

**Alternative Report submitted to the
Committee on the Elimination of Racial Discrimination
for the consideration of the 15th to 21st Reports of the Republic of Iraq
during the 85th session (11-29 August 2014)**



Unrepresented Nations and Peoples Organization

in cooperation with

Iraqi Turkmen Front

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I. INTRODUCTION TO THE REPORT

This alternative report is submitted by the Unrepresented Nations and Peoples Organization (UNPO) in collaboration with the Iraqi Turkmen Front on the occasion of the 85th session of the United Nations Committee on the Elimination of Racial Discrimination (hereinafter the Committee) during which the 15th to 21st periodic report of the Republic of Iraq will be considered.

This alternative report has been structured to comment upon the articles of the International Convention on the Elimination of all Forms of Racial Discrimination (hereinafter ICERD) thematically. It will be followed by recommendations to be made to the Iraqi delegation at the 85th session in the final chapter of the report.

This alternative report will focus on the situation of Assyrians, Turkmen and Kurds in Iraq and the government's compliance to and implementation of the provisions in the ICERD as it affects these particular groups. The major issues highlighted in this report include discriminatory laws on religious freedom, targeted killings based on ethnicity and religion, political underrepresentation, displacement and lack of adequate education.

The Hague, July 2014

II. INTRODUCTION TO THE ASSYRIANS, TURKMEN AND KURDS

Assyrians

The Assyrians¹ are one of the indigenous populations of contemporary Iraq who descend from the ancient Aramaic-speaking peoples of Northern Mesopotamia. Notwithstanding the subjection to influence from other groups, they are culturally, linguistically and ethnically distinct from Arab, Kurd, Turkic, Jewish, Persian and Armenian people.² Assyrians speak Neo-Aramaic³ and adopted Christianity in the 1st century AD. They are considered to be the pioneers of Christianity in the area.⁴ Assyrian communities are spread over northern Iraq in the mountainous regions to the east of Mosul, close to Dohuk and Akra, and in Baghdad.⁵ The Assyrians consider Nineveh to be their historical capital.⁶ Outside of Iraq, Assyrians are also spread over northern Iran, southeastern Turkey and southern Syria.⁷

Currently, approximately 300.000 Assyrians live in Iraq,⁸ down from approximately 1.4 million Assyrians before the invasion in 2003.⁹ Assyrians are recognized by the central government as one of the religious minorities in Iraq, rather than one of the indigenous populations, due to their Christian religion. However, Assyrians fall under the criteria of indigenous peoples adopted by the United Nations Permanent Forum on Indigenous Issues, and thus are de jure entitled to the rights given to indigenous peoples.¹⁰

After the fall of Saddam Hussein in 2003, measures of the newly democratized State to implement transitional justice proved challenging and accentuated the existing tensions

¹ Also referred to as Syrians, Chaldeans, Assyro-Chaldeans, Nestorians or Jacobites, depending on their choice of church.

² World Culture Encyclopedia, <http://www.everyculture.com/Africa-Middle-East/Assyrians.html> accessed 30 June 2014.

³ Also referred to as Syriac or Chaldean.

⁴ V. Petrosian, *Assyrians in Iraq*, 10 Brill 1 at 114 (2006).

⁵ Ibid, at 113.

⁶ S. Zubaída, *Contested nations: Iraq and the Assyrians* 6 Nations and Nationalism 3 at 373 (2000).

⁷ Ibid.

⁸ K. Domla, *Christian Official: The Number of Christians in Iraq Has Dropped to Three Hundred Thousand*, Peyamner News Agency, 29 June 2013.

⁹ Institute for International Law and Human Rights, *Iraq's Minorities and Other Vulnerable Groups: Legal Framework, Documentation, and Human Rights*, at 77 (2013).

¹⁰ United Nations Permanent Forum on Indigenous Issues Factsheet, *Who are indigenous peoples?* http://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf accessed 15 June 2014.

between various ethnic groups. In particular, the bombing of the al-Askari Mosque in Samarra in 2006 led to targeted sectarian killings and killings based on religious belief, which resulted in the displacement of millions of Iraqis.¹¹ Assyrians accounted for 52 percent of newly United Nations High Commissioner for Refugees (hereafter UNHCR) registered Iraqi refugees in Turkey and more than half of newly UNHCR registered Iraqi refugees in Lebanon in 2011.¹² The Assyrians that have decided to stay in Iraq are faced with religiously motivated violence, discrimination and marginalization on a daily basis. Fundamental Islamic groups have murdered, kidnapped, burned down stores, and targeted churches and monasteries of Assyrians with impunity¹³. The specific issues concerning the Assyrians will be elaborated upon in the following chapters of this report.

