



## **Committee on the Elimination of Racial Discrimination (CERD)**

### **Joint Statement on the Evaluation of Iraq**

Geneva, August 2024, 113<sup>th</sup> session

Maloca Internationale and Centre Zagros pour les Droits de l'Homme are two NGOs with ECOSOC status active in the field of minority law, with annual conferences on the Middle East and side events held both at the regular sessions of the Human Rights Council and at the sessions of the Minorities Forum. On July 15, 2022, we organized a conference at the United Nations in Geneva titled: Peace and Coexistence under the Iraqi Constitution. We attach the report and outcomes of this conference (see photo below). We have also regularly written statements on the issue, available for research by UN departments.



Undoubtedly, a major breakthrough in the respect of minority rights in the Middle East was the adoption of the Iraqi Constitution of 2005. In its Article 117, the Constitution “recognize(s) the region of Kurdistan, along with its existing authorities, as a federal region”. As one of its governing institutions, the autonomous region of Kurdistan has its own parliament as its legislative branch. This parliament, called the Provincial Council, consists of 111 seats, of which 11 are allocated to minorities: Turkmen had five seats, Assyrians, Chaldeans, and Syriacs had five seats, and Armenians had one. This law was adopted by the region prior to the 2005 Constitution, in 1991, and reformed in 2013.

The central state of Iraq, from Baghdad, is taking steps to weaken the constitutionally recognized autonomy of the Kurdistan Region within the Federation. This is partly due to the great political division in Kurdistan, between the KDP (Kurdistan Democratic Party) and PUK (Patriotic Union of Kurdistan) parties. In 2018, in the face of disputes between the KDP and PUK, parliamentary elections could not be called, and the regional power took the decision to lengthen the term of the elected representatives. However, the Iraqi central power judged this decision to be unconstitutional and dissolved the Provincial Council in 2023.

New elections were then scheduled for June 2024, but Iraq's supreme Court ruled that the 11 seats allocated to minorities were unconstitutional and

reduced the provincial council to 100 seats (in February 2024). The regional elections have not taken place so far. The same Court has required the Kurdish provincial government to pass control of the oil fields to Baghdad in 2022. We see that this actor is working against the autonomy of the Kurdish region in Iraq, constitutionally recognized since 2005.

The decision to suppress the minority seats is supported by the PUK, since this Party judges that the KDP uses the seats for its own political purposes (KDP is in power in the region with President Nechirvan Barzani since 2019). We see then that the decision of the Supreme Court also takes into account a political calculation to take advantage of the partisan division in the region with the ultimate aim of weakening the Kurdish entity within the Federation. In any case, this Iraqi judicial decision goes against the rights of minorities, who are left without representation in the regional parliament.

**Before this situation, we recommend:**

To the KDP and PUK to try to find points of conciliation in the face of the existential threat of the Kurdish region in Iraq, due to their partisan conflicts.

To the central government in Iraq to commit itself to the spirit of its own political constitution, which clearly recognizes a Kurdish administrative entity with its own organs of power.

To Increase the number of quotas for all minorities and ensure equal participation in political and social life.

To work for the Implementation of the unenforced provisions of the Iraqi Constitution.

To the jurists of CERD and other affiliations, to devote attention to an analysis of the provisions of the Iraqi Supreme Court of Justice with respect to the autonomous region of Kurdistan, and to assess their compliance with the national Constitution and their implications for internationally recognized minority rights.

### **Sources**

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**Annex: Report from the Conference “peace and coexistence under the Iraqi constitution” (July 15 2022, UN Geneva headquarters).**

Iraq is a Multinational, multilingual and multi-religious country.

The national and ethnic communities of Iraq are Arabs (70 to 75%), Kurds (15 to 20%), Turkmen, Chaldeans, Assyrians, Armenians, Chechens and Circassians. Ethnic minorities make up to 5% of the population.

Islam is the official religion of Iraq. According to official figures, 95-98% of the population is Muslim (about 64-69% Shia and 29-34% Sunni). It is estimated that about 1 percent of the population is Christian of various faiths, including Chaldean Catholic, Syriac Catholic and Orthodox, Protestant and Eastern Assyrian.

The Iraqi Personal Status Law recognizes the following religious groups: Islam, Chaldean, Assyrian, Assyrian Catholic, Syriac Orthodox, Syriac Catholic, Armenian Apostolic, Armenian Catholic, Roman Orthodox, Roman Catholic, Latin-Dominican Rite, National Protestant, Anglican, Evangelical Assyrian Protestants, Adventists, Coptic Orthodox, Yazidis, Sabaeans, and Jews.

The Iraqi constitution guarantees freedom of religious belief and practice for Muslims, Christians, Yazidis, and Sabaeans-Mandi, but not for followers of other religions or atheists. Furthermore, the Constitution guarantees the absence of religious coercion and provides that all citizens shall be equal before the law, irrespective of religion, sect or belief.

The laws of the Iraqi Kurdistan Region recognize the rights of ethnic communities (Turkmen, Chaldeans, Syrians, Assyrians and Armenians) and religious and sectarian groups (Christians, Yazidis, Saba'is, Kakais, Shabaks, Failis, etc.). and they are respected.

Ethnic and religious minorities are given official shares in both the Iraqi and Kurdistan parliaments. While shares granted are limited to a certain number, some minorities have no quota.

The constitutional recognition in 2005 of the ethnic and religious diversity of Iraq was possible following the military defeat of the Socialist Arab Resurrection Party (Ba'th) government in 2003. In the case of Iraq, Ba'ath hegemony meant domination of society by the Sunni component of Saddam Hussein's ally country, with severe repression of all other ethnic and religious actors. This repression took the form of ethnic cleansing against the Kurdish people with Operation Anfal and the Halabja massacre (1988), two facts recognized in the preamble to the 2005 constitution.

The new Iraqi constitution was an opportunity to end systematic violations and the domination of one party over the other. Unfortunately, due to political competition and external interference, the Iraqi constitution has not become the basis for resolving the problems. The current political situation in Iraq has led to a violation of the multicultural spirit of the 2005 Constitution and as a result, Iraq is subject to continuous violations of its constitution.

Centre Zagros pour les Droits de l'Homme, which is concerned about the unconstitutional situation in Iraq, in collaboration with Maloca International and several other organizations active in the field of human rights, hold a conference on July 15, 2022 at the UN headquarters, called "peace and coexistence under the Iraqi constitution". Representatives of the Iraqi and Kurdistan communities participated in the one-day conference. Although the Iraqi ambassador to the United Nations did not respond to the invitation to participate in the conference, but the representation of the Iraqi government in Switzerland, and representatives of the Kurdistan Regional Government participated in the conference.

The conference participants openly spoke about the failure to implement the constitutional provisions related to the rights of minorities and local governments and called for the implementation of these constitutional articles.

Some participants spoke about the dangers of systematic opposition to minorities and called for international and domestic support for their rights.

A number of minority representatives, while appreciating the efforts of the Kurdistan Region to guarantee the rights of minorities and other communities, called on the Iraqi central government to use the experiences of the Kurdistan Regional Government.

Zagros Human Rights Center and Maloca International, while supporting the rights of minorities and various communities in Iraq, call on Iraqi politicians to:

- Removing political problems and providing the ground for the formation of the government.
- Increase the number of quotas for all minorities and ensure equal participation in political and social life.
- Implementation of the unenforced provisions of the Iraqi Constitution.
- Solving the problems of the central government and the Kurdistan Region.