomy for the predominantly Kurdish areas lying east of the Euphrates, south of the southern boundary of Armenia ..., and north of the frontier of Turkey with Syria and Mesopotamia"^[8] In Article 63, Turkey agreed to "accept and execute the decisions of both the Commissions ... within three months."^[9]

Under Article 64, within one year of the coming into force of the Treaty, Kurds would attain "independence from Turkey" by popular majority if desired and if they obtained the consent of the Council of the League of Nations.[10] Upon Turkey's renunciation of "all rights and title over these areas," Kurds "in the Mosul vilayet" (Southern Kurdistan) could "adhere" to the "independent Kurdish State." [11] The Treaty also required that Turkey abandon "all rights of suzerainty or jurisdiction of any kind over Moslems who are subject to the sovereignty or protectorate of any other State." [12] However, despite major nationalist movements, the Kurds of Eastern Kurdistan (i.e., in Persia) were not considered candidates for self-determination, since Britain respected the territorial integrity of Persia (later Iran) under the Anglo-Persian treaty of August 9, 1919,[13] subverting any chance of a "United Kurdistan" and thereby retaining significant British authority over Persian land, customs, and oil resources.

The Kurdish areas specified in the Treaty did not include all of the region's Kurds, for the Treaty did not affect Kurdish territory in Syria, or Armenia.[14] Moreover, a flimsy government in Istanbul could not implement the Sèvres provisions. Turkish nationalists agreed that three Kurdish sanjaks in Northern Kurdistan should, by way of popular vote, determine their status, "if necessary." [15] In a letter to the Turks on March 12, 1921, Britain undermined its earlier call for an "independent Kurdish State," [16] indicating that "in regard to Kurdistan the Allies would be prepared to consider a modification of the Treaty ... in conformity with the existing facts of the situation, on condition of facilities for local autonomies and the adequate protection of Kurdish ... interests." [17]

In October 1921, Britain proclaimed an Arab government in Iraq. One month later, the Provisional National Government of Iraq was set up under British control, with local Kurdish governors at Kirkuk and Arbil.[18] The Cairo Conference (March 1921) established the "Anglo-Kurdish" mandate, whereby Kurds would be a "minority" within Iraq [19] until they espoused the formation of a new state.[20] Meanwhile, Churchill and Major Edward W.C. Noel still vigorously advocated an independent Kurdistan.[21] Noel tacitly observed that the "goal of an independent Kurdistan ... can now be easily attained." The Kurds also considered "federation under British protection," until a Kurdish representative body opted for inclusion in the new state.[22]

The Turkish nationalists prevailed against the Allies on several fronts.[23] France ceded its territories to Turkey with the Treaty of Ankara.[24] Ataturk and France set new boundaries on October 20, 1921,[25] and Western Kurdistan (Rojava) became part of the French Mandate of Syria. The Turkish Grand National Assembly granted "autonomous administration for the Kurdish nation in harmony with their national customs" on February 10, 1922.[26] However, in practice autonomous administration never materialized.[27] The separate states of Syria and Lebanon coalesced under a French mandate,[28] and Iraq under British tutelage. Britain recognized Amir Faysal as the King of Iraq, in the Treaty of Alliance of October 10, 1922, and Iraq attained independence in 1931.

In Turkey, the Kemalists did not abide by the Treaty of Sèvres and the Allies failed to forcibly enforce it. Under the Armistice of Mudanya between Britain and the Turks on October 11, 1922, the Treaty of Sèvres was submitted for renegotiation at Lausanne. Kurdistan hung in the balance. During the Lausanne negotiations, the Turks still regarded the Kurds as a distinct ethnicity, but then deviated from this policy.[29] The [Treaty of Lausanne](#) of July 24, 1923, recognized "Turkey" as an independent state,[30] and pursuant to the [Treaty of Angora](#) between Britain, Turkey, and

