

The Reality of the Political Rights of Minorities in the Iraqi Governorates that are not Organized in a Region

Aya sadeq Jumaah

Assistant Professor Dr.Sudad mawlood sabaa
University OF Baghdad\ political science
aya.sadiq1@gmail.com dr.sudadmawlood@gmail.com

Abstract

Those interested in the file of human rights, whether in Iraq or the whole world, have been very interested in the file of minority rights. Most of the violations recorded globally have directly or indirectly affected the rights and political freedoms of minorities. In Iraq, we see much evidence of these violations. Sometimes they fall victim to the perverted and discriminatory practices of the ruling regimes, and sometimes they are at the mercy of gangs and groups outlawing religion. They are subjected to persecution and practice various forms of ethnic cleansing, marginalization and deportation. This study aims to identify the reality of the political rights of Iraqi minorities in the governorates not organized in a region.

Keywords: Human Rights, Minorities, Political Rights, Local Governments.

Introduction

The issue of minorities is one of the most prominent topics that have received extensive attention and research in the international arena by social studies in general and political sciences in particular. Most countries of the world include several minorities with diverse cultures and origins in terms of religion, sect, language, and others. It is rare to find a country in the world that is monolingual, religious, or cultural. Minorities in Iraq have faced persecution and marginalization, especially in enjoying political rights sanctioned by international charters and declarations on human rights and endorsed by the permanent Iraqi constitution of 2005.

Therefore, the issue of minorities, with its religious, linguistic, ethnic, sectarian, and other variables, in any society is considered a normal situation. Its interactions can be visualized in two main aspects: the first relates to the homogeneity of the partial units and their dissolution within the framework of the unified whole. The second is an increase in indicators of heterogeneity resulting from a lack of societal understanding. This creates an environment suitable for the growth of tensions. Hence the importance of the study in order to clarify the reality of the political

rights of minorities in the Iraqi governorates that are not organized in a region.

The problem of the study lies in the main question, "What is the reality of the political rights of minorities in the Iraqi governorates that are not organized into a region?"

The study hypothesized that minorities in Iraq are subjected to an attack on their political rights. Minorities in Iraq suffer from persecution and do not enjoy their legitimate constitutional rights.

In order to verify the hypothesis of the study, the descriptive-analytical method was relied on to monitor the reality of the political rights of the Iraqi minorities and study the phenomenon as it exists in reality and describe it accurately.

The study is divided into two demands in addition to the introduction and conclusion. In the first requirement, the concept of political rights and their types will be identified. In the second requirement, the focus will be on the reality of the political rights of minorities in the Iraqi governorates that are not organized in a region.

The First Requirement: The Concept of Political Rights and their Types

Political rights are among the fundamental human rights sanctioned by international law, constitutions, and national laws. This is due to its close association with the political systems in all societies. Political rights include several special actions and liberties that the state recognizes through the constitution or the ordinary laws of the persons subject to its sovereignty. In this requirement, we will discuss political rights first and then explain the types of political rights secondly.

First: The Concept of Political Rights

The word rights refer to the verb's plural (Haqq), and it appears in the Arabic language with several meanings. Sometimes it means money, and sometimes it means the fixed thing. For example, the right of the command in the sense that it must or undoubtedly occurred, "God's right is the right of the command," that is, he obligated and established it (1). It was mentioned in Lisan al-Arab by Ibn Manzuran that the truth is the opposite of falsehood. It is called the validation of the thing and its validity. It is right if it is verified and proven. Some say that the right is the truth (2). As for politics, it goes back to the source of the word (Fuaala), and the meaning of politics comes from the person who tells his people everything (3).

