

2015

رِیکِخِراوِی مَاشِتی و نَازادِی  
مَنظِمة السَلام و الحَریة

**Peace and Freedom Organization**

رِیکِخِراوِی مَاشِتی بَوا نَظِرة تَیْدانِی تَوانا مَروِیة کان  
مَنظِمة المَسْئِلة لِتَنمِیة المَوارِد البَشَریة  
Al-Mesalla ORG. for Human Resources Development



## The Rights of National and Religious Minorities in Kurdistan Region



### "Recommendations and Notes "

To the Committee of Preparing the  
Draft Constitution of Kurdistan  
Region

## Contents

Introduction .....	3
Principal measures related to protecting minority rights .....	4
Vision for dealing with minority issues.....	6
Kurdistan a place for peaceful coexistence.....	7
Legal framework of minority rights in Kurdistan Region.....	8-11
A Brief Reading to Laws .....	11
Draft Constitution of Kurdistan Region and Minority rights .....	12-21

***a. Introduction:***

There is a great threat against religious, ethnic, linguistic and sectarian minorities in the Middle East. This threat increases after Shias become powerful in many areas; and this has present and future consequences.

The Kurdistan Region is a place where various religious, ethnic and sectarian components live together, and it is true also for the rest of Iraq where different components live together for decades.

In the past few years, many laws regarding minority rights have been announced, the recent one is the law of protecting the rights of all components in Kurdistan Region. While the law clearly mentions and addresses the many rights for minorities, human rights activists are not completely happy with it.

As the constitution is expected to be rewritten by the committee and then be prepared for the referendum in three months, both organizations: the Organization for Peace and Freedom, and Al Mesalla Organization believe that it is important to take this opportunity to provide different recommendations and notes for the committee of preparing draft constitution in Kurdistan Region, especially the articles related to the rights of all components.

We hope this project to be a valuable contribution for addressing the rights of all components in a best manner, and to help the committee in writing the draft constitution in which guarantees the idea of citizenship and the plurality of our society, and avoid all kinds of discrimination.

***b. Principal measures related to protecting minority rights:***

At the international level different agreements and conventions have been established for protecting minority rights. Now what can we basically refer to as a measure for minority rights, is the Universal Declaration of Human Rights (1948). We can take and present certain articles from the declaration regarding protecting differences, preventing discrimination and securing equality; as follows:

- Article one: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
- Article two: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.
- **Article 7.** All are equal before the law and are entitled without any discrimination to equal protection of the law.
- **Article 8.** Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
- **Article 18.** Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

After this, **International** Convention on the Elimination of All Forms of Racial Discrimination (1965) states that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, color or national origin. In fact, the 15 points of the

legal regulations which the KRG voluntarily announced in 2006/2007, the point 14 commits KRG to this covenant.

United Nations General Assembly on 16 December 1966 adopted International Covenant on Civil and Political Rights, the article 27 of the covenant 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 practice their own religion, or to use their own language". This is a clear article for all member states as they are obliged to provide these rights. As Iraq is one of the countries which signed the covenant, so it is applied to Kurdistan Region, too. The point in this article is that these rights are also given to groups, which simply means it is not only an individual right as it is mentioned in the Universal Declaration of Human Rights (1948). The same article can be found in the United Nations Convention on the Rights of the Child.

United Nations in 1991 announced Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and reconfirmed the principle of 'preventing discrimination' and ask all Member States to protect and promote minority rights: "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity", and for that purpose appropriate laws and rules should be made.

In fact, the 15 points of the legal regulations which the KRG voluntarily announced in 2006/2007, in the point 13, the KRG commits itself to this covenant.

Generally, our understanding of international agreements and covenants, Member States laws and according to minority rights experts; there are four fundamental duties member states have regarding minority rights. Below is the brief explanation of these duties:

First duty: The duty of protecting minority's existence.

Second duty: protecting and strengthening social identity and culture of all minorities.

Third duty: guaranteeing the prevention of discrimination and providing equality for all.

Fourth duty: guaranteeing the efficient participation of minorities in public affairs.

Here, we are asking, does the constitution draft of Kurdistan Region and its related laws address these duties to protect minorities?

