

## **I. BACKGROUND AND FRAMEWORK**

### **A. Introduction**

1. Despite improvements in some areas since 2010, Iraq continues to face severe human rights challenges, especially with regard to the protection of members of minorities. Iraq has historically been home to diverse ethnic, linguistic and religious minorities, including Turkmen, Shabak, Yezidis, Sabeen-Mandaeans, Baha'i, Chaldo-Assyrian and Armenian Christians, Kaka'i, Fails Kurds, Roma, and Black Iraqis. Since 2003, the escalation in violent attacks against minorities has caused many to leave the country en masse. Those who remain are subjected to marginalization, discrimination, restrictions on religious freedom, threats, assassinations, kidnappings, and bombings. For these reasons, MRG considers Iraq as one of the most dangerous places in the world for minorities.<sup>1</sup>

### **B. Scope of international obligation**

2. Iraq is a party to most international human rights instruments, including ICERD, ICESCR, ICCPR, CEDAW, and CRC. Iraq has not ratified the optional protocols to the ICCPR and ICESCR and ILO Convention No. 169 on Indigenous and Tribal Peoples. Iraq voted in favour of adopting the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as well as the United Nations Declaration on the Right to Development (UNDRTD).

### **C. Constitutional framework**

3. Iraq's legal framework is relatively progressive, yet there remain contradictory provisions and gaps in implementation. Article 2(2) of the constitution guarantees freedom of religious belief and practice and also provides that "No law may be enacted that contradicts the rights and basic freedoms" in the constitution. However, Article 2 also states that "Islam is the official religion of the State and is a foundation source of legislation" and that "[n]o law may be enacted that contradicts the established provisions of Islam." Although Article 125 guarantees "the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents," Iraq has so far failed to enact a law implementing this provision, which therefore remains an unfulfilled promise.

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<sup>1</sup> Minority Rights Group International (MRG), "Peoples under Threat 2013," in *State of the World's Minorities and Indigenous Peoples 2013*, September 2013, <http://www.minorityrights.org/12071/state-of-the-worlds-minorities/state-of-the-worlds-minorities-and-indigenous-peoples-2013.html>, p. 219.

## II. HUMAN RIGHTS VIOLATIONS

### D. Right to Equality and Non-Discrimination

*Articles 2 and 7 UDHR; Articles 2 and 26 ICCPR; Article 2(2) ICESCR, Articles 2 and 5 ICERD; Article 2 CRC; Articles 5 and 6 UNDRITD; Articles 2, 9, 15(2) and 17(3) UNDRIP; Article 3 and 4(1) UNDM*

4. At the first UPR of Iraq in 2010, Iraq committed itself to ensuring the rights of religious and ethnic minorities (recommendations 72, 90, 114, 119, 122).
5. Members of minorities accuse the federal Government of Iraq of sectarian bias in the recruitment of public sector employees. High-level posts, especially in the security and police forces, are reserved for Muslims and there is practically no minority presence in these bodies.<sup>2</sup> Minorities are also underrepresented in public employment at the governorate and municipality level.<sup>3</sup> University professors report that the Ministry of Higher Education has dismissed countless highly qualified faculty members on the basis of religious affiliation.<sup>4</sup>
6. Other groups face discrimination on account of their ethnic origin or cultural practices. Black Iraqis, whom community representatives estimate number up to 2 million, are continually referred to as *'abd* (slave) and face systematic discrimination in all aspects of public life. Not a single black Iraqi holds a high level position in government, and the unemployment rate among black Iraqis could be as high as 80%.<sup>5</sup> The Roma are also disproportionately unemployed.<sup>6</sup> They are ostracized from society at large and some shopkeepers will not even sell goods to Roma customers. Many Roma are forced into begging or prostitution to make a living.<sup>7</sup> The government of Iraq has failed to implement any measures to address the historical and systematic nature of this discrimination.
7. Minorities living in the KRG region, as well as in the disputed areas under the de facto control of the Kurdish security forces, report widespread discrimination in access to employment and public services. In the areas of Ninewah province administered by the KRG, public sector jobs are only available for those with connections to the Kurdish political parties or who support Kurdish dominance in the region.<sup>8</sup> Minorities who join opposition political parties or who refuse to

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<sup>2</sup> United States Department of State, *International Religious Freedom Report for 2011*, July 2012, <http://www.state.gov/documents/organization/193097.pdf>, p.8.