Turkmen

The Turkmen are the descendants of Turkic people that migrated to Mesopotamia in the 7th century until the start of Ottoman rule. They are the third largest ethnic minority group in Iraq, which has been reaffirmed by the Iraqi parliament in 2012.¹⁴ They are predominantly present in the north from Tel Afar, Erbil, through Mosul, Altun Kopru, Kirkuk, Taza Khurmatu, Salahaddin and Diya; Baghdad and Wasit; as well as Kifri and Khaniqin.¹⁵ Since 2003, tensions have arisen between the Kurds and Turkmen, the latter of which view Kirkuk to be their territory on historical grounds. Before 2003, there were approximately 600,000 to 2 million Turkmen in Iraq.¹⁶ The Turkmen largely adhere to Sunni (approximately 60 percent) and Shia Islam, although there are an estimated 30,000 Christian Turkmen as well.¹⁷ The Iraqi Turkmen share close cultural ties with the Turks and Turkmen in Turkey and Turkmenistan.

The Iraqi Turkmen have suffered immensely from intimidation by the central government, Kurds and extrajudicial militia groups for religious and ethnic reasons, as

¹¹ N. Warda, *The Indigenous Iraqi Assyrian Community Since the Fall of Saddam Hussein*, Assyria Council of Europe (2007).

¹² United Nations Office for the Coordination of Humanitarian Affairs, *Mid-Year Review of the Regional Response Plan for Iraqi Refugees 2012*, at 76.

¹³ S. Hanish, *Autonomy for Ethnic Minorities in Iraq: The Chaldo-Assyrian Case*, 20 *Digest of Middle East Studies* 2 at 161 (2011).

¹⁴ S. Salloum, *Minorities in Iraq: Memory, Identity and Challenges*, at 155, 2013.

¹⁵ M. Lalani, *Still Targeted: Continued Persecution of Iraq's Minorities*, Minority Rights Group International, at 7 (2010).

¹⁶ *Ibid.*

¹⁷ *See note 11, supra.*

well as from 'Arabisation' assimilation policies during the Saddam Hussein regime.¹⁸ From 2003 onwards, the Iraqi Turkmen have continued to be subjected to targeted campaigns of intimidation, assimilation and land confiscation practices, which have resulted in wide-scale emigration.¹⁹ Also, Turkmen political actors are often targeted based on their ethnicity, religion and political opinion. In 2011, e.g., the headquarters of the Iraqi Turkmen Front in Kirkuk was completely demolished by explosives.²⁰

Since 2003, various groups, including extrajudicial militia, have targeted Turkmen via car bombings, assassinations, kidnappings, arbitrary arrests, harassment and torture, with impunity. Turkmen women have been identified as particularly vulnerable to such heinous acts.²¹ The specific issues concerning the Turkmen will be elaborated upon in the following chapters.

Kurds

The Kurds are an ethnic group with Indo-European roots that live in a region called Kurdistan, which is spread out over Iraq, Turkey, Syria and Iran.²² The Kurds consist of approximately 4 to 4.5 million people in Iraq.²³ The majority of Iraqi Kurds are Sunni Muslim and they speak Kurdish, which is close to Persian. The Kurds that are Shia Muslim are referred to as Fali Kurds.²⁴ The Kurds celebrate the Persian new year of 'Nowruz' as well.²⁵ In 1970, the Kurds and the Iraqi government reached a peace agreement in which the Kurdish language was recognized as an official language and the constitution was amended, acknowledging both the Arab nationality and the Kurdish nationality in Iraq.²⁶ However, fights over the territory continued, and in the late 1980s, the Kurds were struck down hard by Saddam Hussein's armed forces conducting the 'Anfal' campaign, whereby civilians were targeted with chemical weapons in 1988.²⁷

¹⁸ I. Sirkeci, *Turkmen in Iraq and International Migration of Turkmen*, Global Strategy Institute, at 4 (2005).

¹⁹ See Institute for International Law and Human Rights, *supra* note 11, at 142.

