

# **The Kurds And Self-Determination: The UN Must Act Now For a New Process**

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**THE KURDISH CRISIS IS A MOMENT OF OPPORTUNITY for the United Nations to deal with a class of self-determination problems — not only the Kurds but the Lithuanians, the Croats of Yugoslavia, the Quebecois of Canada, the Tamils of Sri Lanka, the Eritreans, the Kashmiris, the Tibetans, the East Timorese, and so on — which has grown dramatically in the last five to ten years.**

The establishment of UN centers for the Kurds in Northern Iraq is probably a step in the right direction. But it is no more than an emergency and limited measure.

What the Kurds of Iraq really need is a breakthrough on political formulas. What they need is a far-reaching change in their constitutional relationship with Iraq. This does not necessarily mean that they must have a state of their own, though a state of Kurdistan in which Kurds from Iraq, Turkey, and Iran are united has often been dreamed of.

The issue today is not Kurdistan in the sense of a major rescrambling of boundaries. It is the demand of the Iraqi Kurds for freedom from oppression. What their leaders are demanding is genuine autonomy within Iraq, guaranteed by UN presence and enshrined in international law.

### **Refugees as a Catalyst of Change**

The massive exodus of Kurds from Iraq since late March once again highlighted a problem to which the UN High Commission for Refugees has persistently called attention. Refugee authorities have stressed for years that it is unrealistic for most of the world's eighteen million refugees to hope to be resettled permanently in the countries to which they have fled. Their best hope, these authorities contend, lies in the refugees' voluntary repatriation to the countries they left, which therefore requires the unmaking of the processes of ethnic, political, and other forms of repression which caused them to flee. Refugee specialists have also taken a similar view. The UN, they argue, must stop treating the refugee problem with stopgap measures. It must tackle the problem at its root and must seek lasting solutions.

### **Frustrated Claims to Self-determination**

What is needed is a breakthrough in the capacity of the UN system to deal with frustrated claims to self-determination. It is thwarted claims of this kind which lead people to join what they see as patriotic movements of resistance to oppression, to cross borders *en masse* when their resistance is suppressed, and then to languish in refugee camps for years and decades while the rest of the world forgets them.

Why then have the world's major powers been reluctant to listen, either to the Kurdish leaders or to the UN High Commission for Refugees? Basically, it seems, for reasons of "oldthink," because few of them see any way of conceding self-determination to the Kurds of Iraq without breaking up Iraq.

President Bush and other leaders of the concert of powers are understandably frightened of Iraq's disintegration. It is partly their fear of the religious militancy of the Shiites of Southern Iraq, partly their anxiety that Iran will be greatly strengthened as a regional power, and partly their

expectation of persistent violence between ethnic and ethno-religious blocs as in Lebanon.

More importantly perhaps, they are committed to the present system of borders worldwide because they are worried that a change in one multi-ethnic state would set off a "domino effect" in many others, including the very unstable ones such as those in the USSR and Yugoslavia.

But the leaders of the Iraqi Kurds, or the great majority of them, have not been asking for the breakup of Iraq. All the major Kurdish parties are committed to a federal Iraq, as are the other major opposition groups, the Shiite parties, the Sunni Arab ones, and the communists. All of these are members of the Democratic Opposition Front of Iraq which wants the Saddam Hussein regime replaced by a federal state.

### **Self-determination : A Second Generation of Claims**

The self-determination of peoples is a central principle of the United Nations Charter. And the UN system worked creatively and effectively to realize that principle in the first decades of its life — in relation to peoples struggling against colonial rule.

Between the late 1940s and the early 1970s, it successfully mediated the decolonization of a large and diverse group of Asian, African, Caribbean, and Pacific colonies.

But it has failed almost completely in relation to the more recent class of claims to self-determination, most of which have nothing to do with the colonies of Western European states.

It was war rather than UN conflict resolution which settled the claims of the would-be secessionist Biafrans against Nigeria in 1967-70. And war was a major part of the process by which Bengali nationalists of the province of East Pakistan created the state of Bangladesh in 1971.

The second generation of claims to self-determination, of which Biafra and Bangladesh were early representatives, has grown substantially in the last five to ten years, and now constitutes a major world order problem. Witness the increasing demands of the Lithuanians, Latvians, Estonians, Georgians, and other Soviet peoples, the Croats and the Slovenes in Yugoslavia, the Quebecois in Canada, the Eritreans, the Tibetans, Kashmiris, West Papuans and East Timorese, and the Bougainvillians of Papua New Guinea. And, most immediately, of the Kurds.