<sup>3</sup> United Nations High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq*, May 2012, <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4fc77d522>, p.26.

<sup>4</sup> United States Department of State, *International Religious Freedom Report for 2012*, May 2013, <http://www.state.gov/documents/organization/208602.pdf>, p. 7

<sup>5</sup> Mumtaz Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, June 2010, <http://www.minorityrights.org/10042/reports/still-targeted-continued-persecution-of-iraqs-minorities.html>, p.5; Institute for International Law and Human Rights (IILHR), *Iraq's Minorities and Other Vulnerable Groups: Legal Framework, Documentation and Human Rights*, May 2013, [http://lawandhumanrights.org/documents/MinorityHB\\_EN.pdf](http://lawandhumanrights.org/documents/MinorityHB_EN.pdf), p.72.

<sup>6</sup> IILHR (2013), p.130.

<sup>7</sup> Ibid.

<sup>8</sup> Email communication with Yezidi Human Rights Group International, January 2014.

identify as Kurdish, including Yezidis, Christians, Shabak and Turkmen, face arbitrary arrest, assault, harassment, seizure of property and marginalization.<sup>9</sup>

#### **E. Right to Identity and Freedom of Religion**

*Articles 18 and 19 UDHR; Articles 18, 19 and 27 ICCPR; Articles 2, 5(d)(iii) and 5(d)(vii) ICERD; Articles 14 and 30 CRC; Articles 5 and 6 UNDRTD; Articles 2, 5, 6, 9, 12(1), 15(2) and 33(1) UNDRIP; Articles 1, 2(1), 4(1), 4(2) UNDM*

8. At the first UPR of Iraq in 2010, the Iraqi government accepted to prevent and eliminate discrimination on the grounds of religion and belief (recommendation 90).
9. Several of Iraq's laws contradict constitutional provisions relating to non-discrimination and freedom of religion. A 2001 Resolution prohibits the Wahhabi branch of Islam, and Law 105 from 1970 prohibits the Baha'i faith.<sup>10</sup> The 1972 Law of Civil Affairs makes conversion of minors automatic if either parent converts to Islam, but prohibits Muslims from converting to any other faith. This prohibition is particularly problematic for minorities who had been forcibly converted under the Ba'ath regime, or who were registered as Muslim for purposes of obtaining identity documentation.
10. Some minorities face legal disenfranchisement with regard to citizenship and identity documents. While the 2006 Nationality Law establishes the right to regain Iraqi nationality for those previously denaturalised on political, religious or ethnic grounds, the process to obtain documentation is slow and cumbersome. This particularly affects Faili Kurds who have returned to Iraq since 2006, leaving hundreds of families stateless.<sup>11</sup> The Iraqi government also refuses to issue identity cards to Baha'i, and prohibits those who have acquired identity documents stating Muslim as their religion from changing it to Baha'i. Without identification documents, Baha'i cannot access rights and services tied to citizenship.
11. The KRG does not recognise Yezidis and Shabaks as distinct ethnic groups. While some Yezidis and Shabaks do identify as Kurds, many do not. They are culturally distinct from Kurds and Arabs with their own traditions and language. The KRG refuses to recognise in particular the Shabak as an ethnic minority and consider them to be of Kurdish ethnicity.<sup>12</sup>
12. Despite the constitutional provision guaranteeing the right of minorities to their personal status, no separate personal codes have been recognised. The Personal Status Code of 1959 can therefore apply Islamic Sharia principles to non-Muslim minorities, violating their cultural and religious norms with regard to marriage,

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<sup>9</sup> IILHR (2013), p.135 and 148; UNHCR (2013), p. 19.