²⁰ National Iraqi News Agency, http://www.ninanews.com/english/News_Details.asp?ar95_VQ=FIIII accessed 16 June 2014.

²¹ See note 16, *supra*.

²² K. Katzman, *Kurds in Post-Saddam Iraq*, CRS Report for Congress, at 1 (2009).

²³ *Ibid.*

²⁴ See Lalani note 17, at 6, *supra*.

²⁵ *Ibid.*

²⁶ BBC News, Iraqi Kurdistan Profile, <http://www.bbc.com/news/world-middle-east-28147263> accessed 17 June 2014.

²⁷ *Ibid.*

After the 1958 revolution, the central Iraqi government promised the Kurds autonomy. By 1991, a no-fly zone was established in the north of Iraq,²⁸ which led to the Kurdish leaders and their armed forces called 'Peshmerga' (those who face death)²⁹ to solidify their control in the North after the withdrawal of Iraqi forces. This later on formed the basis for the 2005 Iraqi Constitution to specifically define Iraqi Kurdistan as a Kurdish autonomous region with Erbil as its capital and its own Kurdish Regional Government.³⁰

The city of Kirkuk has been historically claimed by the Turkmen, the Iraqi central government and Iraqi Kurdistan, and therefore has been subjected to many conflicts over the centuries. Furthermore, tensions between the political parties of the Patriotic Union of Kurdistan and the Kurdistan Democratic Party resulted in a civil war that came close to ruin the established government from the mid- until the late 1990s.³¹ Post-Saddam, the Kurds entered national politics along side the Arabs, by participating in the provisional government and administration.³² The government that followed operated under the Transitional Administrative Law, which preserved the Kurdish Regional Government, yet did not provide them with control over Kirkuk. However, the Kurds that had been expelled from Kirkuk, by Saddam Hussein, were given the right to reclaim their homes.³³

Whilst the Kurds have been able to enjoy more rights in Iraq than in Iran, Turkey or Syria, they still face discrimination, marginalization and targeted killings based on their ethnicity and religion from the Iraqi central government. The specific issues concerning the Kurds will be elaborated upon in the following chapters.

²⁸ M. J. Kelly, *The Kurdish Regional Constitution within the Framework of the Iraqi Federal Constitution: A Struggle for Sovereignty, Oil, Ethnic Identity, and the Prospects for a Reverse Supremacy Clause*, 114 Penn State Law Review 3 at 719 (2010).

²⁹ See Katzman, *supra* note 24, at 2.

³⁰ See note 28, *supra*.

³¹ *Ibid.*

³² See note 24, *supra*.

³³ *Ibid.*

III. Compliance with the ICERD

Article 1.1 – Definition of Racial Discrimination

Article 1.1

In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.³⁴

The 2005 Iraqi Constitution provides for Islam to be the official religion of the state and guarantees the “Islamic identity of the majority of the Iraqi people” and the “full religious rights of all individuals to freedom of religious belief and practice, such as Christians, Yezidis, and Sabeian Mandaean.”³⁵ Furthermore, the constitution provides that Islam is “a foundation source of legislation”³⁶ and that “no law may be enacted that contradicts the established principles of Islam, the principles of democracy or the rights and basic freedoms stipulated in the constitution.”³⁷ Whilst the Federal Supreme Court has the jurisdiction to interpret and assess the constitution, the principles of Islam are not defined in the constitution, which creates ambiguity between the religious views of the Iraqi judges, officers and legislators, and international human rights standards.³⁸

However, according to Article 14 of the constitution: “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.”³⁹ And according to Article 7.1 of the constitution: “Any entity or program that adopts, incites, facilitates, glorifies, promotes, or justifies racism or terrorism or accusations of being an infidel (takfir) or ethnic cleansing, especially the Saddamist Ba’ath in Iraq and its symbols, under any

³⁴ See note 2, *supra*.

³⁵ 2005 Iraqi Constitution, section 1, article 2.

³⁶ *Ibid*.

³⁷ *Ibid*.

³⁸ U.S. Commission on International Religious Freedom, Annual Report, at 86 (2013).

