

Civil and Political Rights of Minorities in Iraq After 2003

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Abstract

Iraqi legislation comprises a set of laws aimed at protecting the civil and political rights of minorities. These laws enhance minority rights by ensuring adequate representation in government institutions. The primary research question is: What is the percentage and extent of civil and political rights granted to minorities under Iraqi law? Regarding the hypothesis, it is assumed that Iraqi laws include several civil and political rights; however, some of these laws do not fully meet their requirements, while others do, which is what this study aims to demonstrate. The legal status of minorities, as a significant issue in the country's public policies, has not received sufficient attention. The provisions set forth in the Iraqi Constitution are inadequate to guarantee the protection of ethnic and religious minorities due to the lack of transparency in the distribution of their rights, along with the existence of a political quota system favoring larger groups. The data collection method for this study involves a systematic analytical approach and a historical perspective. The researcher followed a methodological approach that includes the analysis of legal provisions and the historical depth of minorities in Iraq. The study examines the granting of rights and freedoms to all social and sectarian components, including minorities. The Constitution has adopted a set of provisions aimed at protecting minority rights and ensuring their participation in political, cultural, and social life.

Keywords: Civil rights, political rights, minorities, Iraq

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1. Introduction

The situation of minorities in Iraq is influenced by a complex historical, social, and political context. The country is home to various ethnic and religious groups, each facing its own unique challenges and threats. Iraq is characterized by significant ethnic and religious diversity, including Arabs, Kurds, Turkmens, Assyrians, and Yazidis. Each of these groups possesses its own distinct history, language, and culture. This diversity can

be considered a social asset; however, it has also led to challenges due to political competition and tensions.

The status of civil and political rights of minorities in Iraq after 2003 is considered a crucial issue for assessing the success or failure of the democratic experience in the country. Ensuring public rights and freedoms for minority members under a government dominated by larger and controlling elements clearly reflects the strength and effectiveness of constitutional institutions and, consequently, the integrity of the democratic structure and the depth of public faith in it. Iraq has



always been recognized as one of the most diverse countries in the Middle East in terms of religious and ethnic minorities. However, this very diversity, coupled with challenges in its management, has threatened political stability and social cohesion. Achieving sustainable development has thus become an urgent necessity.

Therefore, this research seeks to answer the following questions: What is the percentage and extent of civil and political rights granted to minorities under Iraqi law? What are the ethnic and minority groups in Iraq?

2. Methodology

The data collection method for the present study relies on findings from library and documentary research. Accordingly, the literature review has been a focal point of this study. Since understanding the research topic, particularly its retrospective aspects, requires an examination of the literature and historical background of the issue, utilizing the library research method has proven beneficial. In this regard, the necessary information has been systematically recorded in research notes from relevant sources.

3. Demographic Distribution and Cultural Diversity of Minorities in Iraq

Yazidis

The Yazidis are an indigenous religious minority in Iraq, primarily residing in the northern regions, particularly in Sinjar and Duhok. The estimated population of the Yazidis ranges between 500,000 and 700,000, a number significantly affected by political and social conditions. Throughout history, this group has faced numerous challenges and, as a non-Muslim religious minority, has occasionally been subjected to cultural and social pressures (Beno, 2017, p. 13).

Yazidis adhere to a unique religion that encompasses distinct teachings. Their faith is inspired by various elements, including Islam and Zoroastrianism, making it unique from other religions. For instance, Yazidis believe in angels, the most significant of whom is Melek Taus, symbolizing light and truth in Yazidi culture. This combination of teachings and traditions has contributed to the creation of their distinct cultural identity (Beno, 2017, p. 15).

1.2. Christians

Christianity has existed in Iraq since ancient times, with Christians belonging to various ethnic groups, such as the Assyrians, a Semitic people who settled in northern Iraq as early as the fourth millennium BCE. The Assyrians established a vast empire in antiquity, with their largest city being Ashur (modern-day Mosul), and they continue to speak their own Assyrian language {Barmati, 2016 #123220}.

