

**The Role of the US & UK: Towards the Independence of Kurdistan****Sheraz Ibrahim**

Department of Law, College of Law and International Relations, Lebanese French University,  
Erbil, Kurdistan region, Iraq.

**Correspondence:** sheraz.i@lfu.edu.krd**DOI:** 10.23918/ejmss.V4i1p1

Received: November 28, 2022   Revised: February 13, 2023   Published: August, 2023

**Abstract**

The self-interest of outside actors obscures the vision of a better future for the Kurds. The determination of achieving Kurdish independence has been a rollercoaster due to the different stakeholders in the region and divergent interests of key players of the international community, most notably the United States (US). Yet the question of statehood in Kurdistan appears to be a little nuisance to the US and the United Kingdom (UK). The last time the British government had a determined stance with the Kurds in relation to Kurdish autonomy was in 1991. However, the British government found itself to be a close ally of Iran when the referendum was held in September 2017. This inconsistency may be related to a matter of ill-timing or a lack of support for Kurdish independence. In fact, the question of Kurdish statehood remains a greatly ambiguous and ambivalent topic. The Kurds have stood alone in their pursuit of secular and democratic values in a largely religious, fundamentalist, and anti-Western Middle East region. The international community, as well as international law inadequately supports an independent Kurdish state. This paper will neatly assess the importance of the US and UK's approach towards an independent Kurdistan and the imprecise moves from these two powerful countries. This requires analyzing questions such as whether the US and the UK left the Kurds behind by not supporting Kurdish independence.

**Keywords:** KRG, US, UK, Kurdistan Independent, great powers, self-determination, International Law.

---

**Citation**

Ibrahim, S. (2023). The role of the US & UK: Towards the independence of Kurdistan, *Eurasian Journal of Management & Social Sciences*, 4(1).  
<https://doi.org/10.23918/ejmss.V4i1p1>

## 1- Introduction

The 25<sup>th</sup> of September 2017 is a historic day and event for the Kurds in Iraq. The largest stateless ethnic minority group held a referendum about the formation of the independent state of Kurdistan with the consequence of departing from Iraq. The failure by the Iraqi government to protect the rights and existence of the Kurdish citizens had resulted in the call for this referendum in order to realise Kurdish self-determination. Almost every single Kurd in the region had practiced their right to vote and at least 90% or more voted in favor of the departure. Yet despite overwhelming support for the referendum, the Kurds had to face yet again another broken promise, as the referendum did not result in the birth of an independent Kurdistan. This article mainly assesses the importance of the US and UK's approach towards an independent Kurdistan and the imprecise moves from these two powerful countries. The article poses the question of whether the US and UK left the Kurds behind by not supporting Kurdish independence. This is not to say that the great powers in the region have not developed a relationship with the Kurdistan Regional Government ever since the collapse of Saddam Hussein's regime in 2003. Short-term goals, such as facilitating economic and political development, have been an important aspect which characterizes their relationship with the Kurdistan Regional Government. However, in respect of Kurdish independence, the balance of power, alongside other factors, has negatively stymied progress on their part. The Iraqi constitution drafted and approved in 2005 recognizes the Kurdistan Regional Government as a 'region' or a 'federal unit' according to Article 117 (Iraqi Constitution, 2005).

The constitution further confirms that the region has legal autonomy, affirms the validity of laws, and upholds court decisions. However, principles, such as 'unity of Iraq', remain a crucial part of the constitution, like in many other countries. Nonetheless, the right to give effect to the will of its citizens must be afforded priority, especially in conflict-ridden regions. Hence, the concept of balance of power developed by the great powers must thus be questioned.

When it comes to the self-determination concept or the formation of an independent state, one compelling argument is usually the moral imperative, or duty to protect which the international community and the great powers, including the UK, owe, including by recognising the atrocities which a nation had to go through historically. The Kurds have been victims of genocide, war crimes, and crimes against humanity under Saddam Hussein's regime and more recently have also

been attacked by the Islamic State of Iraq and the Levant (ISIS). The UK played a special role in shaping the borders of the modern Middle East by virtue of the Sykes-Picot Agreement 1916. Arguably, the UK, therefore, owes the Kurds and should support an independent Kurdish state; although the self-determination concept is not absolute and should not be employed on the basis of previous cases. Instead, it should be measured on its own merit and in accordance with the specific historical context. In the case of Kurdistan, the separation from Iraq would not be dramatically revolutionary. It would be the final fulfilment of a long-standing promise which the great powers made many years ago.