As for idiomatically, jurists' and researchers' opinions in the field of law and political science have varied and differed. As a result of this difference and divergence of views, we have many terms and concepts that have attempted to explain the meaning of political rights from different sides. Some know her as "those rights that pertain between the ruler and the governed and regulate the relationship between the two parties, by emphasizing the right of the subjects to govern themselves by themselves (1). While others believe that political rights "are those rights that are recognized by law for individuals as citizens of a state, and are protected, and according to which these individuals are recognized the right to participate in the political affairs of the state, such as choosing the ruler, or forming groupings with political dimensions and goals" (2), Or they are "legal rights aimed at involving the people of a state in the

governance procedures of this state, by giving them the right to choose who represents them to administer the country's affairs, and to guarantee their right to form and participate in parties, political groupings and unions, as well as the right to run in parliamentary elections, or for the presidency or for membership in local councils in accordance with the legal and constitutional conditions and controls" (3). Others defined it as "those rights that grant a person, being a member of a particular political group, rights that enable him to contribute and participate effectively in managing the public affairs of this group (4). Another view goes to defining political rights as "a relationship between the ruler and the ruled that includes the people's participation in government. The meaning of the people's participation in ruling the country here is that they have the right to express their opinion in choosing who will take over the administration and assign authorities and public functions, not the actual participation in governments as members of it. In other words, the right to the participation of group members in the decision-making process of the authorities and government agencies concerned with managing the affairs of government in a state" (1).

From the initial, various concepts expressing the different views of several jurists, writers, and researchers in political sciences, we find that all agree in substance, even if they differ in language and expression. Therefore, we can define political rights as those rights that aim under the law and the constitution to involve individuals within a group in a particular country in the governance of this country by giving them the right to choose members of local and central governments and members of Parliament, as well as the right to run for elections and express an opinion regarding aspects related to the public affairs of the parish, such as referendums on the legislation of constitutions or changing or canceling some of its provisions, according to certain legal and constitutional conditions that differ from one society to another and from one state to another according to the needs and requirements of society.

There is no doubt that individuals cannot enjoy public liberties unless the constitution and ordinary laws recognize several political

rights for them, and the latter cannot be achieved on the ground except in the presence of public liberties (2). Therefore, all liberties revolve around the Parliament, and accordingly, achieving freedom of expression and thought must be achieved because these liberties represent the basis on which the right to vote, which is the basis of political rights, is exercised (1).

Second: Types of Political Rights

Political rights are represented in the involvement of citizens in the governance of the state in which they live under its sovereignty by granting them a set of rights such as participating in elections and referendums, forming and engaging in political parties, as well as the right to run for parliamentary, municipal or republican elections. From this concept, the types of political rights can be included as follows:

1. The right to establish and form political parties or join them

Successful democracies in any country depend on active institutions that practice political action to a greater extent than on the number of individuals who believe in democratic values and seek democratic participation in political action. As political parties are registered as effective institutions, the latter is an effective indicator of a country's peaceful transfer of powers whenever they are allowed to compete openly to form local or central governments (2). Contemporary liberal thought has defined the concept of a political party as "the assimilation of a group of people to follow a certain political method" (3). This definition agrees to some extent with the prevailing opinion of Arab jurisprudence, which defines a political party as "a united group of people working with different democratic means and methods to win power in order to implement a specific political program" (1). Therefore, political parties have become essential tools that stir political conflicts and build popular will. Today, these organizations have become one of the most important, if not the most important, sources for classifying the existing political system in society as a democratic system when it is based on partisan pluralism and the provision of freedom of expression. On the other hand, it is described as totalitarian and tyrannical

regimes that restrict the political rights of individuals and in which partisanship prevails, and there is almost no freedom of opinion and expression (2) (*).

Hence, part of the jurisprudence says that there is no recognition of political freedom without the existence of parties. The development of peoples and societies from primitiveness to feudalism and finally to industrial societies has played a prominent role in the emergence of a different elite that characterizes each era and contributes to the formation of various organizations according to the development model prevailing in that society. Sometimes these groups fall under workers' organizations; others meet in industrial organizations, and so on. As a result of these organizations, the idea of political parties crystallized, which became a link between rulers and peoples (3). Based on this, most constitutions in democratic systems in modern countries have limited it to explicitly recognizing this right for all persons according to specific legal conditions and controls and regulated this by special laws under different names concerned with the formation of political parties (*).