The Syriacs, who are Arameans, settled in Iraq in the 16th century BCE. In addition, the Chaldeans, who settled in southern Iraq, have preserved their Eastern Syriac language, and their descendants converted to Christianity in the first century CE {Abbas, 2020 #123214}. Christianity spread throughout Iraq, with the Church of Mesopotamia, also known as the Church of the East, distinguishing itself from the Western Church. Christians had a notable presence in cities such as Al-Hirah, Al-Anbar, Ayn Al-Tamr, Kufa, and Mosul, as well as in Basra, Erbil, Kirkuk, and other regions. Ctesiphon served as the center of Christianity in Iraq, extending to northeastern Syria, the Persian Gulf, and Yemen {Shaker, 2017 #123218}.

1.3. Sabians or Mandaean

The Sabians, or Mandaeans, are one of Iraq's ancient religious minorities. They are followers of the Mandaean faith, which is based on the teachings of Prophet John (Yahya), often associated with Moses. The Mandaeans speak the Aramaic language, and their holy book is known as *Ginza Rba*. This religious minority has a strong connection to water and nature, with their religious rituals, especially baptism and purification ceremonies, being performed in water. As an independent religious group, the Mandaeans possess a distinct cultural and social identity {Yousef, 2017 #123219}.

1.4. Shabaks

The Shabaks are a religious and cultural minority in Iraq, recognized as an important ethnic and religious group in the country. They follow the Yazdani faith, which incorporates a blend of religious, cultural, and ethnic elements. Shabaks primarily reside in northern Iraq, particularly around the Mosul region. They have their own language and customs, which distinguish them from other ethnic groups {Aboud, 2009 #123223}.

1.5. Turkmens

The Turkmens are one of Iraq's significant ethnic groups, primarily residing in the northern regions of the country. Their population is estimated to be between 300,000 and

500,000, with most living in areas such as Kirkuk and Tal Afar, as well as in northwestern Iraq, including Mosul. These areas have historically provided refuge for Turkmens due to their long history and cultural diversity {Salloum, 2015 #123221}.

2. Minorities in the Permanent Constitution of Iraq (2005)

Following the fall of the ruling regime in Iraq in 2003, a constitutional and political vacuum emerged. Consequently, a political process was initiated to establish a new Iraqi government, particularly after the dissolution of state institutions and governmental bodies. Iraq entered a complex transitional phase, witnessing fundamental transformations in the structure of the state and the nature of its political system under U.S. occupation, with Paul Bremer assuming control of the country.

After the abolition of the 1970 Provisional Constitution, which governed the Ba'ath regime, it was replaced with the Law of Administration for the State of Iraq for the Transitional Period in 2004. This necessitated the drafting of a new permanent constitution for the country. The Constitutional Drafting Committee was formed by the Transitional National Assembly on May 10, in accordance with the transitional timetable, which required the permanent constitution to be finalized by August 15, 2005. The new constitution was to be subjected to a referendum before October 15, 2005 {Al-Maamouri, 2015 #123217}.

The Constitutional Drafting Committee initially consisted of 55 members, including 28 from the National Alliance, 15 from the Kurdistan Alliance, and 8 from the Iraqi List, along with representatives of minority groups. Subsequently, 15 additional members from boycotting factions and one representative of the Yazidis, Sabah Mullah Allah Mubarak, who served on the Public Rights and Duties Committee, were added. This increased the number of committee members to 71.

Among the representatives were members of the Turkmen, Shabak, and Christian communities, including Sami Ahmed Ali Shabaki, Qado Shabaki, Riyadh Hadi Kahla (Turkmen), Yenadi Makna (Christian), and Nouri Boutros (Christian). Upon its approval, the 2005 Constitution replaced the 2004 transitional administrative law. The draft constitution was put to a referendum in 2005, becoming Iraq's first permanent constitution.

Post-2003, the constitutional provisions included articles that guaranteed the rights of all Iraqi people in general and minorities in particular. The Constitution preserved the Islamic identity of the majority while ensuring full religious freedom and belief for all individuals, including Christians and Yazidis, as stated in Article 2, Section 2 of the 2005 Constitution. Article 3 further affirms that "Iraq is a country of multiple nationalities, religions, and sects" {, 2006 #123213}.