In searching and analyzing the relevant laws of minorities and the articles regarding this in the constitution draft, we can reach some answers for these questions, and the rest we can find from daily practices and the way minorities live in their real life.

***c. Vision for dealing with minority issues:***

According to different studies in studying the cases and experiences of different states, different ways and models of dealing with minorities can be seen, we will summarize these models as follow:

First model: the case of denying and trying to marginalize minorities. This way is mostly implemented by previous regimes, the way Armenians treated by Ottomans or Kurds, Yezidis, Chaldo, Shabaks, Assyrians, Baha'eis and Feylis oppressed by the previous regimes in Iraq, or the discrimination and genocide committed against Jews by Nazis in Germany, or marginalization and discrimination against Kurds in Turkey, or currently the way Isis deals with different components (Yezidis, Turkmens and Christians) in its controlled areas are all an illustration to this model.

Second model: the model of displacing and forcing minorities to leave their hometown, Jews displacement from many Arab countries and Feylis Kurds in Iraq in Ba'ath's era, and etc....

Third model: the third model is the model of not recognizing and depriving minorities such as in Syria against Kurds or against certain people who known as Bedouins in many Arab countries. There can be the same model in many countries around the world.

Fourth model: The fourth model is the model of recognizing, but depriving minorities from their rights and marginalizing them economically and politically in public life. An example of this model is Copts marginalized in Egypt, Shia in Saudi Arabia and Bahrain and etc.

Fifth model: the fifth model is the model of Non-Coexistence and pursuing separation such as in Sudan where Christians decided to separate or the

same thing happened in Kosovo, or probably it is the same thing happening between Iraq and Kurdistan Region.

Sixth model: the model of sectarian democracy in which different components come up with consensus among themselves and based on constitution and law they share authorities, rights and duties. In fact, this model is not perfect; it has own problems as the Lebanon case has many serious problems.

Seventh model: it is the model of countries which has a special policy in dealing with minority issues and these countries can be looked at as successful stories, these kinds of countries are:

1. The first type is a government which has many special institutions related to national and ethnic minorities and other components. This can mostly be seen in the West Europe.
2. The second type is a country where a one nation is the majority, but there are other minorities. In such countries, government according to specific laws and rules determines the rights of minorities, such example can be found in Germany and The United States of America.
3. Countries which have a specific national policy, and have no other special procedures and policies regarding other minorities; Japan as an example.

Eighth\_model: the case of countries which have no special policy at the state level to deal with minority issues, such as Turkey. When any problem happens in relation to minorities, the problem will be dealt arbitrary and without any clear policy.

The question is which model we want in Kurdistan? Or do we want a different model, a Kurdish model different from the mentioned models?

***d. Kurdistan a place for peaceful coexistence:***

A Kurdish nation like many nations who were not born as a Muslim, before Islam, Kurds were fire worshippers, then became Yazidi, Kakaye Christian and Jewish, then happily or sadly became a Muslim. Today, the majority of Kurds are a Muslim, but there are many non-Muslim people, too.

Kurdistan was and is not a country only for Kurds, but with Kurds there were and are also Chaldo, Assyrians, Turkmens and Armans, and then some Arabs, and in another parts Persians, Turks and etc. live with Kurds.

As a result of emerging different religious pathways, Shia Kurds and Sunni Kurds emerged. There are also Kurds who have no religion. While there are Sunni, Shias, Yazidis, Zoroastrians, Shabaks, Kakayes, Christians, Alawites and Ahl al-Haq among Kurds, there are also Kurds who do not belong themselves to any of these religions.

In Kurdistan, in addition to Kurds, Turkmens, Christians, Chaldo, Assyrians, Armans and Arabs live. There are also some Yazidis and Shabaks who do not consider themselves as a Kurd, they want to be known as a Yazidi and a Shabak.

It is clear that since 2003, due to the lack of security and stability, many Baha'eis and Sabians have fled to Kurdistan and settled. As a Kurdish citizen, they are living in Kurdistan and serving the region in many ways.