Iraq on June 5, 1926,[31] the Iraqi-Turkish border was established and Mosul (Southern Kurdistan) became part of Iraq, with a ten percent share of the oil resources given to Turkey for 25 years.[32] Kurdistan was thus appended to the sovereign states of Iran, Iraq, Syria, and Turkey, negating the Kurds' interests and their collective national aspirations.[33]

No political or cultural rights were afforded to the Kurds in any of these new states, despite pledges made by the International Commission of Inquiry (1925)[34] instituted by the Council of the League. The ending of the French mandate in the Levant and Syria's independence in the 1940s again occurred without any change to the Kurds' rights. Thus, self-determination or even democratic governance remained a chimera.

The Self-Determination of Peoples

After WWI, the Allied Powers had no interest in demands for self-determination due to the economic and strategic importance of their colonies; self-determination had amounted only to a convenient slogan which was perverted as well as exploited through the Mandate system as an instrument for achieving the goal of expansionism. In reality, the desire for power determined the fate of other peoples and territories. Consent of the major powers was critical for any border change. Concurrently, the Committee of Jurists and Commission of Rapporteurs of the Åland Islands refused to recognize self-determination as a universal legal norm because it did not appear in the Covenant of the League of Nations and was "not, properly speaking a rule of international law".[35] Rather, self-determination was perceived as a political concept for enforcing *justice* and safeguarding *liberty*, established by a "vague and general formula".[36] The Committee maintained that international law, as such, does not allow national entities to secede from a state.[37] Instead, they were entitled to internal self-determination in the form of autonomy or self-governance to maintain their separate ethnic identities or through effective guarantees of certain linguistic, cultural, and religious rights.[38] Developments with regard to Kurdistan make this clear.

The aftermath of World War II and the creation of the United Nations led to a shift in thought from *national* self-determination to *peoples'* self-determination. That is, the concept of self-determination was now to be invoked by the whole people of a state, not by an ethno-culturally homogeneous minority.[39] It took the form of self-government. The UN's second decade starting in the mid-1950s saw a call to end colonization. Consistent with Article 1 of the 1966 Human Rights Covenants, self-determination mutated from a decolonization principle to a post-colonial right, bestowed also on peoples of formerly colonial territories. But the Kurds had already been split up among decolonized states. They did not fit into the decolonization framework, as they did not occupy a discrete colonial territory. Instead, their host states themselves acquired independence and statehood, ostensibly on their behalf.

Conclusion

Kurds were acknowledged as a socio-political nation at the end of WWI, when self-determination had not yet been codified into a legally defined right. However, Kurdish independence would have negatively affected the Allies' political and economic interests, and the League of Nations accordingly abandoned its support for Kurdish independence.

Instead, the Kurds were partitioned into minorities in Iran, Iraq, Syria, and Turkey, and are now the largest stateless nation in the world. Kurdistan was thus effectively dismembered, and without the consent of the Kurdish people, the sovereignty of new nation-states was imposed on them. The historico-legal records on the Kurds [40] indicate that the British government's termination of the Treaty of Sèvres proved decisive in dividing Kurdistan. Ultimately, Kurdish statehood was sacrificed—while sovereignty was deemed suitable for Europe, the Allied Powers decided the fate of the peoples in the Middle East (i.e., alien-determination rather than self-determination). Kurds are not even recognized as minorities with associated rights and are unrepresented in most governments. [41] After eight decades of suppression by the Iraqi government, the 2005 Iraqi Constitution granted the Kurds their only constitutionally autonomous region, governed by the Kurdistan Regional Government (KRG).[42] Other states similarly failed to recognize the Kurds despite ethnic differences in fictitiously homogeneous states. As a result, Kurds are deprived of the right to participate effectively in public affairs and decision-making over matters that directly affect them.