Overall, the provisional hypothesis of this paper is that by virtue of the right to self-determination, all people have the right to freely determine their status, and the Kurds are one of the largest stateless nations and the approach of the superpower countries has a huge impact on the determination, as in the case of the Kurdistan referendum. In order to conclude the mentioned hypothesis, the black letter law approach, also known as doctrinal analysis, is considered in this paper as a main methodological approach. This method is the “core of legal scholarship” and is employed in order to explicate and critique the law, including international law (Egan, 2017).

## **2- The concept of self-determination**

Self-determination has shifted from the concept of individual self-determination to the notion of rights of peoples or nations to independent statehood (Brownlie, 1970, p. 92). The concept of self-determination has constantly been a challenge due to its vague definition and has proven controversial for the international community. The United Nations (UN) Charter provides a definition of the concept; however, leaves its precise parameters to legal scholars, who either view it as a right or merely a principle. However, the international community has clarified the concept by virtue of the International Covenant on Civil and Political Rights (ICCPR) 1966, which makes clear that self-determination is one of several ‘rights’ rather than just being a principle. In other words, the ICCPR provides the right of self-determination for people, namely to freely and without interference of other people to decide and determine their own political status and their economic, social, and cultural development. Yet terms, such as ‘people and self-determination’, remain unclear when determining a group’s right of statehood. As a result, the international community struggles to convincingly take a clear stance or apply the right. Also, the legal approach towards

the concept of self-determination was politically motivated, i.e., the right was mainly confirmed in order to recognize decolonization by conferring self-determination to peoples of countries which had been colonized.

The Kurdish right to external self-determination arises from the fact that the Kurds are ethnic minorities who have suffered atrocities and have been suppressed by different regimes in neighboring countries. In Iraq itself, the Kurds have been victims of genocidal acts and most recently have been neglected due to economic sanctions and prevented from exercising their rights as provided for in the constitution. Hence, they have been oppressed by the Baghdad government and to some extent the neighboring countries. They have not been able to engage in self-government, as independence has not been afforded; although self-government alone is inadequate to determine a country's status quo. Neglecting and violating a nation's right to justice also falls within the realm of the right to self-determination. Furthermore, the grievances and untoward treatments which the Kurds have had to endure underscore their yearning to be self-governed and arguably justifies self-determination (Lamb, 2008).

In fact, Kurdistan has been a *de facto* independent state since 1991 and a great ally to the West. Additionally, the international community has granted the right of self-determination to many ethnic minority groups since World War II, such as Bangladesh, the ethnic minorities of former Yugoslavia, as well as to Southern Sudan. The promotion of the establishment of a successful state requires support from great powers, including the UK and the US. Put differently, their backing in recognizing the need for Kurdish people to be afforded the right to self-determination plays a significant role in providing the necessary direction towards the goal of becoming an independent Kurdistan.

Moreover, with regards to the Iraqi constitution and the concept of self-determination, one should assume that the constitution is valid, and the Baghdad government adheres to it. Yet almost 15 years after the ratification of the constitution, it may be argued that the Baghdad government has unconstitutionally and unlawfully blocked the implementation of Article 140. Article 140 provides that the democratic referendum in Kirkuk results in the reunification of the disputed territories of Kurdistan. The implementation of this Article was time-tabled for completion by December 2007. However, implementation of Article 140 does not necessarily guarantee the unification of the

disputed territories with the Kurdistan Region since reunification is subject to the outcome of the referendum and is the last stage of the implementation of the article if it happens at all.

