

Introduction

Article 2.2 of the Iraqi constitution “guarantees full rights to freedom of religious belief and practice to all individuals, including Christians, Yazidis and Mandaean Sabians.” Article 14 adds that all citizens are equal before the law without discrimination on the basis of religion or other status.¹

Furthermore, the constitution guarantees ‘freedom of thought, conscience, and belief’ in Article 42, and states that the followers of all religions are free to practice religious rites (43.1), and to worship (43.2). Article 37.2 asserts that the state will protect individuals from religious coercion. Article 10 establishes the state’s commitment to assuring and maintaining the sanctity of holy shrines and religious sites and guarantees the free practice of rituals therein.

However, the constitution also focuses heavily on Iraq’s Islamic identity. Article 2 recognises Islam as the country’s official religion and mandates it as a source of legislation, stating that no law can be enacted that contradicts it. Thus, the Iraqi constitution contains two competing principles: equal rights for everyone, including the right to FoRB, and a system of Islamic law in which rights vary based on whether one is male or female, Muslim or non-Muslim.

Discrimination against non-Muslims is also evident in the prohibition of the Baha’i faith under a law dating back to 1970, and a 2006 law that prohibits Jews who have emigrated from regaining Iraqi citizenship. These laws remain in place.

There are other vulnerable minorities such as the Mandaean, of whom only a few thousand remain. Iraqi Kurdistan has also historically been home to Zoroastrianism and the Kakai faith (Yarsanism) with synchronistic mystical beliefs. The deliberate targeting and destruction of these ancient religious communities by terrorist groups is a tragedy for their adherents, as well as for Iraq’s religious diversity.

Terrorism and insecurity

Terrorism and insecurity continue to be of serious concern. In 2014 the Islamic State (IS) captured Mosul and Nineveh Plains. Thousands of non-Sunni men, women and children were either killed or enslaved, and tens of thousands of Christians emigrated to neighbouring countries over the following years. One study estimates that 3,100 Yazidis were killed in a matter of days following the 2014 attack.²

In July 2017 Mosul and Nineveh Plains were liberated; however, terrorist attacks continue and many members of religious minority communities remain unwilling to return to liberated regions due to ongoing security concerns. For example, fewer than 20 Christians returned to Mosul after its liberation. The city was once home to nearly 100,000 Christians.³

In December 2019 UK crossbench Peer Lord Alton of Liverpool took part in a fact-finding visit organised by CSW to northern Iraq and Nineveh Plain where he met with survivors from Mosul and refugees from northeast Syria who had fled their homes following the Turkish invasion in August 2019. Kurdish refugees reported summary executions by Islamists fighters backed by Turkey and the use of White Phosphorous by Turkey.⁴

Implementing justice remains a challenging issue following the defeat of IS. Many survivors informed CSW during the December 2019 visit that no one from the international community or the governments in Baghdad or Erbil had ever asked to meet them or had documented their testimonies despite the fact that they were regularly informed the government is “collecting evidence “and that perpetrators will “be brought to justice.”

CSW also met with many human rights defenders who raised the issue of official recognition of past mass atrocities in Iraq, particularly the Simele massacre of 1933.

Iraq’s Christian and Yazidi communities remain vulnerable and could face extinction if both the Iraqi government and the international community fail to take measures to assist them.

¹ Iraqi Constitution of 2005, https://www.constituteproject.org/constitution/Iraq_2005.pdf?lang=en

² Public Library of Science, ‘Mortality and kidnapping estimates for the Yazidi population in the area of Mount Sinjar, Iraq, in August 2014: A retrospective household survey’, 9 May 2017 <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002297>

³ CBS News, ‘Iraq’s Christians persecuted by ISIS’, 22 March 2015 <https://www.cbsnews.com/news/iraq-christians-persecuted-by-isis-60-minutes/>

⁴ David Alton, ‘Knowing Their Own Story – Self Governing Kurds in Iraq Have Been An Oasis Of Stability And Provided Sanctuary For Persecuted Minorities. Signs of hope amongst great suffering and persecution’, 3 December 2019 <https://davidalton.net/2019/12/03/knowning-their-own-story-self-governing-kurds-in-iraq-have-been-an-oasis-of-stability-and-provided-sanctuary-for-persecuted-minorities-signs-of-hope-amongst-great-suffering-and-persecution/>

Sectarianism

Attempts to combat terrorism and provide adequate security for religious minorities have been hampered by sectarian narratives and policies that continue to exist, prompting widespread division and distrust between different ethnic and religious communities. The situation is further exacerbated by corruption.

Yazidi and Christian community leaders have expressed grave concerns regarding tension between the central government in Baghdad and the Kurdistan Regional Government in Erbil (KRG). Local community leaders and activists have reported intensified efforts by the KRG to 'Kurdify' their territories by making it difficult for individuals displaced by IS violence to return.

Tactics employed by the KRG have included forcibly appropriating land and property, and using intimidation, while also attempting to 'divide and rule' by offering financial and status privileges to selected political and religious figures within these communities. Many Yazidi activists report increased pressure from the KRG on the Yazidi community to identify as Kurds, even when they do not wish to do so. The KRG has also reportedly intensified efforts to impose Kurdish identity on the region's Christian community.

Recent developments

On 1 October 2020 the Spiritual Leader of the Yazidi community, Baba Sheikh Khurto Hajji Ismail, passed away due to chronic health problems at the age of 87. CSW met with Baba Sheikh during the December 2019 visit, when he expressed dismay that his community was receiving insufficient assistance in rescuing 3000 Yazidi women and girls who remain missing. He said: "When we needed them, the international community failed us and the Christians. The failure to return our loved ones, to restore our homes in Sinjar, to provide security and protection makes a mockery of all their claims to care about our betrayed and abandoned people. We cannot achieve peace without justice. Many of the ISIS terrorists are living among us but no one is held to account."

COVID-19

Many Shia clerics in Iraq defied the government's instructions to close mosques and shrines in response to the COVID-19 pandemic and invited congregations to gather en masse, claiming Imam Hussein would protect them from the virus. This caused the pandemic to spread widely, creating divisions among Shia politicians and clergy which further impeded official efforts to contain it. The main division was between those following the

guidance of Ayatollah Sistani, who issued a fatwa permitting the closures, and those loyal to Iran who rejected the closures and encouraged their followers to challenge and breach all public health measures and advice.

Recommendations

To the government of Iraq:

- Amend the constitution to ensure that all Iraqis enjoy the same rights regardless of their religion or belief.
- Continue efforts to combat terrorism and protect vulnerable communities and religious minorities, ensuring that all counterterrorism efforts are executed in compliance with international law.
- Prohibit sectarian politics and the establishment of religion-specific political parties.
- Contain and counter sectarian narratives, and work to promote an inclusive national identity.
- Combat corruption in politics, and ensure that any allegations of corruption are thoroughly investigated and guilty parties are held accountable.