



*Key Words: Constitution, minority rights, human rights bodies, prisons, torture, extrajudicial killings, police and security forces, internally displaced persons, land-grabbing, cultural heritage, political representation, ethnic discrimination, freedom of religion, sectarian violence, freedom of expression.*

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## **A. Introduction**

This report is divided in the following sections:

- **Section A** introduces the three groups on which the majority of the report's focus will lie: the Assyrians, Kurds and Turkmen. NB: Whilst frequently referred to as 'minorities', in some places these communities form the majority within their regions of Iraq. The terms minorities, indigenous peoples and communities will thus all be used to describe the situations of these groups.
- **Section B (Normative and Institutional Framework of Iraq)** raises concerns about the limited codified provision of rights for these communities in Iraq, the failure of the Iraqi state to both fulfill its international obligations and to ratify key human rights treaties.
- **Section C (Promotion and Protection of Minority Rights)** outlines the cultural, political and religious oppression occurring in Iraq, as well as current day security concerns.
- **Section D (Recommendations)** details the recommendations from UNPO to the governments of Iraq and Iraqi Kurdistan.

### **Assyria**

Assyrians are one of the indigenous populations of modern-day Iraq. The Assyrians' ancestral homeland is spread over northern Iraq, northern Iran, south-eastern Turkey and southern Syria. The region from the Hakkari Mountains in Turkey to the Mosul district in northern Iraq is the Assyrian nation's ancestral homeland, with Nineveh as its historic capital. Due to their Christian faith, the Iraqi government considers the Assyrians one of the religious minorities in Iraq, while a more apt designation would be of an indigenous people.

### **Iraqi Kurdistan**

Iraqi Kurdistan is an autonomous region of 36,000 km<sup>2</sup> in the north of Iraq, bordering the Kurdish areas in Iran, Turkey and Syria. The Constitution of Iraq specifically defines Iraqi Kurdistan as a region of Iraq<sup>1</sup>, and thus it has its own government (the Kurdish Regional Government, KRG).

### **Iraqi Turkmen**

The Iraqi Turkmen are a community of just under 3 million, predominantly present in the Iraqi provinces of Mosul, Erbil, Kerkuk, Salahaddin and Diya, Baghdad and Wasit. They represent the third largest ethnic group in Iraq (13% of the population), a position which has been reaffirmed by the Iraqi Parliament on April 21<sup>st</sup>, 2012<sup>2</sup>. Their location in disputed areas has led to them being increasingly harassed and intimidated<sup>3</sup>.

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<sup>1</sup> Article 113 of the Iraqi Constitution (translated by United Nations' Office for Constitutional Support, retrieved from [http://portal.unesco.org/ci/en/files/20704/11332732681iraqi\\_constitution\\_en.pdf/iraqi\\_constitution\\_en.pdf](http://portal.unesco.org/ci/en/files/20704/11332732681iraqi_constitution_en.pdf/iraqi_constitution_en.pdf) on 11-12-2013).

<sup>2</sup> Sa'ad Salloum, *Minorities in Iraq: Memory, Identity and Challenges* (Baghdad, Beirut 2013), p. 155.

<sup>3</sup> Institute for International Law & Human Rights (IILHR), *Iraq's Minorities and Other Vulnerable Groups: Legal Framework, Documentation, and Human Rights* (Baghdad 2013), p. 141.



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## **B. Normative and Institutional Framework of Iraq**

### **Constitutional and Legal Framework**

The Iraqi Constitution is in certain places very progressive when it comes to minority rights. Article 40 and 41 call for freedom of thought and worship for religious minorities and sects. However, Article 2 of this same constitution names Islam as “a fundamental source of legislation”, and prohibits any laws that conflict with the laws of Islam<sup>4</sup>. This is an obvious source of contradiction. With regards to ethnic minorities and indigenous peoples, the Constitution establishes Arabic and Kurdish as official State languages<sup>5</sup> and the Turkmen and Syriac languages as official languages in areas where they “constitute density populations”<sup>6</sup>. It does not however define what this means, and this thus remains a vague and obscure provision. The entirety of the fifth section is also devoted to the rights of regional and local authorities, and is an obvious source of hope for minorities for more autonomy<sup>7</sup>. however, the provisions are rarely used and Kurdistan is still the only official region within the country.