Article 4, Section 1, declares Arabic and Kurdish as Iraq's official languages and guarantees the right of Iraqis to educate their children in their mother tongues, such as Turkmen, Syriac, and Armenian, within public educational institutions, in accordance with educational regulations, or in private institutions in any other language. Section 3 specifies that federal institutions and official bodies in the Kurdistan Region shall use Arabic and Kurdish, while Section 4 recognizes Turkmen and Syriac as official languages in administrative units where these communities form a significant population. Section 5 allows any region or governorate to adopt an additional local language as an official language through a public referendum {, 2006 #123213}.

Article 9, Section 1, stipulates that the Iraqi armed forces and security services must be composed of elements from all segments of Iraqi society, without discrimination or exclusion, and must remain under civilian authority, defending the country without interfering in political affairs or power transitions {, 2006 #123213}.

Article 12, Section 1, states that Iraq's flag, emblem, and national anthem shall be regulated by law in a manner that symbolizes the components of the Iraqi nation {, 2006 #123213}.

Article 41 grants Iraqis the freedom to adhere to personal status laws based on their religious sects, beliefs, or choices, regulated by law {, 2006 #123213}.

Article 42 guarantees freedom of thought, conscience, and belief {, 2006 #123213}.

Article 43 affirms:

1. The right of every religious sect to:
 2. a. Practice its religious rituals.
 3. b. Manage its religious endowments and institutions, regulated by law.
4. The state guarantees freedom of worship and the protection of religious sites {, 2006 #123213}.

Article 125 ensures administrative, political, cultural, and educational rights for various nationalities, including Turkmens, Chaldeans, and Assyrians, with legal regulations governing these rights { 2006 #123213}.

The above provisions indicate that minorities played an active role in drafting the 2005 Iraqi Constitution. The preamble acknowledges the Turkmens' contributions, recognizing their role as the third-largest ethnic group after Arabs and Kurds, and commemorating their sacrifices and martyrs. It also highlights efforts to erase the Turkmen identity in areas such as the village of Bashir.

While the Constitution acknowledges Kurds and Armenians, Article 24 confirms Arabic and Kurdish as the official languages, conflicting with the principle of linguistic freedoms guaranteed by the Constitution. This contradiction forces smaller communities to use Arabic or Kurdish in official domains, creating a new reality that dominates formal communications.

Article 4 provides that in administrative units where Turkmens and Syriacs form the majority, their languages are to be considered official. However, it is essential to note that during the constitutional drafting process, an agreement was made to recognize national languages where native speakers exist to ensure justice and balance with Article 4.

Nevertheless, this article was later revised by the leadership of key parliamentary institutions, replacing the term "native speakers" with "population density." Given the demographic changes over the past three decades, this alteration threatens the survival of national languages in administrative circles in the coming years. It would have been preferable to grant the right to use official languages to all communities without imposing restrictions.

Article 122 guarantees administrative, political, cultural, and educational rights for various nationalities, such as Turkmens, Chaldeans, and Assyrians, to be regulated by law. However, the rights regulated by law are subject to the influence of dominant parliamentary factions, whereas the constitutional guarantees for the two main ethnic groups are firmly established. This dynamic has contributed to the marginalization of other essential components.

Turkmen concerns are particularly focused on Article 136, which pertains to normalizing the situation in

Kirkuk. In the Law of Administration for the State of Iraq, Articles 53 and 58 ensured the rights of ethnic communities in Kirkuk. However, by retaining Article 58 in the draft constitution and eliminating Article 53, the balance of power was disrupted, leading to the dominance of stronger factions.

Ultimately, the text should be revised to preserve the original meaning while refining terminology and phrasing to prevent the aforementioned issues.

3. Minorities in the Iraqi Election Law

The electoral system refers to the mechanism by which voters cast their votes in a precise and fair manner for parliamentary seats, both at the national and local levels. This is considered one of the fundamental political rights of every citizen, as emphasized in numerous international human rights conventions. Elections must meet specific conditions as determined by law, including:

1. Citizenship

Citizenship is defined as a legal and political relationship that links an individual to their state, or as a legal and political bond between the individual and the state, whereby the individual is recognized as a member of that state (Al-Rahman, 2017, p. 86). The Iraqi Permanent Constitution also emphasizes citizenship in Article 18, Section 1, which states: "Iraqi citizenship is the right of every Iraqi individual and serves as the foundation of their nationality." Additionally, Article 49, Section 1, specifies: "A candidate for membership in the Council of Representatives must be an Iraqi citizen with full legal capacity." Moreover, individuals assuming the office of the presidency must meet the citizenship requirements outlined in Article 68, which states that the candidate must be born to Iraqi parents. Similarly, the conditions for ministerial and presidential positions are stipulated in Article 77, Section 1 of the 2005 Iraqi Permanent Constitution.