<sup>10</sup> United States Commission on International Religious Freedom (USCIRF), *Annual Report 2013*, April 2013, [http://www.uscirf.gov/sites/default/files/resources/2013%20USCIRF%20Annual%20Report%20\(2\).pdf](http://www.uscirf.gov/sites/default/files/resources/2013%20USCIRF%20Annual%20Report%20(2).pdf), p.86.

<sup>11</sup> IILHR (2013), p.39-40.

<sup>12</sup> Lalani (2010), p.4, 7, 18.

divorce and inheritance. The code allows Muslim men to marry non-Muslim women but prohibits the marriage of Muslim women to non-Muslim men. This has led many couples to marry in religious services without officially registering their marriage, which may prevent their children from receiving state-issued identification documents.<sup>13</sup>

#### **F. Right to Participate in Public Life**

***Article 21 UDHR; Article 25 ICCPR; Articles 2(2), 5(c), and 7 ICERD; Articles 5 and 6 UNDRTD; Articles 5, 18 and 27 UNDRIP; Articles 2(2), 2(3), 5(1) UNDM***

13. At the first UPR of Iraq in 2010, Iraq committed itself to making efforts to guarantee the enjoyment by minorities of human rights and fundamental freedoms in the field of political life and elections (recommendations 90, 102).
14. There are insufficient parliamentary reserved seats to enable minorities to effectively represent their interests. The electoral law regulating the 2014 elections reserves 8 seats in the 328-member Council of Representatives (CoR) for minorities: five for Christians and one each for the Sabeen-Mandaeans, Yezidis and Shabak. This contravenes a June 2010 Iraqi Federal Court ruling requiring that the number of seats reserved for the Yezidis be increased in proportion to their population, in accordance with the constitutional requirement that the ratio in the CoR be one representative per 100,000 Iraqis.<sup>14</sup> Community representatives argue that since Yezidis number over 600,000, they should receive six seats.<sup>15</sup> Moreover, the seats are allocated to specific governorates and only voters resident in the governorate in question can vote for them,<sup>16</sup> yet some communities are dispersed in many different areas. Turkmen do not have a reserved seat in the CoR, Yezidis do not have a reserved seat in the KRG, and Black Iraqis do not have a reserved seat in either legislature.

#### **G. Right to Life, Security and Adequate Protection**

***Article 3 UDHR; Articles 6 and 9 ICCPR; Articles 2(2), 5(b), 6 ICERD; Articles 5 and 6 UNDRTD; Articles 7 and 15(2) UNDRIP***

15. At the first UPR of Iraq in 2010, the Iraqi government agreed to guarantee the security of religious and ethnic minorities (recommendations 91, 92, 117, 118, 120).
16. Iraq's government has failed to take necessary actions to protect minorities

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<sup>13</sup> IILHR (2013), p.56.

<sup>14</sup> UN Security Council (29 July 2010), S/2010/406, "Report of the Secretary-General pursuant to paragraph 6 of resolution 1883 (2009)", par 45.

<sup>15</sup> Sharif Suleiman, CoR Member, quoted at: <http://www.niqash.org/articles/?id=3327>.