Second: The Right to Vote and Participate in Referendums

Election means the right of individuals to vote to choose a group of people to represent them and represent them in managing government affairs and assuming public authorities in the state. It is a legal authority granted by the legislator in a state to individuals who meet the conditions of election to participate in selecting public authority (1). The jurisprudence differed in adapting this right; some considered it a personal right inherent to the individual and his people. Thus, it is a right established for all citizens residing in a country as it is a natural right that no citizen may be deprived of popularity, whether by rejection or acceptance (2).

Others went to consider it a job performed by individuals as belonging and members of a state, so the legislator has the right to make the use of this right compulsory by enacting laws that punish those who fail to use the right to vote. Among the countries that worked with this system previously is Austria in the elections of 1925, the Netherlands until 1970,

and Venezuela until it was abolished under the 1993 constitution, as well as for Chile, which deleted this text under the constitutional amendment of 2009, in which it made the right to vote optional for the first time, while still Some countries, such as Argentina, Brazil and Australia, adopt a system of compulsory elections under their laws (1) (*).

While another trend of contemporary jurisprudence sees election as a right and a job simultaneously, it is not considered a purely individual right because if it were, the legislator would not have permitted it for one group of people without another. Election, according to this perspective, is a personal right that the legislator protects, but when the person who has the right to vote exercises the process of voting and voting, then this right is not personal, but instead is a function of choosing those who are more worthy of assuming the public authorities and administering the government in the state (2).

Third: The Right to Stand for Election

The effective participation of individuals within a society in political life is the adoption of democratic means and promoting the principle of the peaceful transfer of public authorities in the state. This contribution takes two forms. The first is by giving individuals the right to participate in elections and referendums, as we have discussed above. The other picture is embodied in granting individuals who meet the legal requirements the right to run for the local council, Parliament, or presidential elections according to sound foundations that guarantee free competition among all competing candidates (1).

Candidacy is one of the most important means of participating in the political life of members of society. It represents one of the political guarantees for choosing leaders and representatives of the people to administer the helm of governance and take care of the public interests of the parish (2). The right to run is a practical means to achieve the principle of democracy and a realistic translation of the people's rule by themselves (3). It is a complementary right to vote, and political life does not exist in a society without one of these two rights.

The second requirement: the reality of the political rights of minorities in the governorates that are not organized in a region

Although the successive political systems in Iraq since the establishment of the Iraqi state until the present time have approved the political rights of minorities in constitutions and laws, the governments that the Iraqi state witnessed did not find real solutions to the problem of political rights for minorities. Since 1921, a large part of the Iraqi people has been absent and marginalized from participating in managing public affairs and their reliance on the armed force to suppress any threat to their presence in power. Then the issue of the political rights of minorities was raised again and again after 2003. This stage was accompanied by the collapse of state institutions and agencies. This matter allowed minorities to express themselves, their hopes, and their right to political participation and to emphasize building the new Iraqi state according to conservative foundations. It has its political rights documented in the permanent Iraqi constitution of 2005 (4). However, the minorities were marginalized in the Constituent Assembly, as there was one seat for Chalde Assyrians and three seats for Turkmen. At the same time, the Sabeans and Yazidis did not enjoy any seat in the Assembly, which generated a feeling of anxiety before and after the constitution was written (1). After the end of the Baath rule in Iraq in 2003, a new Iraqi constitution had to be drawn up to be written by all components of the Iraqi people, with the participation of minorities in the constitution-writing process. On August 15, 2005, the people's referendum should occur no later than October 15, 2005. A fifty-five-member committee drafted the constitution. Twenty-eight members were chosen from the National Coalition, fifteen members from the Kurdistan Alliance, and eight members from the Iraqi List. The rest were minorities, and fifteen Sunni members were added by (opposing forces) (2).

