



**Reform
Proposals**

Proposal for the establishment of a Kurdish region in Syria

Principles for a just and democratic
solution to the Kurdish issue in Syria

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Principles for a just and democratic solution to the Kurdish issue in Syria

On March 31, 2012, the Syrian National Council adopted a national charter that addresses the Kurdish issue in Syria. The first three principles are as follows:

»1. The Syrian National Council and signatories confirm their commitment to constitutional recognition of the national identity of Kurdish people, and consider the Kurdish issue part and parcel of the national discourse, and the recognition of the national rights of Kurdish people within the framework of the unity of Syria's land and people.

2. Signatories will work toward the abolition of all discriminatory policies, decrees, and measures applied against citizens, addressing their effects and implications and compensating those affected.

3. The council shall emphasize that the new Syria is a democratic, civil, and pluralistic country, its system is republican and based on the principle of equal citizenship and separation of powers, rotation of power, rule of law, and expanding the prerogatives of local government.«¹

Less than a month later on April 21, the Kurdish National Council held a conference and adopted a revised program. The paragraphs that deal with the recognition of Kurdish rights stated the following demands:

»5. The constitutional recognition of the existence of the Kurdish people, its identity as an ethnic group, and its language as one of the country's official languages, as well as the recognition of its legitimate

1 The complete text is available at <http://www.kurdwatch.org/pdf/KurdWatch_D026_en_ar.pdf>.

rights as an essential ethnic group according to international agreements and conventions.

6. The Kurdish people in Syria is part of the Syrian people and one of the country's essential original ethnic groups. Its national movement is part of the general democratic national movement and is driven by the Syrian revolution.

7. Repeal of all discriminatory policies, decrees, measures, and laws directed against the Kurds; elimination of the consequences and effects of the same; compensation for those who suffered and restoration of the status quo ante.«²

The following text formulates concrete proposals as to how the Syrian Kurds can come to enjoy complete and equal civil rights and how their right to self-determination can be respected without calling the unity of Syria or its territorial integrity into question. The concept presented here is based on the following principles:

1. democratic and equal civil rights for Syria's Kurdish citizens and
2. self-determination of Syrian Kurds within a united Syria, based on territorial self-administration and language.

These principles arise out of the firm belief that a democratic Syria that guarantees equality for its Kurdish citizens is in the interest of all Syrians—independent of their ethnic heritage—and in the interest of the Middle East as a whole.

Equal and democratic civil rights

Reform of the citizenship law

The right to citizenship is the key to the equality of all citizens. In this regard, prevailing Syrian law discriminates against the Kurds in two respects. First, the citizenship of a notable number of Syrian Kurds was revoked. Consequently they and their descendants are stateless.³ Moreover, Syrian citizenship law only recognizes the existence of Arabs. Thus the Kurds, if they are understood to be Syrian citizens, are either by definition Arabs, or they do not meet the necessary criteria for Syrian citizenship precisely because they are not Arabs.⁴

² The complete text is available at <http://www.kurdwatch.org/pdf/KurdWatch_D030_en_ar.pdf>.

³ See KurdWatch, Report 5, »Stateless Kurds in Syria—Illegal invaders or victims of a nationalistic policy?«, <http://www.kurdwatch.org/pdf/kurdwatch_staatenlose_en.pdf>, March 2010.

⁴ Syrian Nationality Act, Legislative Decree 276, dated November 24, 1969, <<http://www.damascusbar.org/english/LL%20Eng%20Nationality%20act%201969.htm>>.