The application of contemporary law on self-determination to the Kurds should be clear, as the Kurds are the paradigm of a distinct people who would benefit from self-determination because of their well-defined peoplehood. Internal self-determination as a minority group within multiple states limits the Kurds in terms of political autonomy, or even unity as a nation. The withdrawal of support for self-determination during the 1920s was echoed by the United States' decision to abandon democratic confederalism in the Kurdish region of Rojava [43] in Syria in the face of the Turkish incursion, on the centennial of the Treaty of Sèvres. The Kurds have arguably not received the treatment they deserve, not only from the major powers, but also their host states. To this day, Kurds continue to lack recognized status and are still denied a sovereign state of their own. This calls into question the actual strength of the legal principle of self-determination.

About the Author: Loqman Radpey is a doctoral researcher at the University of Edinburgh (School of Law) and a research member of the Edinburgh Centre for International and Global Law (ECIGL) in Edinburgh, Scotland. His main research lies in aspects of international law, with current particular focus on peoplehood and minority, self-determination, federalism, confederalism, and statehood. Since 2013, Loqman has studied and authored about the legal status of the Kurdistan Regional Government (KRG) and the Rojava's democratic confederalism in international law. The 'Social Contract' (known as the constitution) of Rojava has been another significant area of focus in his authorship.

[1] Mesopotamia, Memorandum by Sir Erle Richards to Lord Curzon (Jan. 1919), in Anita Burdett, *Records of the Kurds: Territory, Revolt and Nationalism, 1831-1979: British Documentary Sources* 672 (vol 5. 2015).

[2] Though commonly referred to as an 'agreement,' it was the outcome of several secret letters exchanged among the British, French and Russian Ministers of Foreign Affairs, <https://blog.nationalarchives.gov.uk/dividing-bears-skin-bear-still-alive-1916-sykes-picot-agreement/>.

- [3] Alan Palmer, *The Decline and Fall of the Ottoman Empire* 239-40 (1994).
- [4] Convention between France and England on the subject of activity in southern Russia, in *Documents on British Foreign Policy*, series I, vol III, at 369-70.
- [5] Minutes of an Inter-departmental Conference on Middle Eastern affairs, Foreign Office (February, 23 1920), [L/PS/10/807], in Burdett, *supra* note 1, at 687-92.
- [6] *Id.*
- [7] Treaty of Peace with Turkey 1920, <https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=63986>.
- [8] *Id.* art. 62.
- [9] *Id.* art. 63.
- [10] *Id.* art. 64.
- [11] *Id.*
- [12] *Id.* art. 139.
- [13] Heather L. Wagner, *The Division of the Middle East: The Treaty of Sèvres* 18 (2004).
- [14] Maria O'Shea, *Trapped between the Map and Reality: Geography and Perceptions of Kurdistan* 10 (2004).
- [15] Lord Avebury, *Self-Determination and International Law: The Kurdish Case*, 7 Int'l J. Kur. St. 7, 9 (1994).
- [16] Robert Olson, *Battle for Kurdistan: The Churchill-Cox Correspondence Regarding the Creation of the State of Iraq, 1921-1923*, 5(1) Kur. St. 29, 40 (1992).
- [17] United Kingdom Foreign & Commonwealth Office Doc. No. FO 371/6467 E 3357.
- [18] Cecil J. Edmonds, *The Kurds of Iraq*, 11(1) Mid. Eas. J. 52 (1957).
- [19] United Kingdom Foreign & Commonwealth Office Doc. No. FO 371/6346, High Commissioner Mesopotamia to Secretary of State for the Colonies (June 12, 1921).
- [20] Avebury, *supra* note 15, at 10.
- [21] Saad Eskander, *Southern Kurdistan under Britain's Mesopotamian Mandate: From Separation to Incorporation, 1920-23*, 37 Mid. Eas. St. 153, 155-6 (2001).
- [22] Note by the Political Department, India Office, 'Kurdistan' (December 14, 1918) by Sir J.E. Shuckburgh, in Burdett, *supra* note 1, at 220, 524.
- [23] Peter J. Beck, *'A Tedious and Perilous Controversy': Britain and the Settlement of the Mosul Dispute, 1918-1926*, 17 Mid. Eas. St. 256 (1981).
- [24] David Fromkin, *A Peace to End All Peace: The Fall of the Ottoman Empire and the Creation of the Modern Middle East* 536-7 (2001).
- [25] Franco-Turkish 1921 Agreement, <http://www.hri.org/docs/FT1921/>.