***e. Legal framework of minority rights in Kurdistan Region:***

So far there is no constitution in Kurdistan Region, but we have many laws for regulating religious and national minorities:

1. The Law of the Kurdistan's Ministry of Education and its adjustments.
2. The Law of Kurdistan's Ministry of Endowment and Religious Affairs and its adjustments.
3. The Law of Kurdistan's Ministry of Culture and Youth and its adjustments.
4. The Law of the Official Languages in Kurdistan in 2014.
5. The Law of Parliamentary and Governorate Elections in Kurdistan.
6. The Law of Kurdistan Independent High Electoral Commission and Referendum, number (4) 2014.
7. The Law of protecting all Components in Kurdistan in 2015.

Within these existing laws, different rights for religious and national minorities can be categorized as follow:

First: The Law of the Kurdistan's Ministry of Education gives the right to all Turkmens, Chaldo, and Assyrians to study Education in their own language. Within the ministry, there are two different directorates related to this purpose, one is dedicated to supervise Turkmen education process,

and the other is for Chaldo, Sryani and Assyrian Education process. There are many schools directed by these two directorates.

Second: in the Law of Kurdistan's Ministry of Endowment and Religious Affairs, two general directorates are available for minorities; the first one is for Yazidis and the second is for Christians.

Third: according to the Law of Kurdistan's Ministry of Culture and Youth, number (14) 2014, the structure of the ministry includes a number of general directorates, two of them are devoted to national and religious minorities; the first one is general directorate for Syriac Culture and Art, established in 1996, the second one: general directorate for Turkmen Culture and Art. Both directorates focus on cultural aspects of Syriac, Chaldo, and Assyrians on the one hand, and Turkmen on the other hand.

Fourth: in the Law of the Official Languages in Kurdistan in 2014, number (7), Turkmen, Syriacs and Arman language are considered officials in the areas that are of their majority residents, while some minority citizens have comments on certain parts of the law.

Fifth: in the Law of Kurdistan's Parliamentary Elections quota system is given to minorities, as follow:

- A. 5 seats for Chaldo-Assyrian-Syriacs.
- B. 5 seats for Turkmens
- C. One seat for Armans

According to the Law of Governorate and Local Districts Elections in Kurdistan Region, number (4), and especially the article (32) reaffirms that:

In the local council of Duhok tow seats are given to Chaldo-Assyrian-Syriacs and a seat for Armans.

In the local council of Sulaymaniyah one seat is given to Chaldo-Assyrian-Syriacs.

In the local council of Erbil, two seats are given to Chaldo-Assyrian-Syriacs, and three for Turkmens.

Moreover, voting for the representative of any component has to be voted by the voters of the same component, we are asking is it fairly implemented? Based on what principle and average these seats given to a specific component? Why there is no quota for some components? Even if

the reasons is that they are considered to be a Kurd, but they have their own cultural, social and religious characteristics, so they have to be taken their characteristics and differences into consideration. In fact, all parties have an experience especially in the last elections; the representatives of minorities were not voted by the party voters, even if they were in the top list!

Sixth: The Law of Kurdistan Independent High Electoral Commission and Referendum, number (4) 2014, especially in the article (5), gives a right to minorities to have a commissar in the structure of the commission; the commission has 9 commissars. The representatives of minorities criticized major parties for ignoring them in the formation of the commission; so far the issue has not been fully solved!

Seventh: The Law of protecting all Components in Kurdistan in 2015 is considered to be the first law in its kind in Iraq and Kurdistan, the representatives of minorities voted for this law in the parliament. In this law, there are very important articles, for the first time a very precise definition given to components, it also mentions Sabians, Zoroastrians and Mandaean, but it does not mention Baha'is, in the previous Iraqi laws Bahá'í Faith were prohibited to be mentioned in Iraqi laws for almost a century!

The law has very important principles. However, the means and mechanism of implementation does not exist. For example, if one commits a discrimination or encourages discrimination, how should he/she be judged and by whom?

In addition to these laws, in the law of Council of Ministers, there is an article that emphasizes that in the formation of cabinet the participation of all components needs to be taken into consideration.