<sup>16</sup> Baghdad - 1 seat for Christians, 1 seat for Sabeen-Mandaeans; Dohuk - 1 seat for Christians; Erbil - 1 seat for Christians; Kirkuk - 1 seat for Christians; Ninewah 1 seat for Christians, 1 seat for the Yezidi and 1 seat for the Shabak. Inter-Parliamentary Union PARLINE Database, Council of Representatives of Iraq, available at [http://www.ipu.org/parline-e/reports/2151\\_B.htm](http://www.ipu.org/parline-e/reports/2151_B.htm).

from frequent threats, killings, bombings and kidnappings. Moreover, there are suspicions that insurgent groups are linked to political circles in Baghdad and that police can be bribed into letting bombs through checkpoints.<sup>17</sup> In May 2010, a suicide bombing in a Turkmen town in Ninewah killed 17 and injured 132. In 2011, the number and severity of attacks on the Turkmen community prompted the set-up of a parliamentary commission of inquiry. In early 2013, over a period of only 4 months, the Turkmen reported 556 attacks, including assassinations, kidnappings, and attacks on properties.<sup>18</sup> Other communities suffered similar attacks. In October 2010, an attack on a Catholic church in Baghdad left 56 dead and caused more than 1,000 families to flee Baghdad. On December 25, 2013, a string of bombings targeting Christians in Baghdad left at least 34 killed and 52 injured. There were at least 26 killings of Shabak reported in 2012, including car bombs targeting Shabak areas in January and December.<sup>19</sup> Between August and September 2012, eleven Yezidis were killed in separate incidents in Ninewah governorate.<sup>20</sup> Sabeen-Mandaeans also continue to report kidnappings, threats, and attempted assassinations on members of their community.<sup>21</sup>

17. Minority-owned businesses are also the particular target of violent attacks. In December 2011, 37 Christian and Yezidi businesses were set on fire in the Dohuk governorate by a violent mob after an imam gave a Friday sermon calling the presence of such shops an affront to the values of Islam.<sup>22</sup> In September 2012, members of the Iraqi Security Forces raided and damaged several businesses selling alcohol in Baghdad.<sup>23</sup>

## **H. Right to an Effective Remedy**

***Article 8 UDHR; Article 2 ICCPR; Article 6 ICERD; Articles 5 and 6 UNDRTD; Articles 27, 28 and 40 UNDRIP***

18. At the first UPR of Iraq in 2010, Iraq committed itself to promptly and thoroughly investigate and prosecute crimes against minorities (recommendations 72, 115, 116).
19. With the exception of the prosecution of the perpetrators of the October 2010 attack on the Our Lady of Salvation Syriac Catholic Church, little progress has been made in identifying, investigating and prosecuting perpetrators of attacks on ethnic and religious minority communities. Public condemnations by government

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<sup>17</sup> Chris Chapman, *Improving Security for Minorities in Iraq*, Minority Rights Group International, July 2012, <http://www.minorityrights.org/11409/briefing-papers/improving-security-for-minorities-in-iraq.html>, p. 3-4, 8, 11.

<sup>18</sup> Iraqi Turkmen Human Rights Research Foundation, "The present situation of the Turkmen in Iraq," Rep.5-E1913, European Parliament Public Hearing on the Situation of Ethnic Minorities and Religious Groups in Iraq, June 2013.

<sup>19</sup> MRG (2013), p.207.

<sup>20</sup> USCIRF (2013), p.89.

<sup>21</sup> Email communication with Mandaean Human Rights Group, January 2014.

<sup>22</sup> Chapman (2012), p.2.

<sup>23</sup> USCIRF (2013), p.91.

officials are still not matched by sufficient measures to combat the climate of impunity.<sup>24</sup> Although several investigations into waves of attacks against minorities have been announced in recent years, they have failed to produce results.<sup>25</sup> Minorities feel unable to report incidents to the police, fearing that the police have links to insurgent groups who will retaliate against those who report security threats and incidents.<sup>26</sup>

20. Minorities also face difficulty in accessing compensation for damaged or abandoned properties. The government has adopted some measures to provide assistance to people wishing to recover their properties.<sup>27</sup> However, compensation is only provided if displaced minorities are willing to move back to their original place of residence, which may not be feasible. Moreover, minorities who were forced to sell their properties quickly and below their market value in order to escape are not eligible to receive compensation.<sup>28</sup> Christians in the KRG-controlled regions whose properties have been confiscated by government officials have also complained they have no right to appeal or compensation.<sup>29</sup>