³⁹ See note 37, *supra*, section 2, article 14.

name whatsoever, shall be prohibited.”⁴⁰ Also, Iraq seems to have recognized the different ethnic and religious minorities in Iraq by the inclusion of Article 3 of the constitution that stipulates: “Iraq is a country of multiple nationalities, religions and sects.”⁴¹ Furthermore, Iraq has claimed in its fifteenth to twenty-first periodic reports submitted to the Committee in 2013, that it is in the process of adopting the human rights standards enshrined in its 2005 national Constitution and incorporating these human rights standards in their government policies.⁴² However, reality is that many implementation legislations have not been passed yet and neither have comprehensive minority or anti-discrimination laws.⁴³

Article 2.1 – Elimination of Racial Discrimination

Article 2.1

States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;(...)

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.⁴⁴

⁴⁰ Ibid, section 1, article 7.1

⁴¹ Ibid, section 1, article 3.

⁴² UN Doc. CERD/C/IRQ/15-21 at 3 (2013).

⁴³ S. Wolff, Minority rights in Iraq and prospects for the Iraqi Turkmen within Iraq, <http://www.stefanwolff.com/files/Minority%20rights%20in%20Iraq%20and%20prospects%20for%20the%20Iraqi%20Turkmen%20within%20Iraq.pdf> accessed 20 June 2014.

⁴⁴ See note 2, *supra*.

The Iraqi government has not made a lot of progress in investigating and persecuting perpetrators of religiously motivated attacks directed against minorities, although it is the responsibility of the central government to provide adequate protection and investigation. Many Assyrians that have been displaced by the violence have fled to the north of Iraq, into the territory of the Kurdish Regional Government. Assyrians and Turkmen in the north have accused the Peshmerga of involvement in systematic abuses and discrimination against them for the purpose of furthering the Kurdish territorial claims.⁴⁵ Reportedly, Kurdish officials have interfered with their voting rights, land grabbing, and forced them to identify themselves as Arabs or Kurds.⁴⁶ Also, the explosion that struck the Chaldean Catholic Sacred Heart Cathedral of Kirkuk in 2012, whether it was aimed at the Cathedral or the Iraqi security checkpoint close by, and three previous attacks on churches in 2011, has enabled a continuous widespread sense of fear.⁴⁷

In order to address such discrimination and marginalization, Assyrians have sought an autonomous area in the Nineveh Plains. They have argued that this would be in accordance with Article 125 of the constitution that guarantees “the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents, and this shall be regulated by law.”⁴⁸ However, how this would be secured in practice remains very ambiguous and some leaders of the Assyrians have argued that with autonomy they would become more concentrated targets of violence. They also argue that Article 2 of the constitution is in need of reform as it provides Islam a favorable status and justifies discrimination against non-Islamists.⁴⁹ The central Iraqi government has not addressed any of such proposals.

As the Turkmen are ethnically distinct and either Sunni or Shia Muslims, they face targeted violence from both Sunni and Shia armed groups, including harassment, arbitrary arrest and detention by the Kurdish and Central Government officials. Such high amount of violence has limited the engagement of Turkmen in public life.⁵⁰ Whilst

⁴⁵ See U.S. Commission on International Religious Freedom, *supra* note 40, at 90.

⁴⁶ *Ibid.*

⁴⁷ See U.S. Commission on International Religious Freedom, *supra* note 40, at 89.

⁴⁸ See note 37, *supra*, section 4, article 125.

⁴⁹ See note 40, *supra*.

⁵⁰ See Institute for International Law and Human Rights, *supra* note 11, at 144.

the Turkmen were subjected to Arabization assimilation campaigns under the Saddam regime, not much has changed for them post-Saddam. They face ongoing violence from both the Kurdish Regional Government and the Iraqi Central Government.

The Faili Kurds (Shia Muslim Kurds) faced severe targeted discrimination under the Saddam regime. The Nationality Law of 1924 divided the Iraqi population in three categories based on ethnicity and religion.⁵¹ The Shia Kurds were placed in the lowest category and continuously targeted by Iraqi government officials. They argued that the Faili Kurds were originally from Iran, as they followed the Shia faith. In the 1970s, approximately 40,000 Faili Kurds were stripped off Iraqi citizenship, banned to Iran while the government seized their properties.⁵² In 2006, the Iraqi Nationality Law repealed the former banning of the Faili Kurds and their Iraqi nationality was to be reinstated. However, in order for their Iraqi citizenship to be reinstated, they need to show documents that prove they are originally from Iraq. Many are unable to do so as civil records have been destroyed during the wars, and many Faili Kurds are unable to return to Iraq.