Since the last review of Iraq, the Iraqi government has passed and adapted electoral laws, which have changed their minority components. The second revision to the electoral law concerning governorates, districts and sub-district council elections, reallocated the seats reserved for minorities in Provincial Councils, for the first time specifically including Faili Kurds and Turkmen. It also introduced seats for minorities on District Councils, which previously had not been allocated specifically to them<sup>8</sup>. This provision still has to extend to the KRG.

Certain other laws, especially those in relation to the Personal Status Code are still problematic in various cases. The Civil Status Law (CSL, 1972) and the Personal Status Law (PSL, 1959) specifically have clauses in them discriminating against religious minorities. Article 17 of the PSL forbids Muslim women from marrying non-Muslim men, and article 20 (2) of the CSL prohibits Muslims from converting, or even registering as a non-Muslim. This is especially problematic in relation to the people who were forced to convert in previous years<sup>9</sup>.

### **International Treaty Obligations**

Iraq is a signatory to the majority of the main UN human rights treaty bodies, however, they have not signed *the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICRMW), nor have they signed the majority of optional protocols. And, as section C will outline, even for the treaties they have signed, in many cases Iraq cannot guarantee the rights<sup>10</sup> that have been set out for the population in these treaties. This is especially the case for minorities, and due to provisions in the penal codes as well as reservations entered by Iraq upon signing the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), many minority women face discrimination on two fronts. The reservation entered against the freedom of thought and religion guaranteed by the *Convention on the Rights of the Child* (CRC)<sup>11</sup>, also

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<sup>4</sup> Article 2 and 2 (1)(a) specifically.

<sup>5</sup> Article 4 (1).

<sup>6</sup> Article 4 (4).

<sup>7</sup> See especially Article 121: “This Constitution shall guarantee the administrative, political, cultural and educational rights for the various nationalities, such as Turkmen, Caldeans, Assyrians and all other components.”

<sup>8</sup> United Nations Assistance Mission for Iraq (UNAMI) Human Rights Office and Office of the High Commissioner for Human Rights (OHCHR), *Report on Human Rights in Iraq: July – December 2012* (Baghdad 2013), p. 35.

<sup>9</sup> International Herald Tribune, ‘The Assault on Assyrian Christians’, (08-05-2007) (retrieved from: <http://www.nytimes.com/2007/05/08/opinion/08iht-edisaac.1.5618504.html>, on 11-12-2013).

<sup>10</sup> Most importantly, these rights are derived from Article 27 of the *International Covenant on Civil and Political Rights* (ICCPR), which states that: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

<sup>11</sup> Article 14(1), which states that: “States Parties shall respect the right of the child to freedom of thought, conscience and religion.”



75 discriminates against religious minorities, because minors in Iraq automatically follow the religion of the parent who is Islamic<sup>12</sup>, even if this is in documentation only (due to a forced conversion, for example).

### **C. Promotion and Protection of Minority Rights**

#### **Prisons**

80 One of the biggest issues still plaguing Iraq is the situation in the Iraqi prisons. Recently the secretary-general of the Iraqi Islamic Party, Ayad al-Samarri, has warned about grave violations of human rights in several prisons. Torture is apparently still rife within the Iraqi prison system, which in several cases has resulted in the death of the prisoner involved. According to al-Samarri, “some ‘wanted’ men were detained by security forces only to be handed over dead to their families, after  
85 hours of detention, without giving further information about what happened to them being provided”<sup>13</sup>. A recent report of Amnesty International also reports on these situations, and on the violations of several international treaties that occur in these prisons, most notably the Convention Against Torture<sup>14</sup>.

#### **Police and Security Forces**

90 Many issues surround the Police and Security forces in Iraq, beyond the aforementioned atrocities occurring within the prison system, ranging from arbitrary arrests, illegal detention and torture to an uneven makeup, favouring majority population over minorities.