2. Age of Maturity

The constitution and laws specify a certain age of political maturity required for individuals to exercise their political rights, including voting, candidacy, and holding public office. The purpose of setting an age limit is to ensure that candidates or voters possess a level of understanding and experience necessary to fulfill the required role (Al-Amar, 2017, p. 89). The prevailing legal principle in many countries equates the age of social maturity with the age of political maturity, as seen in Iraq and France. However, this is not a universal rule. The

constitution does not explicitly address this issue, leaving it to electoral laws to establish the required age. In most countries, the age of political maturity aligns with the legal age of civil maturity, whereas in other jurisdictions, political maturity is set at a higher age than social maturity.

In most countries, the right to candidacy is set between 25 and 40 years of age. In bicameral parliamentary systems, the minimum age for candidacy in the upper chamber (Senate) is usually higher than that for the lower chamber, known as the House of Representatives. According to Article 49 of the 2005 Iraqi Permanent Constitution, the eligibility criteria for candidates and voters, as well as other election-related matters, are regulated by Law No. 45, amended in 2018. Article 8, Section 1 of the law states that a candidate must be at least 30 years old. Meanwhile, Article 5, Section 3 specifies that a voter must have reached the age of 18 by the time the elections are held {, 2006 #123213}.

3. Eligibility Criteria

One of the fundamental conditions for the right to vote or run for election is eligibility, which is divided into two main categories:

A. Mental Conditions

Mental conditions require that any individual exercising their right to vote or run for office must possess sound mental capacity, enabling them to correctly understand and comprehend political matters. The individual must be free from any mental or psychological disorders that could impair their ability to think and act appropriately in political situations, such as insanity, delusions, psychological disorders, or schizophrenia. They should also be in a stable and well-balanced condition to make sound political decisions {Al-Ammar, 2017 #123216}. The 2005 Iraqi Permanent Constitution affirms the eligibility requirement for candidacy in Article 49, Section 2, which states that a candidate must be "an Iraqi with full legal competence" {Al-Ammar, 2017 #123216}. Furthermore, the internal regulations of the Iraqi Council of Representatives, in Article 13, Section 1, specify that membership eligibility must align with constitutional provisions on the right to vote. The Iraqi Council of Representatives Election Law No. 45 of 2013, Article 5, Section 2, reiterates that candidates must meet the full eligibility criteria.

B. Ethical Conditions

Ethical conditions pertain to the integrity, transparency, and honor of an individual. A person lacking these qualities is deemed unfit to manage or participate in national affairs, which could result in their disqualification from exercising political rights, including candidacy for parliament. Ethical integrity should be an essential component of every citizen's life, ensuring they have not committed any crimes such as theft, bribery, embezzlement, forgery, or breach of trust, which would lead to disqualification from political rights, including parliamentary candidacy. The Iraqi Parliamentary Election Law, Article 8, Section 1, stipulates that candidates must have good conduct and no criminal record.

The Iraqi Constitution grants minorities the right to candidacy and political representation, affirming their equal status with other citizens, whether in the Council of Representatives or provincial councils. Article 20 of the Constitution states that "citizens, both men and women, have the right to participate in public affairs and enjoy political rights, including the right to vote" (Iraqi Permanent Constitution, 2005).

Article 49, Section 1, emphasizes that the Council of Representatives consists of members representing the entire Iraqi population, with each seat allocated for every 100,000 citizens, and that representatives are elected through public referendum. Following concerns raised by Christians after securing only one seat in the Governing Council, which comprised 25 seats, efforts were made to ensure fair representation of all minority groups through a quota system. The objective was to guarantee the presence of various minority groups in the legislative body.