Article 5(b) – The Right to Security of Person

Article 5(b)

The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.⁵³

Minorities in Iraq are not secured from violence or bodily harm. Since 2003, armed groups have actively targeted Assyrians as the armed groups are opposed to communities of various faiths living in their areas, and especially to those people that are perceived to have ties with the Christian West.⁵⁴ Since they view Christians as rich and lacking of protection, Assyrians have been targeted for kidnappings for ransom or murder in particular. In 2006, attackers kidnapped F.

⁵¹ E. Campbell, *The Faili Kurds of Iraq: Thirty Years Without Nationality*, Refugees International, <http://www.refintl.org/blog/faili-kurds-iraq-thirty-years-without-nationality> accessed 1 July 2014.

⁵² *Ibid.*

⁵³ *See note 2, supra.*

⁵⁴ HRW, *On Vulnerable Ground: Violence against Minority Communities in Nineveh Province's Disputed Territories*, at 31 (2009).

Mundhir Al-Dayr of the Protestant Church in Mosul and shot him to death.⁵⁵ This example remains unresolved and the same goes for most of such attacks perpetrated against minorities.

Furthermore, in 2008, a series of killings by armed attackers took place in Mosul, leading to thousands of Christians to flee the city.⁵⁶ These killings had begun after the Iraqi parliament attempted to pass a law providing for a greater number of seats for minorities for the provincial elections. The Iraqi parliament eventually dropped the proposal to ensure political representation for minorities, after which the killings escalated in September 2008 when Christians took the streets to protest.⁵⁷ In October 2008, a committee was established to investigate the attacks against Christians in Mosul and their following displacement.⁵⁸ The findings of the committee were not published but the attacks had been found targeted, systematic and pre-arranged.⁵⁹ However, they did not find out who had been behind the attacks or whether the Iraqi security forces could have prevented the attacks.

On 16 December 2012, four gunmen drove a car, attached with automatic machine guns, into a village 60 km south of the city of Kirkuk and kidnapped two Turkmen teachers; A. Hamdi and K. Shoukur. The next day, the bodies of the kidnapped teachers were found dumped near a roadside. The bodies showed signs of torture, had been shot and were burned. The incident shocked many Iraqi people and is a clear example of groups terrorizing and spreading fear among the Turkmen people in order for them to leave Iraq.⁶⁰ In November 2012, in Kirkuk alone, there were 26 incidents of targeted assassinations, bombings and kidnappings targeting the Turkmen.⁶¹ In January 2013, a suicide bomber killed at least 42 people and injured 75 others at a funeral in Tuz

⁵⁵ Ibid.

⁵⁶ Terrified Christian Families Flee Iraq's Mosul, Fox News, <http://www.foxnews.com/story/2008/10/11/terrified-christian-families-flee-iraq-mosul/> accessed 10 July 2014.

⁵⁷ See note 56, *supra*.

⁵⁸ Ibid, at 36.

⁵⁹ Ibid.

⁶⁰ M. Salman, *Slaughtering of Two Turkmen Teachers in Kirkuk*, http://www.turkmen.nl/1A_Others/ms1.13.pdf accessed 17 June 2014.

⁶¹ Human Rights Bureau, *Statistics of violation incidents against Turkmen in Iraq*, Iraqi Turkmen Front (2012).

Khurmatu. The funeral was being held in the honor of A. Salah Asker, the brother of a Turkmen politician, who had been shot the day before by insurgents.⁶²

Moreover, the recent rapid rise of the Islamic State of Iraq and Sham (hereafter ISIS) in Iraq has left the state in chaos and its minorities extremely vulnerable, of which in particular the Turkmen and Assyrians, as they do not have their own security forces. Reportedly, on 15 June 2014, ISIS fighters took over Tel Afar, which is mostly populated by Turkmen. In total, 100 people were killed and 200.000 people are estimated to have fled Tel Afar.⁶³ According to Human Rights Watch, ISIS forces kidnapped at least 40 Shia Turkmen and ordered 950 Shia Turkmen families to leave the villages of Guba and Shireekhan.⁶⁴ According to Global Research, Assyrians are also being heavily targeted in Nineveh leading to their displacement as well.⁶⁵ Furthermore, in Tuz Khurmatu, at least 30 people have been killed during a double car bombing attack targeting the offices of a Kurdish political party, of which ISIS claimed responsibility for.⁶⁶

Article 5(c) – Political Rights

Article 5(c)

Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.⁶⁷

According to Article 20 of the Iraqi Constitution: “Iraqi citizens, men and women, shall have the right to participate in public affairs and to enjoy political rights including the right to vote, elect, and run for office.”⁶⁸ However, this is different in reality. In Iraqi Kurdistan, minority groups are merely represented in the Kurdish parliament. Out of a

⁶² M. Salman, *Targeting the Turkmen at the Husseiniya of Said Al-Shuhadain the Turkmen District of Tuz Khurmatu*, Turkmen Research Foundation, (2013).