In a statement received by the Secretary-General of the UN in September 2013, several NGOs noted that: “random arrests and night raids continue to be common practice in Iraq”<sup>15</sup>. Arbitrary arrests such  
95 as these are in direct violation of many international treaties, including the International Covenant on Civil and Political Rights (ICCPR). Because many of these offences occur in the Disputed Internal Boundaries (DIB) area, this puts the minorities that inhabit these areas at extra risk, especially because religious and ethnic identity in these areas has become increasingly politicized<sup>16</sup>.

100 One of these DIB areas, the Nineveh plain in northern Iraq, is especially heavily populated by Iraqi minorities. Assyrians, for example, are heavily represented, constituting nearly 50% of the population. However, this does not show in the ethnic makeup of the police departments. In the North-Western Telkaif district, Assyrians only make up 12% of the police officers in the district, despite more than half the population being Assyrian<sup>17</sup>. Similar issues are found within Turkmen areas. For instance in Kerkuk and in Tuz Khormato, where the Turkmens represent the majority of the population, they only  
105 make up 10% of the security forces.

Due to these problems both with their representation in the security forces, as well as these police and security forces directly breaching the human rights of the population, the lack of trust in the security forces amongst Iraqi minorities is high<sup>18</sup>.

<sup>12</sup> Article 21(3) of the CSL, as noted in IILHR, *Iraq's minorities...*, p. 57.

<sup>13</sup> Al-Monitor, ‘Iraqi Official Alleges That Torture Is Still Rife in Nation's Prisons’ (retrieved from: <http://www.al-monitor.com/pulse/politics/2012/09/ayad-al-sammari-iraqi-detainees.html> on 10-01-2014).

<sup>14</sup> Amnesty International, *Iraq: A Decade of Abuses* (London 2013).

<sup>15</sup> United Nations General Assembly, A/HRC/24/NGO/134.

<sup>16</sup> UNPO, *IRAQ: The Situation of Ethnic and Religious Minorities* (2013), p. 4.

<sup>17</sup> Assyria Council of Europe, ‘Ethnic discrimination in the Iraqi police force’, pp. 2-3 (retrieved from: [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/droi/dv/201/201104/20110413\\_414ace\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201104/20110413_414ace_en.pdf), on 16-12-2013).

<sup>18</sup> As evidenced by: Minority Rights Group International, *Improving security for minorities in Iraq* (2012).



### **Internally Displaced Persons (IDPs) and Issues of Land-grabbing**

110 While the Iraq government has made progress on the problem of IDPs, over one million Iraqis  
“continue to languish without government aid”<sup>19</sup>. Some have also reported that the number of IDPs  
has only diminished because of Iraqis fleeing the country, and not because they have fully  
reintegrated in society<sup>20</sup>. In 2013, “bombings and rising sectarian tension” have contributed to a  
115 growth of IDPs, including many Kurds and Turkmen fleeing the “recent waves of sectarian  
violence”<sup>21</sup>. The Assyrians have also been particularly hit, and have massively fled the country  
following the targeted attacks of Assyrians in Mosul in early 2010 and the bombing of the Our Lady  
of Salvation Church in 2011. The rise in violence in Iraq has been so severe, that 2013 has been the  
deadliest year since 2008<sup>22</sup>, with sources predicting that 2014 could be even bloodier<sup>23</sup>. Minorities are  
at an obvious risk in times of sectarian violence, and many are now relying on UNHCR for food and  
120 other core relief items.

An additional problem that arises is the issue of land-grabbing. When people are forced to leave their  
property or have their property confiscated, it could fall into the hands of their aggressors. While the  
Iraqi government has mandated the national Property Claims Commission (PCC) to deal with these  
issues, progress is slow, and the PCC can only examine claims on property violations that occurred  
125 before 2011. By May 2013, over 80,000 claims were still waiting to be dealt with, and these were  
only claims from land-grabbing that occurred during the Ba’ath party regime<sup>24</sup>. The situation is  
particularly concerning with regards to minority groups. For instance in the Kerkuk province, the  
Turkmen have been the main target of land-grabbing, but since 2005 only 2000 out of 45000 cases of  
land-grabbing of Turkmen property have been processed.