Also, the constitution does not lay out any guidelines as to what actions need to be taken in circumstances where the constitution is being breached, as in the Kurdish case where the deadline has never been met. The breaches of the constitution are clear-cut in terms of the duties and obligations which the state owes towards its citizens and the Kurdistan Regional Government. Almost half of the articles in the constitution have either been violated or have not been fulfilled. The failures are persistent and deliberate and yet the damages, uncertainty, and security of the Kurds as a nation have been neglected when it comes to treating Iraq as one united country.

The constitution promotes Iraq's unity and territorial integrity and the great powers in the region seem to be fixated on this notion and thus fail to interpret the constitution in a way which gives effect to Article 140. Also, the role of the US and UK primarily focuses on facilitating a dialogue between Baghdad and the Kurdistan Regional Government, whereas the prerogative of the international community is to offer support in order to ensure that democracy is practiced in accordance with the Iraqi constitution. Ideally, support should also be provided, so that the outcome of the referendum is implemented, and the Kurdish people are finally afforded the right to self-determination.

Realization of the right to self-determination is also necessitated in light of the history of the Kurds displaying clear outlines which arguably satisfy the objective elements required to possess the legal right of self-determination. Accordingly, the fundamental question here is whether the criteria for statehood could be fulfilled by the Kurdistan Region. The 1933 Montevideo Convention on the Rights and Duties of States provides the definition for the concept of "state" which must be met under international law, namely stipulates four requirements for states to declare self-determination: (i) A permanent population, (ii) a defined territory, (iii) a government, and (iv) the capacity to enter into relations with other states (Article 1, Montevideo Convention on the Rights and Duties of States 1933).

The Kurdistan region has a permanent population of over five million people, which is enough to qualify for an independent state compared to countries which have been previously recognized by the international community and the UN. The region has also a defined territory and is recognized by the Iraqi constitution as a region (Article 117, Iraq Constitution). Once again, the Iraqi

constitution stipulates that the people in the Kurdistan region have the right to form their own government and also confers substantial control to them over this region. Furthermore, the Kurdistan Regional Government exercises many governmental functions and is responsible for the security of the Kurdish region.

The Kurdistan Regional Government has a well-functioning government, including an established Department of Foreign Affairs which is highly effective, and has become an integral part of the government which carries out many important responsibilities. The region receives and sends officials to offices worldwide. Despite having foreign embassies in Baghdad, countries feel the need to have consulates in the region in order to further strengthen the relationship which the Kurdistan Regional Government has with foreign countries (Topeich & Zagros, 2017, p.5).

The Kurdistan Region satisfies the requirements of statehood, as laid out above. However, meeting the legal definition of a state is not enough. Article 3 of the Montevideo Convention further requires state recognition before a state can achieve independence. Yet this is where the conflict begins, as statehood is based on the balance of recognition, and some may challenge the criteria.

### **3- The United States and Kurdistan independence**

The Kurds have long been victims of war and faced repression by governments of the states in which they live. They have suffered economic disadvantages along with other political struggles in Turkey, Iraq, Iran, and Syria. Understanding the struggles of the stateless Kurds dates back at least 100 years and the Kurdish history has been “marked by a continuously changing political landscape in the context of struggle between powers dominating regional politics and repression opposed by resistance and the persistent fight for liberty and recognition of minority rights.” (Maya Janik, 2012). Hence, Kurds had to endure different struggles in four intersected countries which has led to the motto “no friends but the mountains.” That is to say, Kurds have lost trust in the neighboring countries and the great powers. Although the Kurds have received support in some form or other, whether through public relations, resources, and territorial safe havens via transitional Kurdish ties in the region or from the diaspora in Europe. Most significantly, the US and the UK played an important role in introducing UN security council resolution 688 on 5 April 1991 and in providing a safe haven for the Kurds, which led to the existence of the Kurdistan

Regional Government. Following the US led removal of Saddam Hussein in 2003, the Kurds could therefore attain *de facto* autonomy of the region.