### **UN Machinery and Principles**

Happily, the UN system is now somewhat better prepared to deal with these challenges. It has developed a lot of relevant capacities since the days of Biafra and Bangladesh, particularly as a result of its Human Rights Commission and the various sub-committees of that body. And the three



years before the Gulf War saw a major expansion in its conflict resolving and peace-keeping activities.

One UN body that has been coming to grips innovatively with the new generation of self-determination claims is the Working Group on Indigenous Populations, in which representatives of Australian aboriginal organizations have played an important role. Another is the body drafting the Convention on Genocide.

Moreover, the General Assembly has established principles, first developed in the period of decolonization, which are highly relevant to the present generation of self-determination claims. One particularly useful formulation is a 1960 resolution of the General Assembly which sets out three ways by which non-self-governing territories can become self-governing: independence, integration with an existing state, and the apparently flexible but as yet largely unexplored range of options termed "free association."

#### **What is needed now**

The Kurds of Iraq are asking for a redefinition of their relationship with Iraq. Theoretically granted autonomy in 1970, they are demanding that Iraq become a federal state to give them the genuine autonomy needed for their security and self-management. They are asking that the UN should facilitate negotiations towards this end, and that it should create a machinery to give their outcome recognition in international law.

Far-sighted people in states and non-governmental organizations everywhere should press the UN to a major initiative of political reconstruction. Such an initiative would help not only the Kurds and other repressed groups in Iraq like the Shiites. It would also help the other "peoples of the second generation," peoples who have been struggling against what they see as oppression by outsiders. It would also help the governments of a number of multi-ethnic states, offering them a way to get off the treadmill of repression, resistance, and more repression, enabling them to stop wasting resources in fruitless efforts to maintain an untenable status quo.

The UN clearly needs to fashion new procedures by which self-determination claims of the second generation variety can be evaluated. And it would not be surprising if those procedures generated some entirely new outcomes, not only the old ones of independent statehood, membership of a federal or confederal unit, "special regions," and "special autonomous territories," but also new forms of "free association" for which there are currently no precedents. Those could well involve new types of quasi-states, new types of international guarantees, and new types of UN presence.

Is it too much to hope that the Kurds' tragedy will force the UN to innovatively act in ways which would help not only the Kurds but also the other repressed peoples of the second generation?

For what the Kurds are up against is not much more than a set of mental blocks. Most government leaders are cautious when there is talk of expanding the role of the UN and extending the scope of international law. Many of them, especially those of multi-ethnic states, are worried about what they see as threats to their domestic jurisdiction.

But most of these leaders are also aware that the interdependence of states is here to stay and grow, that global problems need global answers, and that the world community as a whole stands to gain from the settlement of violent contests between states and anti-state movements. Moreover, they are keenly aware that something needs to be done to prevent the refugee problem from getting worse.

Most immediately, they are conscious of the fact that millions all over the world are actively sympathetic to the Kurds.

#### *How the UN Could Handle Self-determination*

How would a new process like this work? How would it help the Eritreans redefine their relationship with the Ethiopian state (or the Estonians dealing with the Soviet state or the Tamils dealing with the Sri Lankan state)?

Assuming that the Kurdish crisis catalyzes innovation in the capacity of the UN system to deal with "second generation" claims to self-determination (ones unconnected with Western European colonialism), a process something like the following would be in place:

Representatives of the Eritreans would be able to go to a UN Committee for the Registration of Claims to Self-Determination (established by the General Assembly). There they would argue that a *prima facie* case exists that the Eritreans have been denied self-determination.

By this time, a working group or expert body appointed by the UN secretary-general would be examining forms through which the aspirations of peoples who see themselves as having been denied self-determination could be satisfied.

This group's consideration would include a range of options other than separate statehood, including "free association," a form authorized in the UN General Assembly's decolonization resolution of 1960, but hitherto still largely unexplored. (The form of free association achieved by the Cook Islands in relation to New Zealand is often seen as honoring the spirit of self-determination, whereas the form achieved by Puerto Rico in relation to the US has often been said to violate that spirit.)

Assuming the Eritreans succeeded in the effort to have their claim accepted by the Committee for the Registration of Claims, there would be a great deal of discussion and debate, both in their ranks and within the Ethiopian government, on the terms of a settlement which might satisfy the minimal demands of both parties.

At this point, the Security Council would establish an ad hoc body to mediate an appropriate outcome. Its composition might resemble that of the UN Commission for Indonesia which mediated the Dutch-Indonesian conflict in 1948-49. That was a three-member body consisting of Belgium (chosen by Holland), Australia (chosen by Indonesia), and the US (chosen by Belgium and Australia together).