Minorities such as the Yezidis (Kamaram Khairy) and the Sabeans Mandaean (Subh Mal Allah) (3) and the Shabak minority (Sami Ahmed) and (Hanin Qaddo), the Turkmen (Riyad Hadi), and the Christian (Nuri Boutros) and (Yawadam Kana) (4). The referendum took place, and thus Iraq became

a permanent constitution in 2005 that included in its articles the rights of all Iraqis and guaranteed the fundamental rights and freedoms of all the Iraqi people within the provisions of human rights. These texts were balanced, acceptable, and logical in theory. The problem of minorities in society was the implementation mechanism, which led to tyranny and oppression in most of its applications (5). The Iraqi constitution of 2005, "the supreme and supreme law in Iraq," provides strong protection against discrimination and guarantees equal treatment for all Iraqis. However, many key provisions of the constitution have yet to be implemented, leaving minorities unprotected from harm in some cases (1). The problem faced by the minority is not legal, as the permanent Iraqi constitution has stipulated several civil and political rights. However, these rights face a dilemma when implemented on the ground and implementing them. Powerful and significant parties always usurp the political rights of minorities.

The fluctuations that characterized the Iraqi political system led to doubts among minorities about the political system and its promises, which were waiting for more political rights after the process of democratic transformation that the Iraqi state witnessed after 2003, which disappointed their hopes in the current system and deepened the feeling of mistrust towards the political system. Before the minorities who invoked the repressions, they were subjected to by the previous regimes. This matter pushed minorities towards sub-identities as a means of self-preservation in front of a political regime that cannot translate constitutional texts and their legitimate political rights into practical reality (2). As minorities in the new Iraq still suffer from political marginalization. Minorities were excluded from decision-making positions and essential, sensitive, leadership, security, and military positions in the state because of their affiliation to another religion or other nationalism. They did not belong to large political blocs, which made them unable to protect themselves and their areas because of their lack of confidence. With the security forces present in their areas and managing affairs according to the whims and directives of the blocs and parties to which they belong (3). Minorities in the Iraqi provinces faced

great difficulties that led to their weak political participation due to displacement, killing, and destruction to them and their money, and considering them polytheists, which caused their weak participation in the transitional phase and the inability of the official authority to provide them with protection from extremists and terrorists (1). There have been attacks against minorities, especially Christians, with perhaps the aim of preventing them from participating in elections and casting their votes freely (2). Naturally, the constitution protects the rights of minorities, especially political ones, such as guaranteeing the right to run for office and vote. Indeed, guarantees are set to guarantee the electoral process in general, but some guarantees specifically protect the rights of political minorities, such as the quota system (3). Despite the change that took place in the Iraqi political system after 2003 and the shift towards pluralism in governance, minorities find themselves facing many challenges and risks and an unknown future concerning their political participation and management of public affairs.

In some cases, they find themselves outside the accounts of the dominant political blocs. The dominant position at all levels of the Iraqi state (4). The political representation of minorities in the Iraqi provinces has been a victim of ethnic and religious polarization. The electoral laws did not leave any opportunity for the emergence of an independent entity or personality from outside the traditional partisan circle that prevailed after 2003. Therefore, minorities are forced to present candidates representing them on an ethnic and religious basis to benefit from the quota system. This situation did not leave any opportunity for members of minorities of national, scientific, and professional competencies to emerge politically or to assume leadership executive positions due to the monopoly of the major political powers on all of that.

Conclusion

Minorities in Iraq still suffer from political and administrative marginalization, in addition to their continued targeting by terrorism, gangs, and extremism. The acts of violence and extremism were reflected on

minorities more than the rest of the other components because they are the weakest and easiest link in the political equation composed of strong parties in which they are the majority, far from the standards of competence, integrity, and sincerity in the distribution of positions and responsibilities. Moreover, the pressures experienced by minorities regarding their rights, self-determination, and obtaining their legitimate rights as essential partners in the homeland to preserve their identity, since the occupation and minorities have lost basic things in their lives, namely security, stability, and peace. Minorities were excluded from decision-making positions and essential, sensitive, leadership, security, and military positions in the state because of their affiliation to another religion or other ethnicity. They do not belong to large political blocs, which made them unable to protect themselves and their areas because of their lack of confidence in the police and security forces in their areas that manage things according to their whims. The directives of the blocs and parties to which it belongs, some of which are infiltrated by terrorism, extremism, and gangs.