In order to reasonably provide equality with regard to access to citizenship, the following changes are necessary:

1. Presidential decree 49 from April 7, 2011, which grants citizenship to all registered stateless Kurds (*ajanib*), must be implemented.
2. All unregistered stateless Kurds (*maktumin*) must be granted citizenship.⁵
3. The term »Syrian Arab« must be replaced by »Syrian« in all legal texts.
4. The discrimination against women with regard to acquiring citizenship must be ended by granting Syrian citizenship not just to the children of a Syrian father, but also to the children of a Syrian mother and a father with another citizenship.⁶

Freedom of speech and of assembly

In many cases, discrimination against the Kurds in Syria is based on the Ba‘th regime’s general policy of repression. Numerous discriminatory measures under which the Kurds suffer would come to an end if fundamental standards of political freedom and equality were observed in the new Syria.

Freedom of speech and freedom of assembly, in particular, are two essential democratic principles that enable members of individual social groups to express and to develop their ideas and opinions. Due to the emergency law of 1963 (effective until 2011)⁷ and the 1958 law concerning associations and private societies, freedom of assembly and speech are practically nonexistent in Syria.

The following measures are essential to ensure freedom of speech and assembly in Syria:⁸

1. The state of emergency must be ended in deed and not just in name.
2. The constitution of 1973 must be generally revised; in particular the right to free speech and free assembly must be included in the new Syrian constitution. A constitutional court should oversee that the rights and freedoms guaranteed in the constitution are also granted.

5 See also the recommendations in KIS—Kurds in Syria, »Persecution and discrimination against Kurdish citizens in Syria«, stakeholder report for the twelfth session of the United Nations Human Rights Council’s Universal Periodic Review, October 3–4, 2011, <<http://lib.ohchr.org/HRBodies/UPR/Documents/session12/SY/KIS-KurdsinSyria-eng.pdf>>.

6 For more on gender discrimination in access to citizenship, see Institute for War and Peace Reporting, »Campaign to change unfair citizenship law continues«, <<http://www.refworld.org/docid/4959de2a1e.html>>, December 19, 2008.

7 Presidential decree 161 was adopted on April 21, 2011. Article 1 states: »The state of emergency, originally enacted by Decision No. 2 by the National Council of the Revolutionary Command on 3/8/1963, has been lifted.« See <http://www.kurdwatch.org/pdf/kurdwatch_dekret_161_en.pdf>.

8 See also the recommendations for Syria in Euro-Mediterranean Human Rights Network, »Freedom of association in the Euro-Mediterranean region: monitoring report 2008«, <http://www.euromedrights.org/files/Reports/Freedom_of_association_in_the_euromed_region_2007_621351762.pdf>, pp. 41–44. See also United Nations, Human Rights Council, »Summary prepared by the Office

3. A new right of assembly must ensure that
- a) associations are quickly and easily registered;
 - b) decisions regarding the registration of an association are not made by the Interior Ministry, but by a commission of the regional council;
 - c) there is a procedure under civil law (as opposed to the current procedure whereby the decision is made by the executive authority), if an association or its activities are banned;
 - d) the activities of an association are not subject to arbitrary interference by the government or the executive authority.
 - e) Furthermore it must be made clear that the use of the Kurdish language and Kurdish symbols such as the Kurdish flag is no reason to prohibit or restrict the activities of an association.
4. All bans regarding the use of the Kurdish language, including the use of Kurdish names, must be repealed.
5. It must be guaranteed that Kurdish language media are not subject to any discrimination, especially in the areas of accreditation, public financing, and free access.⁹

Solution to the problems resulting from the Arabization measures

Since the government in Damascus decided in 1965 to establish a so-called »Arab belt« along the Iraqi and Turkish border, the Syrian Kurds have become victims of Arabization measures. The implementation of the plan began in 1973. By 1976, a total of 25,000 Arab families had been settled in al-Hasakah province.

In addition, during the land reform in the 1970s, Kurdish large landowners retained less land than Arab large landowners. As early as the 1960s, a large group of Kurds had been deprived of Syrian citizenship and dispossessed of their property and/or their land.