## **I. Right to Healthcare and to an Adequate Standard of Living**

***Article 25 UDHR; Articles 11 and 12 ICESCR; Article 2(2) ICERD; Articles 24 and 27 CRC; Articles 5, 6 and 8 UNDRTD; Articles 21 and 24 UNDRIP; Article 4(5) UNDM***

21. At the first UPR of Iraq in 2010, the Iraqi government agreed to strengthen its efforts in the area of development, including healthcare (recommendations 104, 106, 107).
22. The parts of the disputed regions where minorities are concentrated are severely neglected in terms of public service provision. In the Sinjar district of Ninewah, where Yezidis form the majority of the population, there is only one hospital with 15-20 beds to serve a population of several hundred thousand.<sup>30</sup> Yezidi communities also lack suitable housing and are characterized by disproportionately high poverty rates.<sup>31</sup> Members of the Shabak community living in Ninewah also report difficulty in accessing clean water, electricity, housing, healthcare and other services.<sup>32</sup>

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<sup>24</sup> USCIRF (2013), p.89; IILHR (2013), p.58.

<sup>25</sup> An example of this is the parliamentary commission of enquiry set up in 2011 to investigate attacks against Turkmen. The commission's final report was never made public. See Chapman (2012), p.8.

<sup>26</sup> Chapman (2012), p.11.

<sup>27</sup> Council of Ministers Decree 262 offers a grant of one million Iraqi dinars to returnees plus rental assistance for six months, provided they relinquish the right to receive humanitarian aid given to IDPs. In addition, Prime Minister's Order no.101 calls for the Ministry of Displacement and Migration to establish a property restitution service for returnees.

<sup>28</sup> Lalani (2010), p.20.

<sup>29</sup> IILHR (2013), p.82.

<sup>30</sup> Email communication with Yezidi Human Rights Group International, January 2014.

<sup>31</sup> IILHR (2013), p.151.

<sup>32</sup> IILHR (2013), p.138. In July 2011, an attack aimed at the water supply of Bazwaya village left the Shabak residents without access to water for a prolonged period of time. See Preti Taneja, *Iraq's*

23. Living conditions in the Roma villages in central and southern Iraq are among the most deplorable in all of the country. Many Roma settlements have been attacked by militants in the past decade, but the government has not taken adequate steps to rebuild basic infrastructures. Many Roma live in windowless mud houses and do not have electricity, clean water, healthcare, or even adequate food.<sup>33</sup> Neighbourhoods inhabited by black Iraqis are also characterized by extreme poverty and neglect. Many black Iraqis live in one-room mud brick houses holding 15 residents or more. Their neighbourhoods lack a clean water supply and proper sewage facilities, and are prone to electricity shortages.<sup>34</sup>

## **J. Right to Education**

**Article 26 UDHR; Article 13 ICESCR; Article 5(d)(vii) ICERD; Articles 28 and 29 CRC; Articles 5, 6 and 8 UNDRTD; Article 14, 15, 16, 21 and 24 UNDRIP; Articles 2(1), 2(2), 4(2), 4(3), 4(4) UNDM**

24. At the first UPR of Iraq in 2010, the Iraqi government committed itself to improving the educational system and combating illiteracy (recommendations 107, 108, 109).
25. Minorities face barriers to accessing all levels of education, leading to low educational levels in many communities. Roma villages do not even have primary education facilities, and parents cannot register their children in schools in other areas due to lack of identification documents.<sup>35</sup> Consequently, the illiteracy rate among Roma stands at 95%.<sup>36</sup> The black community suffers from similar challenges, and very few black Iraqis have made it to the post-secondary level.<sup>37</sup> Educational facilities are also very poor in the disputed regions. Many Turkmen schools do not receive financial assistance from the Ministry of Education, leading to substandard facilities and lack of essential teaching resources.<sup>38</sup> Yezidis do not have any colleges or universities in their areas, forcing them to travel to Mosul University, where, like other minorities, they are subjected to threats and intimidation.<sup>39</sup>
26. Where educational facilities exist, children from minority groups are often denied the right to be taught in their own languages. Turkmen, Shabak, Yezidi and Christian community members report pressure to study in Kurdish in the areas