*f. A Brief Reading to Laws:*

1. The rights given to national and ethnic minorities based on these laws are within the framework of Education in their own language and political participation. However, in security sector the participation of minorities in policing, security services and Peshmerga is very low.
2. In the existing laws, the law makers in Kurdistan were not able to define minorities precisely, who are they? Are they only Turkmens, Chaldo-Assyrian-Syriacs and Armans as accepted in the quota system in the last elections, or as recognized by the law Kurdistan's Endowment and Religious Affairs by providing two different directorates to Yazidis and Christians, or like the law of protecting components which mentions Turkmens, Christians, Yazidis, Sabians, Mandaean, Zoroastrians and Kakayes? At the same time, lawmakers in Kurdistan abstain themselves generally from recognizing minorities, they only recognize Turkmens and Chaldo-Assyrian-Syriacs as a nation, and Yazidis as a religious minority, but what about the others (Zoroastrians, Kakayes, Sabians, Mandaean and Bahá'í)?
8. According to the existing laws, Turkmens, Chaldo-Assyrian-Syriacs as different nations have representatives in the Kurdistan Parliament and the cabinet, and having special directorates from the Ministry of Youth and Culture, they also have a representative in the Kurdistan Independent High Electoral Commission and Referendum, also Christians and Yazidis have their own special directorates from the ministry of Endowment and Religious Affairs. However, here we can make some comments:
  - In Kurdistan Region, there is no special center to regulate, supervise and direct the rights of components.
  - Even in the Kurdistan Parliament, there is no permanent committee for minorities, which can not only be reduced to religious affairs.
  - In decision-making level in both parliament and the Presidency of Regional Government minorities do not have a role from 1992 until now.
  - It is true that the law of Parliamentary and Governorate elections gives quota to Turkmens and Chaldo-Assyrian-Syriacs, but since the way of voting on these seats are not only limited to these

minorities, for this reason the true representative of these minorities face many difficulties. Even the representatives of minorities in the Commissar Council of Kurdistan Independent High Electoral Commission and Referendum are appointed by the major Kurdistan parties, as this causes anger from the minorities.

- Here it is required to mention that all these laws are from the 15 points of the legal regulations which KRG in 2006-2007 voluntarily commits itself to them, even this list in many ways is better than the laws since it clearly states that the KRG follows all international agreements and covenants regarding minority rights.

#### ***g. Draft Constitution of Kurdistan Region and Minority rights***

Besides the draft constitution of Kurdistan Region, there are many laws in some ways protect and regulate minority rights. The Kurds have an experience in writing a constitution since they actively engaged in writing the Iraqi constitution in 2004-2005. For this reason, the draft constitution of Kurdistan Region should be richer than the existing laws regarding minorities, do we see that?

To answer this question: we are looking into the articles of the draft constitution, as follow:

First: the introduction of the draft constitution, which is an important part of the constitution, does not give a clear image regarding plurality and peaceful coexistence between components. While it says: “to establish a developed and civilized Kurdish society which prides itself on its ethnic and religious groups, open to all, unleashes the energies of its citizens, and where a spirit of fraternity and tolerance prevails...”.

But this is only mentioned as a goal, while it should mention the sacrifices made by all components as they are victims of previous regimes, and since 1991 they have played an important role in reconstructing and developing Kurdistan Region.

Second, the second article talks about the geographical border of Kurdistan Region, in all districts of Nineveh, Kirkuk, Khanaqin, Mandali there are a large number of minorities, with these areas, the population of

Turkmens, Yazidis, Christians, Shabaks, Kakayes, Sabians, Mandaean and Zoroastrians will increase. From this point of view, it is important to ask whether this constitution will be written for today, or for future and independence. If it is for future, tomorrow minorities in Nineveh or in Kirkuk may ask for having an independent region within Kurdistan Region, how does the government deal with this? Well, it is clear that the article 3 from the draft constitutions says that a new region may not be established within the borders of the Iraqi Kurdistan Region.

Third, the article 5 of the Draft Constitution states that: “The people of the Kurdistan Region are composed of Kurds, Arabs, Chaldo-Assyrian-Syriacs, Armenians and others who are citizens of Kurdistan”. Here, it is important to be even more precise when it defines the people of Kurdistan; it has to define all religious and national components. We think the same thing which is written in the law of protecting components in 2015 should be written here, too, to mention other components such as Yazidis, Kakayes, Ahl al-Haq, Ali Elahi, Sabians, Mandaean, Zoroastrians and Baha’is.