In order to solve the problems resulting from expulsion and wrongful dispossession of lands, the following measures should be taken:

1. Upon request, dispossessed land will be given back to the original owners or their descendants.

of the High Commissioner for Human Rights in accordance with paragraph 15(c) of the annex to Human Rights Council resolution 5/1 Syrian Arab Republic«, <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/SY/A_HRC_WG.6_12_SYR_3_SyrianArabRepublic_E.doc>, July 25, 2011.

9 With its Framework Convention for the Protection of National Minorities of 1995, the Council of Europe, to which most European countries belong, offers a helpful model, see <<http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm>>.

Article 9 reads as follows:

»1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.

3. The Parties shall not hinder the creation and the use of printed me-

2. The original owners will be compensated by the state for their lost earnings.

3. Persons who must cede land that they or their relatives received in the course of Arabization will be compensated. They will if possible receive land in al-Hasakah province.

A commission with at least fifty percent Kurdish participation should be established. The commission

1. will develop appropriate rules for compensation/restitution based on the principles named above;

2. will ensure that the victims of Arabization measures have enough time to enter their claims for restitution/compensation;

3. will ensure that evidence that the victims of Arabization measures must present in order to receive compensation/restitution are appropriate.

Learning the native language

As the Kurds in Syria represent a group that differs from the majority with regards to its language, the conventions and legal standards for the protection of national minorities should be applied. Therefore, in addition to the repeal of prohibitions regarding the Kurdish language, the Syrian Kurds have a right to learn their language in schools where a substantial number of Kurds live. In cities like Aleppo and Damascus, Kurdish lessons should be made possible wherever the number of interested pupils is sufficiently large. This demand is not the same as a complete education in Kurdish. The goal should be that Syrian Kurds continue to speak fluent Arabic.¹⁰ Equivalent provisions are to be implemented with regard to speakers of Aramaic.

Antidiscrimination

In order to leave behind a history of discrimination and persecution of minorities, several democratic states have adopted detailed regulations against discrimination. For example the 1996 Constitution of the Republic of South Africa includes in article 9, which addresses

dia by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.

4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.«

10 Article 14 of the Framework Convention for the Protection of National Minorities (1995) in Europe can serve as an example here:

»1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.

2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.

3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.«

the topic of equality, specific regulations prohibiting discrimination on the base of

»race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, and birth«.¹¹

The adoption of an antidiscrimination clause in the constitution is an appropriate protective mechanism to assure Syrian Kurds that future Syrian governments will not discriminate against them.

A Kurdish region in Syria: Self-determination for Syrian Kurds within a unified Syria

The right of a people to self-determination can be realized in different ways. National independence is only one of many possibilities. Many democracies have developed legal and constitutional provisions that respect and protect the autonomy of more than one national or linguistic group. This approach, which is designated as domestic self-determination, responds to the fact that in many cases, state borders do not correspond to national and linguistic borders. It offers a promising model for Syria to respect and implement the rights of the Syrian Kurds within a united and democratic Syria.

Territorial autonomy

Those regions of Syria that are traditionally inhabited by Kurds and in which substantial numbers of Kurds live are to be demarcated in a revised Syrian constitution as a »Kurdish Region in Syria«. The Kurdish region will be comprised of:

1. al-Hasakah province and
2. the districts of 'Afrin and 'Ayn al-'Arab in Aleppo province.

In addition, individual (predominantly Kurdish) districts and subdistricts should have the option of joining the Kurdish region by means of a referendum within a specified time frame. Likewise, (predominantly Arab)

11 Constitution of the Republic of South Africa (1996), article 9 no. 3, <<http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>>.

districts and subdistricts should have the option to leave the Kurdish region within a specified time frame.

The creation of autonomous regions as a means of recognizing the rights of a linguistic or national minority and guaranteeing its equality is not uncommon. The Italian constitution recognizes in article 116 five autonomous regions, in which linguistic or national minorities enjoy a specific form of self-determination. In Spain, regional languages are recognized in the autonomous regions, for example in Galicia and Catalonia, and France also has since implemented partial autonomy for Corsica.