The relationship with the Iraqi government is itself quite self-explanatory concerning the Kurdish independence. Nonetheless, relations with the US have been baffling and disorganized. “The United States still officially opposes Kurdish independence, a decades-old policy that seeks to avoid further inflaming the region and provoking Turkey, Iraq, and Iran, three countries with large and restive Kurdish minorities.” (Cooper & Gordo, 2014). The Kurds have a special place within US foreign policy in the Middle East, especially in the fight against ISIS. Nevertheless, when the interests of the neighboring countries are affected, Kurds pose a risk, and the US considers it more important to adopt a foreign policy which appeases these countries. The withdrawal of American troops in 2011 had already led to mistrust from the Kurds and contributed to the eventual collapse of Iraq. It also made the rise of ISIS easier, which resulted in another historical event against the Kurds due to the failure of the Iraqi government to protect its citizens against genocidal atrocities.

Yet US policy still fails to recognize Kurdistan, even after the ISIS battle. Though the Obama Administration clearly indicated that Erbil and Kurdistan would be protected against ISIS attacks and that a new government would be formed in Iraq which would put an end to the abuse by the leadership in Baghdad. Nevertheless, the aftermath of the referendum has not had any noticeable change on US – Kurdish relations. It was perceived as a “pause”, as the relationship has grown stronger in many other areas which has furthered development in the country and the region (Charountaki, 2017, p. 37) Nonetheless, policy makers must now restructure Iraq, so that the Kurds can rightly exercise their right to self-determination. (Stansfield, 2014).

#### **4- The UK and the independence of Kurdistan**

The Kurdistan referendum was not a dramatic revolutionary event. Instead, the referendum is best perceived as a long overdue process for which a need arose ever since the Kurdish uprising in 1991 resulted in Western powers conferring protection to Kurds (Worthington, 2015). Also, Western powers have played a major part in establishing a region that has its own parliament, judiciary, armed forces, and other necessary state institutions (Worthington, 2015). Subsequent to the all the sufferings the Kurds have confronted throughout history, the referendum is believed to be a national demand of the people of Kurdistan. It is worth mentioning that the Treaty of Severs 1920,

which was backed by the UK at the time, had originally promised creation of an independent Kurdish state (Gunter, 1990, pp. 11-12). However, the rise of the Republic of Turkey under the rule of Kemal Ataturk had gained the attention of Western countries and had the UK and France take note of his political movements. New terms of agreements were agreed, and the Treaty of Sevres was never ratified. Instead, the Treaty of Lausanne 1923 was ratified, which ignored the existence of Kurdistan or the Kurdish nation. The abandonment of the formation of the Kurdish state illustrates that the long-term interests of the Kurds in the region was relegated to other outside interests. Hence, the relationships with countries, other than the Kurdish people, were deemed highly important to the West, particularly the UK. The British and Turkish geopolitical maneuvers around Kurdistan have prevented the Kurds to form a united political, geographical, and cultural homeland.

History tells us that the UK is not entirely against the idea of securing an independent state of Kurdistan; however, agreeing the correct terms with the neighboring countries has made it extremely difficult to support the cause. The question then is, how is the balance of power measured? How are the interests of the neighboring countries measured against Kurdistan? Talks, treaties, and resolutions have illustrated that the idea of the autonomy of Kurdistan seems to be an afterthought (George, 1939).

Moreover, both the UK and the Kurdistan regions share common values and take the same strong stance when fighting against extremism. The Kurdistan region has played a vital role in combating extremism and the UK has a fundamental interest in keeping Kurdistan strong and secure. Additionally, one of the main priorities for the Kurdistan Regional Government has been to create economic stability and the UK has long been a partner by choice, as there are hundreds of British companies operating in the Kurdistan Region (Neurink, 2013). Despite all the shared values, the Kurdistan Regional Government continues to seek knowledge and expertise from the UK in many other fields, such as education, finance, energy, and infrastructure. The unnecessary rejection from Baghdad to enter into negotiations has caused violence throughout the region and has had a profound impact on the UK's foreign policy and security goals.

The UK could have arguably engaged in far more diplomacy or at least acted as 'mediator' in order to put negotiations in place prior to the referendum or afterwards. Yet the belief that this is a sovereign matter for Iraq has resulted in the UK not intervening unless Baghdad requests this



(House of Commons, 2017-19, pp. 22-23). Although the Foreign and Commonwealth Office could have assumed a clear role in assisting the interests of both parties, i.e., it could have facilitated a positive interaction to prevent conflict and violence, as well as unfair treatment. In other words, the UK should have equally supported the Kurds with their long-term aim of having an independent state of Kurdistan, especially due to their long-shared values and ambitions.