⁶³ UNPO, <http://www.unpo.org/article/17220#sthash.Rzy2J3Jj.dpuf> accessed 10 July 2014.

⁶⁴ HRW, <http://www.hrw.org/news/2014/06/27/iraq-isis-kidnaps-shia-turkmen-destroys-shrines> accessed 11 July 2014.

⁶⁵ Global Research, <http://www.globalresearch.ca/iraq-isis-terrorists-target-assyrian-christians-in-nineveh/5387434> accessed 11 July 2014.

⁶⁶ AlJazeera, <http://www.aljazeera.com/news/middleeast/2014/06/iraqi-kurds-targeted-twin-carb-bomb-blasts-201469141237775108.html> accessed 12 July 2014.

⁶⁷ See note 2, *supra*.

⁶⁸ See note 37, *supra*.

total of 111 seats, the Turkmen are granted 5 seats and the Christians are granted 6 seats.⁶⁹ Such quota limits the political participation of the Turkmen and Christians heavily.

The Turkmen have established their own political parties and are also active in the Kurdish parties. During the 2010 national parliamentary elections, the Turkmen won 7 parliamentary seats and were distributed among three ministries.⁷⁰ However, Turkmen politicians are often targeted based on their ethnicity, religion or political opinion, especially in the Nineveh, Kirkuk, Diyala and Salahaddin governorates. In 2011, e.g., the Assistant Chairman of the Iraqi Turkmen Front, A. Al-Salihy, barely escaped an assassination when a rocket demolished his house in Kirkuk.⁷¹ Christians also have limited seat quotas in the national parliament and provincial councils. For the latter, there is 1 seat reserved for Christians in Baghdad, another in Nineveh and 1 more in Basra.⁷² Arabs and Kurds continue to dominate the politics in Iraq.

Article 5(d) (vii) - The Right to Freedom of Thought, Conscience and Religion⁷³

As aforementioned, Assyrians, Turkmen and Kurds are continuously subjected to sectarian targeted killings due to their religion. Notwithstanding that the Iraqi Penal Code does not prohibit the renunciation of religious belief, there are other laws and policies in place that restrict the freedom to convert to another religion and they have not been repealed yet.⁷⁴ The 1972 Law of Civil Affairs, which forms part of the Personal Status Code, allows non-Muslims to convert to Islam, yet it has incorporated principles of Sharia that prohibit you to convert away from Islam. Furthermore, if one parent converts to Islam, even if the other parent does not agree, the minor children automatically convert to Islam as well.

This would also mean that minor children whose parent convert to Islam, could not change their religious designation upon reaching adulthood. However, in 2012, the Court of Appeals in Baghdad granted an eighteen year old the right to change his

⁶⁹ See note 44, *supra*, at 4.

⁷⁰ See note 11, *supra*, at 144.

⁷¹ Aswat al-Iraq, *Assistant Chairman of Iraqi Turkomen Front escapes assassination attempt*, http://en.aswatiraq.info/Default1.aspx?page=article_page&id=142495&l=1 accessed 12 July 2014.

⁷² See note 11, *supra*, at 81.

⁷³ See note 2, *supra*.

⁷⁴ See note 40, *supra*.

religion back to Christianity on his identity card after his father had converted to Islam when he was still a minor.⁷⁵ However, this decision is most likely not enough to become a precedent, which would allow all children of converted parents the opportunity to change their religion back upon reaching adulthood.