Fourth: the article 6 of the Draft Constitution says that:

**“This Constitution confirms and respects the Islamic identity of the majority of the people of Iraqi Kurdistan. It considers the principles of Islamic Sharia as one of the main sources of legislation. Likewise, this Constitution upholds and respects all the religious rights of Christians, Yazidis, and others, and it guarantees to every individual in the Region freedom of belief and the freedom to practice their religious rites and rituals. It is not allowed:**

**First:**

**Enact a law inconsistent with the provisions of the fundamentals of Islam.**

**Second:**

**Enact a law inconsistent with democracy principals.**

**Third :**

**Enact a law inconsistent with the rights and fundamental freedoms contained in this constitution”.**

This article in one way is written just like the Iraqi Constitution, and in another way is better. The same thing can be seen in the constitution draft;

the consensus and combination between religion, democracy and Islam and other religions, but it is better to mention the names of other religions. On the other hand, it is better, since it does not take any religion as the main religion of Kurdistan.

Fifth: the article 11 of the Draft Constitution, especially the first and second points of the article:

**First :**

**The Iraqi Kurdistan Region shall have its own flag, which shall be flown side-by-side with the federal flag. The Kurdistan Region shall have its own national emblem, national anthem, and National Day (Noruz). This shall be regulated by law.**

**Second :**

**The flag shall be composed of a red (colour), a white (colour), and a green (colour). A yellow sun with twenty-one rays emanating from it shall be located in the middle. The dimensions of the flag and the meaning of its components shall be determined by law.**

From these two articles, you cannot feel the presence of minorities in the national flag, national anthem and national celebrations. We think since Kurdistan region is a multi-ethnic/religious region, it will be better just to say that: (national flag, national anthem and national celebrations shall be regulated by law, even it is better to say that they will be regulated by the law that reflects all components of Kurdistan).

Sixth: the article 12 of the Draft Constitution regarding Peshmerga as power of protecting Kurdistan says that:

**“The defensive Peshmerga Forces shall guard the Kurdistan Region in accordance with item Five of Article (121) of the Federal Constitution. The organization and duties of these forces shall be regulated by law. Armed militias may not be formed outside of the scope of the law”.**

In this article it is important to say that Peshmerga will be composed of all components of Kurdistan, because the reality is the Ministry of Peshmerga has begun to create unites for Yazidis, Shabaks, Kakayes, Christians and others. The example of some coun<sup>14</sup> in the world shows the need to create private forces for protectir<sub>o</sub> .....norities. The tragedy of Shingal

reminds us that minorities should be present in decision-making process and have their own protection army. For this reason, regulating this issue within the constitution to confirm that Peshmerga as a protective and defensive power should include all components of Kurdistan Region.

Seventh: the article 14 talks about the use of Kurdish and Arabic languages as two official languages, and Turkmen and Syriac languages as the main language in the areas where they are the majority, this has to be regulated by law, and the parliament approved the law in 2014.

Eighth: the article 19, especially its ninth point:

**There is no coercion in matters of religion. Every person has the right to freedom of religion, belief, thought and conscience. The Government of the Region shall guarantee the freedom of Muslims, Christians, Yazidis and others to worship and to practice their rites and the rituals of their religions without being exposed to interference. The government of the Region shall guarantee the sanctity of mosques, churches, and places of worship. In order to safeguard their sanctity and the holiness of their message, therefore, it is forbidden for parties, groups or persons to use mosques, churches or places of worship as a place for party activity or political activity.**

This is a very important article as it confirm the freedom of religion and practicing religion, gives equal opportunity, respect to religious faiths, but the point is as the names of Islam, Christianity and Yazidis have been mentioned in the article, it should also mention the names of Zoroastrians, Kakayes, Sabians, Mandaeans and Bahae'is.

The Draft Constitution respects religious beliefs even if someone is in prison; especially the point 12<sup>th</sup> of the article 22 says that: **"The religious beliefs and moral principles of prisoners must be respected"**.

The article 19 also says that: **" Collective expulsions shall be forbidden"**.

While this article does not directly talk about minorities, but in fact, the experience of previous regimes shows that minorities are vulnerable to be forced to leave, just what happened to Feyli Kurds, Turkmens, and Christians. For this reason, this ar 15 is important to minorities as a

constitutional guarantee to them that “collective expulsions shall be forbidden” now and in the future in Kurdistan Region.