### **130 Religious Oppression**

The sectarian tensions that are currently causing a rise in the number of IDPs, are an obvious threat to  
religious minorities within Iraq. Christian Iraqis especially have continued to suffer attacks by  
religious extremists, who often legitimize their attacks by defining the Christian population as  
“infidels”<sup>25</sup>, an act which itself is already explicitly forbidden by article 7 of the Constitution. Stores  
135 selling liquor have been burned down, and business owners are too afraid to reopen their stores<sup>26</sup>. One  
of the most gruesome attacks on Christians occurred in October 2010, when members of an Al-Qaeda  
linked group took worshippers hostage in Baghdad’s Our Lady of Salvation Catholic Church. 46  
hostages were killed during the following assault on the church by Iraqi security forces<sup>27</sup>. While in  
this specific case the Iraqi police proceeded to arrest 12 individuals suspected to be behind the  
140 attack<sup>28</sup>, community leaders have reported that many of these attacks go without punishment.<sup>29</sup>

<sup>19</sup> Al Jazeera, ‘IDPs finding little refuge in Iraq’ (retrieved from:  
<http://www.aljazeera.com/humanrights/2013/03/201339112229227469.html>, on: 16-12-2013).

<sup>20</sup> Foreign Policy, ‘Remembering Iraq’s Displaced’ (retrieved from:  
[http://mideastafrica.foreignpolicy.com/posts/2013/03/18/remembering\\_iracs\\_displaced](http://mideastafrica.foreignpolicy.com/posts/2013/03/18/remembering_iracs_displaced), on 16-12-2013).

<sup>21</sup> UNHCR, ‘UNHCR concerned as recent waves of sectarian violence threatens new internal displacement of Iraqis’  
(retrieved from: <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=524160999&query=iraq%20minority>,  
on 17-12-2013).

<sup>22</sup> The Guardian, ‘Iraq suffers its deadliest year since 2008’ (retrieved from:  
<http://www.theguardian.com/world/2014/jan/01/iraq-2013-deadliest-year-since-2008>, on 02-01-2014).

<sup>23</sup> Iraq Body Count, ‘The Trenching of Faults: Iraq 2013’ (retrieved from:  
<http://www.iraqbodycount.org/analysis/beyond/2013/>, on 02-01-2014).

<sup>24</sup> Peter van der Auweraert, ‘Was establishing new institutions in Iraq to deal with displacement a good idea?’, *Forced  
Migration Online* (retrieved from: <http://www.fmreview.org/fragilestates/vanderauweraert>, on 09-01-2014).

<sup>25</sup> Human Rights Watch (HRW), *At a Crossroads: Human Rights in Iraq Eight Years after the US-Led Invasion* (2011), p.  
65.

<sup>26</sup> UNAMI, *Report July – December 2012*, p. 22.

<sup>27</sup> HRW, *At a Crossroads...*, p. 69.

<sup>28</sup> Reuters, ‘Iraq arrests 12 suspects in Baghdad church attack’ (retrieved from:  
<http://www.reuters.com/article/2010/11/27/us-iraq-violence-church-idUSTRE6AQ10220101127>, on 27-02-2014)



### **Cultural Oppression**

145 Despite article 121 of the Iraqi Constitution providing that the government “shall guarantee the administrative political, cultural and educational rights for the various nationalities, such as Turkmen, Chaldeans, Assyrians and all other components”, many of the Christian heritage sites within Iraq lie “neglected and mouldering” due to a lack of funding<sup>30</sup>. The fact that foreign researchers and archaeologists choose to stick to relative safety of Iraq’s north or avoid Iraq completely also means that the Iraqi government is not living up to its own Constitution.

150 Reports that the Iraqi government pressures archaeologists to follow “a radical Islamic agenda in the preservation of Iraqi antiquities”<sup>31</sup> is another example of the Iraqi government politicising certain aspects of civilization that should be guaranteed for all citizens and religious and cultural groups.