Such laws are particularly troubling for non-Muslim women whose parents converted to Islam when they were still minors. The 1959 Personal Status Law allows inter-religious marriage between Muslim men and non-Muslim women.⁷⁶ Thus, Muslim women are not allowed to marry non-Muslim men, if their parents converted to Islam when she was still a minor. As the Assyrians are an ethnically, religiously and culturally distinct group, disallowing Assyrian women in such a situation to marry Christian Assyrian men can leave Assyrian women isolated. Furthermore, such discriminatory aspects of the Personal Status Law have caused some people to marry in secret. The consequence of hiding marriage from the authorities is that any child born from the secret marriage cannot receive governmental identification documents and thereby cannot enroll into school, among other consequences.⁷⁷

Article 5(e) (v) – Economic, Social and Cultural Rights

Article 5(e) (v) (i)

Economic, social and cultural rights, in particular:

The right to education and training;

The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration.⁷⁸

Article 4.1 of the Iraqi Constitution stipulates that: “The Arabic language and the Kurdish language are the two official languages of Iraq. The right of Iraqis to educate their children in their mother tongue, such as Turkmen, Syriac, and Armenian shall be guaranteed in government educational institutions in accordance with educational

⁷⁵ See note 11, *supra* at 56.

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ See note 2, *supra*.

guidelines, or in any other language in private educational institutions.”⁷⁹ However, in the north of Iraq it has been reported that Assyrians are often pressurized in public schools to study the Kurdish language and to follow lessons on Islam as well.⁸⁰ Also, female Assyrian students in Mosul have reported that they are also pressurized into wearing a veil or dress in conformity with Islamic practices.⁸¹

Furthermore, abrupt displacement has led to many Assyrian students having to leave school in the middle of the year. Because many students practically do not have access to education when displaced, many students decide to return to Mosul in order to take exams, notwithstanding the security risk in the city. Assyrian students travelling from one place to another in order to access education also face security risks. In 2010, a bomb targeted a line of busses transporting Assyrian students to the University of Mosul, which killed 1 and injured 70 others.⁸² Approximately 1000 Assyrian students dropped out after that. In 2011, government officials decided to establish a university in Hamdaniya, so that Assyrian students would not have to travel to Iraqi Kurdistan or Mosul. ⁸³ However, to this day the university has not been established.

The Turkmen have limited access to adequate education and instruction in the Turkmen language. Turkmen schools and teachers do not receive subsidies and have to bear a shortage in materials and resources such as books, computers, and air conditioning.⁸⁴ Poor employment opportunities go hand in hand with the lack of adequate education for both the Turkmen and Assyrians.

⁷⁹ See note 37, *supra*, section 1, article 4.1.

⁸⁰ See note 11, *supra*, at 81.

⁸¹ *Ibid.*

⁸² IOM Emergency needs assessments, *Displacement of Christians to the north of Iraq*, International Organization for Migration, <http://www.iomiraq.net/Documents/Christian%20Displacement%2031%20January%202011%20EN%20Final.pdf> accessed 20 June 2014.

⁸³ See note 40, at 90.

⁸⁴ See note 11, *supra*, at 145.

IV. Recommendations

As highlighted in this report, Assyrians, Turkmen and Kurds in Iraq have faced and continue to face targeted harassment, intimidation, kidnappings and killings based on their ethnicity and religion. In order to curb the discrimination suffered by the Assyrians, Turkmen and Kurds we recommend the following:

Article 1.1 – Definition of Racial Discrimination

1. Comprehensive minority laws, anti-discrimination laws and implementation legislation should be passed.
2. The principles of Sharia should be defined in the Iraqi Constitution.

Article 2.1 – Elimination of Racial Discrimination

3. The Iraqi Central Government and the Kurdish Regional Government should investigate systematic abuses and discrimination more diligently for the purpose of ending impunity.
4. Possibilities of autonomy in accordance with the Iraqi Constitution, for the Assyrians and Turkmen should be examined by the Iraqi Central Government and the Kurdish Regional Government.

Article 5(b) – The Right to Security of Person

5. The Iraqi Central Government and the Kurdish Regional Government should urgently address the sectarian violence plaguing the state and provide aid to the internally displaced.

Article 5(c) – Political Rights

6. The quota for the Assyrians and Turkmen that is limiting their political representation should be lifted.

Article 5(d) (vii) The Right to Freedom of Thought, Conscience and Religion

7. Concerning the 1972 Law of Civil Affairs, minors that reach adulthood should be given the right to choose their own religion.

8. The 1959 Personal Status Law should be amended so that Muslim women would be able to marry non-Muslim men.

Article 5(e) (i) (v) - Economic, Social and Cultural Rights

9. The Iraqi Central Government and the Kurdish Regional Government should subsidize Assyrian and Turkmen schools so Assyrians and Turkmen have access to adequate education in their own languages.