

# Minority rights in Iraq and prospects for the Iraqi Turkmen within Iraq

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## Introduction

Turkmen are the third-largest population group in Iraq with between 600,000 and 2 million members who have a strong sense of their distinct identity and have preserved their native language. They live concentrated in the north of Iraq in the Kurdistan Region and in the so-called disputed territories. The largest concentration of Turkmen live in the city and province of Kirkuk. Approximately 60% of Iraqi Turkmen are Sunni Muslims.

Turkmen's suffering under Saddam Hussein has been officially recognised in the Preamble of the Iraqi Constitution of 2005. Yet even in the new Iraq, Turkmen continue to be affected by ethnic and sectarian violence and discrimination.

## The legal framework of minority rights in Iraq

The relevant legal framework for the rights of Turkmen (and other communities) in Iraq consists of applicable international standards, the Iraqi Constitution of 2005, and the Kurdistan Regional Constitution of 2009. So far, no comprehensive minority rights or anti-discrimination law has been passed, and provisions in existing legislation (such as the Criminal Code or the labour Code) allow for potential discrimination.

### *Applicable international legal standards*

Iraq is a signatory to various relevant international documents, including (in chronological order): the ILO Convention 111 concerning Discrimination in Respect of Employment and Occupation (1958), the International Covenant on Civil and Political Rights (1966), the International Covenant on Social, Economic and Cultural Rights (1966), and the International Convention on the Elimination of All Forms of Racial Discrimination (1965).

Most significant among them, perhaps, is **Article 27 of the International Covenant on Civil and Political Rights** which places a concrete obligation on signatory states by providing that “[i]n 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 practise their own religion, or to use their own language.”

Iraq is notably NOT a signatory of ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989).

### *Constitutional provisions*

Among the provisions of the 2005 Iraqi constitution, the following are of particular significance for minorities:

**Article 3** recognises that “Iraq is a country of multiple nationalities, religions, and sects.”

**Article 4** emphasises that while “[t]he Arabic language and the Kurdish language are the two official languages of Iraq...[t]he 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 guidelines, or in any other language in private educational institutions.” Article 4 also states that “[t]he Turkomen language and the Syriac language are two other official languages in the administrative units in which they constitute density of population” and that “[e]ach region or governorate may adopt any other local language as an additional official language.”

**Article 14** provides that “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.”

**Article 125** “guarantee[s] the administrative, political, cultural, and educational rights of the various nationalities, such as Turkomen, Chaldeans, Assyrians, and all other constituents...”

*Constitution of the Kurdistan Region (2009)*

In contrast to the Constitution of Iraq, that of the Kurdistan Region does NOT explicitly recognise Turkmen as a constituent community, given that **Article 5** notes that “[t]he people of the Kurdistan Region are composed of Kurds, Arabs, Chaldo-Assyrian-Syriacs, Armenians and others who are citizens of Kurdistan.”

**Article 20** then goes on to note that “[a]ll are equal before the law” and that “[a]ll 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” while also pointing out that “[t]he 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.”

**Chapter Three** then details the “Ethnic and Religious rights of the Different Groups of the Kurdistan Region”, including the right to legal recognition of their names (Article 29), the obligation of the authorities in the Kurdistan Region to “create the conditions which will ensure that the identity of ... ethnic and religious groups is preserved” (Article 31), and a guarantee of “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 (Article 35).

While these are robust provisions for the protection of distinct identity groups, another clause in this Chapter is more problematic, namely **Article 32 (2)**, which states that “[t]he 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 affect 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.” Note in this context that the city of Kirkuk is not within the current political boundaries of the Kurdistan Region of Iraq.

Prospects for the Iraqi Turkmen in Iraq

While there is clear evidence that Iraqi Turkmen, as well as members of other non-majority ethnic, religious, or linguistic communities, suffer from various forms of discrimination in their daily social, political and economic lives, the most pressing problem remains security. In light of the near-complete withdrawal of American (combat) troops and considering that a number of constitutional issues in Iraq, most notably related to the disputed territories, remain unresolved, the threat of ethnic and sectarian violence to Iraqi Turkmen is unlikely to disappear any time soon. Only once these more fundamental issues have been resolved (temporarily or permanently) on the basis of a compromise acceptable to all communities can we expect an improvement in the security situation and real progress at the legal and policy levels that will translate existing constitutional provisions into a daily reality in which Iraqi Turkmen wherever they live in Iraq are, and feel like, equal citizens.