Regional and municipal self-determination

Entities such as city, district, and regional councils should be elected by the residents, not just in the Kurdish region, but in all Syrian provinces and districts.

It is still too early to gauge whether Syria will follow Iraq and become a federal state. However, even in many nonfederal states, a certain measure of self-administration is granted to provinces and municipalities, for example through a decentralized administration and the designation of specific areas in which they have final decision-making authority. Thus regional or municipal authorities can, for example, issue specific documents and register voters. They can have a certain measure of autonomy in questions of city and regional planning, economic investments, and in the area of education. In addition, they can be granted authority to supervise security personnel (police, intelligence service, border personnel) at the municipal or regional level. In light of this, it is necessary to develop a concept of administrative decentralization and self-government, including electoral procedures that will be established in all Syrian provinces, including the Kurdish region.

In addition to these measures of self-administration, which all Syrian provinces should enjoy, the Kurdish region should also have autonomy in all questions relating to language, culture, and education. It should be able to set official holidays on days other than the official national holidays or develop school curricula that differ

from the national school curricula. At the same time, the autonomy of the region must be implemented in such a way that the non-Kurdish residents are neither discriminated against nor have their right to equality violated.

A bilingual region: Kurdish and Arabic as official languages

Within the territory of the Kurdish region defined above, both Arabic and Kurdish should be recognized as official languages. Accordingly, article 4 of the Syrian constitution of 1973, in which it reads »The Arabic language is the official language«, should be changed as follows:

»Arabic is the official language. In the Kurdish region, Arabic and Kurdish are the official languages.«

The right of the Kurds in other parts of Syria to learn Kurdish should be recognized in other articles of the revised constitution, for example in the articles on education rights.

In order to ensure a bilingual region in practice, in addition to official recognition in the constitution, the following political measures (based on the model of the German-Italian region of Trentino-South Tyrol in Italy and the French-English province of New Brunswick in Canada) should be implemented:

1. **Schooling:** There must be schools in which Kurdish is the language of instruction, as well as schools in which Arabic is the language of instruction. Both types of schools must receive equal support from public funds. In Kurdish language schools, lessons should take place in Kurdish and in Arabic, in Arabic language schools, Kurdish should be taught as a second language.

In addition, there should be Aramaic schools. In Aramaic schools, lessons should take place in Aramaic and Arabic, and Kurdish should be taught as a third language.

2. **Teacher training:** The ministry responsible for training teachers must ensure that the training available for teachers who teach (in) Kurdish is of both high quantity and high quality. The institutions responsible for teacher training, for example the universities, must develop appropriate programs. The same is true for Aramaic.

3. Quotas in public administration: In the Kurdish region, all public services must be offered in both official languages. For this reason, language quotas should be introduced for all positions in public service. Seventy percent of all positions should go to Kurdish speakers, thirty percent to Arabic speakers.

This measure will also ensure that non-Kurdish-speaking residents of the Kurdish region will have full-fledged access to education and all public services in the Arabic language.

Financial aspects

In order to secure the measures of municipal self-administration listed above, cities and provinces must have a certain amount of financial autonomy. In certain areas to be further specified, they must have funds that they can distribute without first needing the approval of national ministries.

A prerequisite for this is access to taxes and other revenue (for example from oil proceeds). With this in mind, taxes and other revenue should be collected by the provinces. The central government will then calculate the total tax revenue, which will be distributed to the individual provinces according to the population numbers, development needs, and other possible indicators, after deducting central expenses. On the basis of these numbers, each province will either receive additional funds from Damascus or it must turn over its surplus to the central government.

Representation in Damascus

Residents of the Kurdish region will take part in elections for the Syrian parliament. Kurdish political parties may campaign in these elections. Concrete election procedures are to be developed. In order to ensure that a majority decision cannot deprive the Kurdish region of its rights, a corresponding clause must be anchored in the constitution. Moreover the constitution must ensure that this clause can only be changed if the regional council of the Kurdish region officially approves the change.