Under the compensatory seat system established in Election Law No. 16 of 2005, which was implemented in the December 15, 2005 elections, political factions were assured of securing seats if they failed to win in the elections. This system introduced a multi-district approach, with each province acting as an electoral district, provided that the total votes obtained by political groups at the national level met or exceeded the national average. This allowed parties to combine their votes across districts to secure representation in the Council of Representatives. The representation of political movements in parliament became clearer following the passage of Law No. 26 of 2009, which amended Election Law No. 16. This amendment specified

that parliamentary seats would be allocated based on statistics provided by the Ministry of Trade, with one seat for every 100,000 people.

Eight compensatory seats were allocated, with five assigned to the Christian minority and three distributed among the Yazidi, Sabian-Mandaean, and Shabak minorities, ensuring proportional representation without affecting their percentage in national lists.

In the 2014 elections, held under the Iraqi Council of Representatives Election Law No. 45 of 2013, minority seat allocations included:

- Five seats for Christians in the provinces of Baghdad, Nineveh, Erbil, Duhok, and Kirkuk.
- One seat for Yazidis in Nineveh.
- One seat for Shabaks in Nineveh.
- One seat for Sabian-Mandaeans in Baghdad (Iraqi Council of Representatives Election Law No. 45, 2013).

According to the Iraqi Council of Representatives Election Law No. 9 of 2020, the minority seat distribution was as follows:

- Five seats for Christians in the provinces of Baghdad, Nineveh, Erbil, Duhok, and Kirkuk.
- One seat for Yazidis in Nineveh.
- One seat for Shabaks in Nineveh.
- One seat for Sabian-Mandaeans in Baghdad.
- One seat for the Feyli Kurds {, 2006 #123213}.

It can be concluded that minorities in Iraq constitute an essential part of the country's social and political structure. Iraq's cultural and religious diversity includes minorities such as Christians, Yazidis, Shabaks, and Turkmens. The Iraqi election law provides mechanisms for the representation of these minorities in parliament, aiming to guarantee their political rights and enable their effective participation in political life.

Minority representation in elections is a crucial element in ensuring justice and equality within society. The allocation of specific seats for minorities reflects the people's will and enhances their role in decision-making processes. However, this representation faces significant challenges, including sectarian and political tensions, necessitating the development of more effective policies and regulations to support minority rights and strengthen their role in the democratic process.

In summary, the election law serves as a pivotal tool in safeguarding minority rights in Iraq. However, it requires continuous updates and improvements to

ensure fair and effective representation in the future. The issue of minorities in Iraq's election law is considered sensitive and complex, reflecting the broader challenges facing Iraqi society. The law aims to strike a balance between representing different groups in the political process while ensuring minority rights without marginalization. Despite notable progress in some areas, there is an urgent need for legal reforms and procedural improvements to guarantee minority rights and empower their role in decision-making.

Legal reforms should focus on increasing minority political participation and providing the necessary support to ensure their voice is heard in parliament. Ultimately, achieving justice and equality in Iraq requires comprehensive and ongoing dialogue among all stakeholders to build a future based on diversity and mutual respect. The success of any electoral system depends on the integration of all social components, contributing to the stability and development of the country.

4. Conclusion

Iraqi laws encompass civil and political rights, and the Permanent Constitution of Iraq, which was ratified in 2005, reflects Iraq's commitment to providing rights and freedoms to all social and sectarian components, including minorities. The Constitution has adopted a set of provisions aimed at protecting minority rights and ensuring their participation in political, cultural, and social life. The most prominent of these provisions include Article 2, which guarantees freedom of religion and belief, and Article 4, which ensures the rights of various languages, in addition to guaranteeing effective participation in political institutions and safeguarding their rights within the constitutional framework.

The status of minorities in Iraqi law is not merely a legal safeguard but also a reflection of the aspiration to establish a multi-ethnic and multi-religious state. Despite these guarantees, minorities in Iraq continue to face challenges at both political and social levels. Therefore, the most crucial role in the future lies in the actual implementation of these legal principles and the promotion of peaceful coexistence among all components of Iraqi society within the framework of justice and equality.

Strengthening the position of minorities and providing them with real support requires strong political will and

cooperation between various government institutions and civil society organizations to ensure that Iraqi laws guarantee real rights and freedoms for all segments of society without discrimination or marginalization.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

The authors report no conflict of interest.

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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