### **Political Oppression**

155 One of the most important aspects of a free and fair society is the guarantees of political rights for all citizens. As a signatory to the ICCPR Iraq has to make sure elements such as political representation and the ability to vote are guaranteed for everyone, including for members of minority groups.

160 Regrettably, the upswing in sectarian strife has also seen Iraq failing to prevent fair elections from taking place. Iraq’s Deputy Prime Minister Saleh al-Mutlaq has pointed to, amongst others, the aforementioned Nineveh province as a hotbed of electoral fraud. Security concerns should especially be highlighted, as they will prevent a large number of people from voting<sup>32</sup>. Groups already on the margins of societies or groups already concerned about their security, such as minority groups, will in these cases thus be strongly underrepresented without protection from the government.

165 Representation for ethnic groups is also marred by inconsistencies. In Iraqi Kurdistan the Iraqi Turkmen have been granted five seats in parliament to guarantee their participation. However, in reality this quota limits participation by the Turkmen, and acts more as a cap. Aydin Maruf, a representative of an Turkmen party participating in the Kurdistan elections, the Iraqi Turkmen Front, has called for the quota to be removed: “Our quota is too small. The Turkmen population comes second in the region after Kurds. We demand this quota be lifted. If there has to be one, it must be at least 10-15.”<sup>33</sup>

170 These concerns, in the field of security as well as in regard to the declining position for political parties in the opposition, both for minority and ethnic groups as well as other opposition parties, due to a growth of the concentration of political power in the hands of Iraq’s Prime Minister, means the situation of political rights in Iraq after the departure of US troops in 2011 has only worsened. As a result of this, Freedom House has in 2013 lowered Iraq’s Political Rights rating from a 5 to a 6, the second lowest grade possible<sup>34</sup>.

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<sup>29</sup> Ibid., p. 70.

<sup>30</sup> AFP, ‘Iraq Christian heritage sites lie neglected’ (retrieved from: <http://www.google.com/hostednews/afp/article/ALeqM5jWyAGIA1k5NCibHGSEbCeOakIqIA?docId=CNG.182e86f735d393d097870a81fbbd4ef3.511>, on 02-01-2014).

<sup>31</sup> BBC, ‘Leading Iraq archaeologist flees’ (retrieved from: [http://news.bbc.co.uk/1/hi/world/middle\\_east/5289046.stm](http://news.bbc.co.uk/1/hi/world/middle_east/5289046.stm), on 02-01-2014).

<sup>32</sup> Al-Monitor, ‘Iraq Set to Vote in Local Elections’ (retrieved from: <http://www.al-monitor.com/pulse/politics/2013/06/how-bad-will-fraud-be-in-iraqi-elections.html>, on 02-01-2014).

<sup>33</sup> Anadolu Agency, ‘Iraqi Turkmen seek modest representation in parliament’ (retrieved from: <http://www.aa.com.tr/en/news/230695--iraqi-kurdish-regional-government-elections-start>, on 02-01-2014).

<sup>34</sup> Freedom House, ‘Freedom in the World 2013’ (retrieved from: <http://www.freedomhouse.org/sites/default/files/FIW%202013%20Booklet%20-%20for%20Web.pdf>, on 02-01-2014).



### **D. Recommendations**

To amend and adapt the Personal Status Law and Civil Status Law to give fair and equal treatment to all citizens, including women and those of religious and ethnic minorities.

180 To accede to the ICRMW and the optional protocols of the other major human rights treaty bodies.

To remove objections entered to the CRC and CEDAW

To make efforts to restore balance to the ethnic makeup of the police and security forces

To work with the UNHCR to provide support and help to the large number of IDPs in Iraq.

185 To take major steps to counter the rise of sectarian violence, and to pay specific attention to attacks on religious minorities.

To make a priority of bringing perpetrators of attacks aimed at religious minorities to justice.

To provide adequate funding and support for both foreign and domestic archaeologists to preserve Iraq's cultural heritage, both Islamic and not.

To combat electoral fraud and encourage participation by ethnic and religious groups

190 To provide all ethnic groups in Kurdistan with support as to encourage political participation.

To provide a fair balance in the reservation of seats for ethnic groups based on the actual makeup of the population.