## 5- Conclusion

As discussed in this paper, evidence illustrates that the balance of power, whether through recognition of states, neighboring states or the international community is not kept on an equal scale when it comes to the question of Kurdish independence. That is to say, the West has not taken steps to recognize an independent Kurdistan.

While the referendum in support of the Kurdistan Region is perceived as a success story of the Middle East, it will only be a real success once it results in the formation of the state of Kurdistan. Yet recognition of the state of Kurdistan requires support from the US and the UK and without this forthcoming, it is unlikely that the independence of Kurdistan will be released in the foreseeable future.

## References

- Alexandrowicz, C.H.(ed.), (1970). *Grotian Society Papers 1968: Studies in the History of the Law of Nations* (The Hague: Martinus Nijhoff, 1970).
- Brownlie, I, (1970). An essay in the history of the principle of self-determination. In. Alexandrowicz, C.H., (Ed.), *Grotian society papers: Studies in the history of the law of nations* (pp. 90-99). Martinus Nijhoff.
- Charountaki, M. (2017). The aftermath of the Kurdish referendum and its historic connotations. *Harvard International Review*, 39(1), 37-38.
- Cooper, H., & Gordon, M. R. (2014). Iraqi Kurds Expand Autonomy as ISIS Reorders the Landscape. *The New York Times*, 29. <https://www.nytimes.com/2014/08/30/world/middleeast/iraqi-kurds-expand-autonomy-as-isis-reorders-the-landscape.html>

- Egan, S. (2017). *The Doctrinal Approach in International Human Rights Scholarship*. (Publication No. 19/17). *UCD Working Papers in Law, Criminology & Socio-Legal Studies*, 1-17.
- Gunter, M. (1991). The Kurds in Turkey: A Political Dilemma. *Middle East Journal*; Washington Vol.45, Iss.4.  
<https://www.proquest.com/openview/dd3128c3157b4f9c5f405f3619974b31/1?cbl=1821138&pq-origsite=gscholar>
- George, D. L. (1939). *Memoirs of the peace conference* (Vol. 2). Yale University Press.
- Gunter, M. (1990). *The Kurds in Turkey: A Political Dilemma*. Westview Press.
- House of Commons, Foreign Affairs Committee. (2018). *Kurdish aspirations and the interests of the UK, Third Report of the Session 2017-19*. House of Commons.  
<https://publications.parliament.uk/pa/cm201719/cmselect/cmfaaff/518/518.pdf>
- Janik, M. (2012). *The Kurdistan Region of Iraq: Achieving stability in a time of transition*. Austrain Institute for International Affairs.
- Lamb, A. (2008). Self-Determination, wellbeing, and threats of harm. *Journal of Applied Philosophy*, 25(2), 145-158. <https://doi.org/10.1111/j.1468-5930.2008.00396.x>
- Montevideo Convention on the Rights and Duties of States, December 26, 1933.
- Neurink, J. (2013, November 25). UK is Kurdistan's partner of choice. *Rudaw*.  
<https://www.rudaw.net/english/business/24112013>. Retrieved from March, 6, 2021.
- Stansfield, G. (2014). Kurdistan rising: To acknowledge or ignore the unraveling of Iraq. *Middle East Memo*, 33(33), 1-16. <https://www.brookings.edu/wp-content/uploads/2016/06/Kurdistan-Iraq-ISIS-Stansfield-0731.pdf>
- Toperich, S., Ivanovic, T., & Zagros, N. (Eds.). (2017). *Iraqi Kurdistan Region: A Path Forward*. Center for Transatlantic Relations, The Paul H. Nitze School of Advanced International Studies, Johns Hopkins University.
- Worthington, D. (2015, January 8). History of the Kurds. *New Historian*.  
<https://www.newhistorian.com/2015/01/08/history-kurds/> Retrieved from March, 5, 2021.