Ninth: the article 20 of the Draft Constitution which is about equality says that:

**“First:**

**All are equal before the law.**

**Second:**

**All forms of discrimination on the basis of race, colour, sex, language, social background, nationality, origin, religion, belief, thought, age, social, political or economic status, or handicap are prohibited. The principle of equality shall not prevent redressing the effects and consequences of past injustice perpetrated by former regimes against the citizens of Kurdistan and its ethnic, religious and linguistic groups.**

**Third:**

**Men and women shall be equal before the law. The Government of the Region must seek to remove all obstacles hindering equality in all spheres of life, and in civil, political, social, cultural and economic rights. The Government of the Region guarantees that all shall enjoy their rights, as stipulated in this Constitutions and the international charters signed by the State of Iraq”.**

This article is one of the important articles in the constitution as guarantees equality to all citizens. It also prevents all kinds of discrimination based on race, religion and status. However, it could be better if it talks about discrimination in a clearer way, categorizes discrimination with referring to different religious practices and pathways, also the color of skin.

This article is also important as it seeks to remove consequences of past injustice perpetrated by former regimes against the citizens of Kurdistan and its ethnic, religious and linguistic groups, but when it also needs to deal with current crimes and injustice are committing against minorities especially in what is called disputed areas, as disputed areas according to the constitution is or will be a part of Kurdistan Region.

Tenth: articles 29 to 36, the third chapter of the Draft Constitution, its title is **(Ethnic and Religious rights of the Different Groups of the Kurdistan Region)**, are all devoted to minority rights, as follow:

**Article 29:**

**“People belonging to one of the ethnic or religious groups shall have the right to legal recognition of their names, and the right to use the traditional, local names of places in their languages, while abiding by the provisions of the language law in the Kurdistan Region”.**

**Article 30:**

**“First:**

**The provisions of the personal status law for the followers of one religion may not be imposed on the followers of another religion.**

**Second:**

**The followers of non-Muslim religions and sects, such as Christians, Yazidis and others may establish their own religious councils and may follow the provisions specific to the personal status law of their faiths. Such personal status provisions shall be determined by law, and personal status cases shall be heard before a personal status court. The provisions of personal status laws specific to non-Muslim religions and sects shall remain in effect in the Kurdistan Region as long as they are not amended or annulled by law”.**

This article simply looks like an important article for minorities, as it is about not imposing a specific religion, but the second part of the article has the same problem as the article 41 of the Iraqi constitution has, at on hand, it refuses personal civil status to all citizens of Kurdistan Region, at the other hand, it is likely to allow the problem of the draft law in Baghdad what is called (Jaafari Law) happens, which is to legalize marital rape and marriage with 9 year-old girls, also Lebanon has the same problem as there is no civil marriage, the constitution should not accept this because it is possible for thousands of boys and girls to have this kind marriage of abroad.

The article (31) **is about The Authc** <sup>17</sup> **s' Commitment to Guaranteeing Equality**

**“The authorities in the Kurdistan Region must guarantee the principle of effective equality among people belonging to ethnic and religious groups and must seek to achieve this equality”.**

The article (32) is about the Authorities' Commitment to Avoiding Forced Expulsions

**First :**

**The authorities in the Region must protect people belonging to ethnic and religious groups from any measure aiming at forced expulsion. Likewise, the authorities must support and encourage these people to establish their own specific leagues and associations.**

**Second :**

**The Government of the Kurdistan Region shall be committed to preventing any intentional change in population percentages in the areas inhabited by ethnic or religious groups. This shall not effect the process of equitable restitution for the policies of Arabization and forced displacement practiced by the Baathist regime in Iraqi Kurdistan, particularly in the city of Kirkuk.**

This is again an important article, but the process has to prevent planned changes, also the changes happened recently and in the Ba'ath era. The government should dedicate a budget to compensate and to develop these places because they are clearly under-developed.