- [26] Robert Olson, The Emergence of Kurdish Nationalism and the Sheikh Said Rebellion, 1880-1925 40 (1989).
- [27] David McDowall, Modern History of the Kurds 188 (2003).
- [28] Mandate for Syria and Lebanon, 1922, <https://biblio-archive.unog.ch/detail.aspx?ID=128234>.
- [29] McDowall, *supra* note 27, at 188.
- [30] Treaty of Peace with Turkey 1923, <http://foto.archivalware.co.uk/data/Library2/pdf/TS0016.1923.pdf>.
- [31] The Treaty between the United Kingdom and Iraq and Turkey, <http://foto.archivalware.co.uk/data/Library2/pdf/1927-TS0018.pdf>.
- [32] McDowall, *supra* note 27, at 146.
- [33] For Kurds in the Middle East and vicinity, see Professor Michael Izady's Infographs, Maps, and Statistics Collection, <https://gulf2000.columbia.edu/maps.shtml>.
- [34] Question of the Frontier between Turkey and Iraq, Report submitted to the Council by the Commission instituted by the Council Resolution of September 30th, 1924, https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-400-M-147-1925-VII_BI.pdf.
- [35] Report presented to the Council of the League of Nations by the Commission of Rapporteurs, LN Council Document b7/21/68/106 (April 16, 1921).
- [36] *Id.*
- [37] *Id.*
- [38] *Id.*
- [39] Antonio Cassese, Self-Determination of Peoples: A Legal Reappraisal (1995).
- [40] Records of the Kurds: Territory, Revolt and Nationalism, 1831–1979 British Documentary Sources (2015), <https://www.cambridge.org/gb/academic/archive-editions/history/middle-east-history/records-kurds-territory-revolt-and-nationalism-18311979-british-documentary-sources?format=HB>.
- [41] See, e.g., Constitution of Islamic Republic of Iran (as amend. 1989), <https://en.parliran.ir/eng/en/Constitution>; The Syrian Arab Republic Constitution of 2012, https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=91436&p_lang=en; Constitution of the Republic of Turkey (as amend. 1995), <https://www.anayasa.gov.tr/en/legislation/turkish-constitution/>.
- [42] Kurdistan Regional Government (KRG), <https://gov.krd/english/>.
- [43] In 2018, Rojava changed its name to the Autonomous Administration of North and East Syria (AANES). See <https://rojavainformationcenter.com/>.

insights

ASIL Insights Home

Copyright by The American Society of International Law

The purpose of *ASIL Insights* is to provide concise, objective, and timely background for recent developments of interest to the international community. The American Society of International Law does not take positions on substantive issues, including the ones discussed in *ASIL Insights*. Educational and news media copying is permitted with due acknowledgement.

The *Insights* Editorial Board consists of [Richard C. Chen](#), [Christian De Vos](#), [Sonia E. Rolland](#), [Anastasia Telesetsky](#), and Natalya Scimeca. Justine Stefanelli (jstefanelli@asil.org) serves as the managing editor.

Submit an idea for *ASIL Insights*

Persons with expertise in international law who are interested in writing ASIL Insights are encouraged to submit proposals. Please click the button below to get started.

[Submit an ASIL Insights Proposal](#)

[Guidance for ASIL Insights Authors](#)

RELATED RESOURCES



[As Protests Surge Globally, the UN Human Rights...](#)



[ECOWAS Court Holds Guinea Liable for 2012 Mine ...](#)



[The Future of Data Retention Regimes and Nation...](#)



[OAS Adopts Resolutions on Elections in Venezuel...](#)