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*Minorities: Participation in Public Life*, Minority Rights Group International, November 2011, <http://www.minorityrights.org/11106/reports/iraqs-minorities-participation-in-public-life.html>, p.17.

<sup>33</sup> IILHR Handbook 2013, p 127

<sup>34</sup> IILHR Handbook 2013, p75

<sup>35</sup> Taneja (2011), p.18; IILHR (2013), p.130.

<sup>36</sup> Ronen Zeidel, "Gypsies and Society in Iraq: Between Marginality, Folklore and Romanticism," *Middle Eastern Studies* 50, no. 1 (2014): p.75.

<sup>37</sup> Sa'ad Salloum, *Minorities in Iraq: Memories, Identity and Challenges*, Masarat for Cultural and Media Development, 2013, p.110.

<sup>38</sup> IILHR (2013), p.145.

<sup>39</sup> Email communication with Yezidi Human Rights Group International, January 2014; IILHR (2013), p.139.

under the effective control of the KRG.<sup>40</sup> Since the KRG does not recognize the Shabak as a distinct ethnic group, the Shabak language is not taught in schools and is at risk of extinction.<sup>41</sup> Similarly, there are no schools that teach the Mandaean language in Iraq, and UNESCO considers the language extinct in the country.<sup>42</sup>

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<sup>40</sup> United States Department of State, *2011 Iraq Country Report on Human Rights Practices*, May 2012, <http://www.state.gov/documents/organization/186638.pdf>, p.40.

<sup>41</sup> IILHR (2013), p.134.

<sup>42</sup> UK Home Office, *Operational Guidance Note Iraq*, December 2013, p.47.



### **III. RECOMMENDATIONS**

#### **MRG urges the Working Group to recommend the following:**

To the Central Government of Iraq:

27. Develop a comprehensive anti-discrimination law, including strong, effective and accessible enforcement mechanisms.
28. Actively implement equal opportunities policies to ensure that minorities have equal access to services and employment opportunities.
29. Repeal all legislation contradicting the constitutional provisions relating to freedom of religion.
30. End the discrimination against Baha'is with regard to citizenship and identity documents, and speed up the process of re-nationalisation of persons previously denaturalised on political, religious or ethnic grounds.
31. Amend the electoral laws to increase the number of reserved seats for minorities.
32. Take necessary and effective measures to improve the security of minority communities, in consultation with the communities themselves.
33. Set up an independent investigative commission to identify corrupt police officials who are found to be collaborating with insurgent groups and to make recommendations to ensure that such practices are ended.
34. Initiate prompt, impartial and independent investigations of attacks on minorities and prosecute those found to be responsible, respecting international standards of due legal process.
35. Allocate resources to building or restoring essential infrastructure in marginalized communities, such as those where Roma and Black Iraqis live.
36. Institute special measures for minorities registering poor levels of education, such as Roma and Black Iraqis.

To The Kurdistan Regional Government:

37. Take immediate action against state officials and others who discriminate against members of minorities for choosing not to identify themselves as Kurds or affiliate themselves with Kurdish political parties.
38. Recognize the Yezidi and Shabak as distinct identities, and extend articles 5, 14, 35 and 36 of the Kurdish Constitution accordingly.
39. Cease the discriminatory allocation of essential services and take measures to ensure that minorities can enjoy an adequate standard of living.
40. Provide support for bilingual education for minorities in areas where they form a significant proportion of the population.