**Article 33:**

**“The authorities in the Kurdistan Region shall strengthen the principle of mutual respect between all of the Region's inhabitants, particularly in the fields of education, media and general culture. The authorities shall create the necessary conditions for persons belonging to ethnic or religious groups to participate effectively in all fields of life”.**

**Article 34:**

**“Every religious group in the Region shall have the right to establish a council to develop, organize, and advance its cultural and social affairs, and its heritage. This shall be regulated by law”.**

This is an important article, but it could be better if these councils work under the high council of consultancy from parliament or the presidency of region, while they develop their cultural, social and intellectual affairs, at the same time they give advice to the authorities of region for enhancing and developing minority rights.

**Article 35:**

**“This Constitution guarantees national, cultural and administration autonomy to the Turkmen, Arabs and Chaldo-Assyrian-Syriacs wherever they represent a majority of the population. This shall be regulated by law”.**

This is an important article, it has not been mentioned from the previous laws regarding minorities in Kurdistan, but it could be better if it gives this right to religious components, not as a religion but as a component with its own social, cultural and religious differences, such as Yazidis, Shabaks and Kakayes.

**Article 36:**

**“The provisions contained in this chapter shall be considered additional rights to the rights of ethnic and religious groups mentioned in this Constitution”.**

**Eleventh: the article 37 (International Agreements, Charters and Laws) says that:**

**Everyone shall have the right to enjoy the rights mentioned in the international agreements, charters, covenants and declarations on human rights that have been ratified and acceded to by Iraq. In addition, everyone shall have the right to enjoy the rights guaranteed by this Constitution and by international law.**

Also the article 38 says that:

## Article 38- Scope of Restrictions on Rights

First :

**“No restriction may be placed on the exercise of civil, political, social, economic and cultural rights, or on the rights of ethnic and religious groups recognized in this Constitution, unless such a restriction is imposed by law. Such a restriction may only infringe upon the essence of these rights to the extent that is necessary and acceptable in a democratic and peaceful society built upon diversity, dignity, equality and freedom. Any restriction that is imposed and that conflicts with this principle shall be null and void”.**

**Twelfth:** the article 41 talks about representation in the Kurdistan Parliament, especially the second point mentions this as such:

**“Fair representation of all geographic localities, ethnic and religious groups shall be taken into consideration when organizing a system for electing members, as well as guaranteeing that no less than 30% of the seats in the Kurdistan Parliament be reserved for women representatives”.**

This article says that fair representation of all components will be guaranteed, but it does not clarify who are there components; is the same current list of components: Turkmens, Chaldo-Assyrian-Syriacs, Armans, or it has to mention and include Yazidis, Kakayes, Shabaks and the others?

We think it could be important if the article reserves the specific average of seats to all components, as it gives to women.

**Thirteenth:** the article 72 which is about the formation council of ministers of the Kurdistan Region, says that: **“Fair representation of the groups making up the people of Kurdistan - Iraq shall be taken into account in the formation of the Council of Ministers of the Kurdistan Region”.**

**This issue is not clear here which component participates in the formation of the Council of Ministers, this actually left to a law, and the law of Council of Ministers and its adjustments, and this law does not mention names of all components. In the past, it became a custom to include Turkmens and Chaldo-Assyrian-Syriacs in the cabinets. Otherwise, there was no Yazidi, Kakaye, or Shabak minister as a representative to it component in the government cabinets.**

Here, we think will be better if the article clearly mentions fair representation for all national and religious components in Kurdistan.

Fourteenth: when the articles 91 and 92 talks about the formation of constitutional court in Kurdistan Region, when the court is in charge of interpreting the constitution and monitoring and checking the constitutionalizing laws, and this constitution have many special articles for components, so the formation of this court and appointing its members requires the presence of all different components, despite all requirements the members of the court need to fulfill.

There is a sort of consensus and agreement in forming the Supreme Court of Iraq, this is to show that there different components in the court.

Fifteenth: the article 106, especially its first point, talks about elections to the council of governorate and municipality:

**First: Equitable representation of the ethnic groups living within an administrative unit or municipality shall be taken into account in the composition of local and municipal councils.**

As it is mentioned in the article, at the level of governorates, there are only few quotas for few minorities, and the method of this appointment is not clear, many other minorities have no quota which is unclear. More than that, the quota is only implemented at the level of governorates, but not at the level of districts and sub-districts.