The most important conclusions were as follows:

1. Political rights are the ability of an individual to participate in civic and political life without fear of discrimination, racism, or oppression. These rights are closely related to the status of a citizen, and they include the right to vote in elections, the right to join a political party and participate in political gatherings.
2. The individual's political rights are established as a citizen of a particular political community that entitles him to participate in the rule of this state, and it is limited to citizens and not foreigners.
3. The position of the successive Iraqi federal governments in Baghdad is still fragile, weak, and unfair concerning the political rights of minorities and their protection. From 2003 until today, their role has been limited to condemnation, condemnation, and denunciation without any guarantees of rights in a serious manner.
4. Despite the change that the Iraqi state witnessed after 2003 and the transition towards a democratic system, minorities find themselves facing many challenges and risks and an unknown future concerning their participation in public life. In many cases, they find themselves outside the accounts of the large dominant political blocs. The positions and the various joints of the government deprive the minorities of taking their role in political participation.

The study recommends the following:

1. The Iraqi government should create conditions conducive to an inclusive political environment that is also based on respect for religious and ethnic minorities.
2. Take further legislative and practical steps to ensure equality in political rights for members of minorities, including increasing the number of quota seats for minorities in Parliament.
3. The Iraqi government should take effective measures to improve the effective participation of minorities. It contributes to easing tensions, thus preventing conflicts and including this within any security plan aimed at achieving stability in the future.

Notes

Page 1

* Master's student at the College of Political Science, University of Baghdad.

**lecturer at the Center for Strategic and International Studies at the University of Baghdad

Page 4

- (1) Quoted from: Ali bin Ismail, known as Ibn Saydah, *Al-Hakam and the Greatest Ocean in Language*, Part 4, Arab Heritage Revival House, Beirut, 1, 1996, p. 366.
- (2) Quoted from: Jamal al-Din Muhammad Ibn Manzur, *Lisan al-Arab*, vol. 10, Dar Sader, Beirut, 3rd edition, 1986, p. 52.
- (3) Quoted from: Muhammad Bin Yaqoub Al-Fayrouz Abadi, *Al-Muheet Dictionary*, Al-Resala Foundation, Beirut, 8th edition, 2005, p. 551. Also, Muhammad Al-Razi, *Mokhtar Al-Sahah*, Lebanon Library for Printing and Publishing, Beirut, 1986, p. 13.

Page 3

- (1))) Ahmed Shawqi, Political Freedom First, Dar Al-Qalam for Printing and Publishing, Kuwait, 1, 1973, pg. 9, and also see the criminal protection of political rights, a comparative study, House of Legal Books, Cairo, 2006, p. 5.
- (2) Tharwat Badawi, Political Systems, Dar Al-Nahda Al-Arabiya, 1st edition, Cairo, 1973, pg. 411.
- (3) Hanan Barami, Judicial Jurisprudence in the Field of Rights and Freedoms in the Light of International Conventions, Journal of Judicial Jurisprudence, Algeria, No. 4, 2008, p. 132.
- (4) Hosni Qamar, Criminal Protection of Political Rights, a comparative study, House of Legal Books, Cairo, 2006, p. 5.

Page 6

- (1) Abdel Ghani Bassiouni, Political Systems and Constitutional Law, University Publishing House, Alexandria, 1993, p. 308.
- (2) Morouj Hadi, Civil and Political Rights and the Position of Iraqi Constitutions on them, MA thesis (unpublished), College of Law, University of Baghdad, 2004, p. 33.

Page 7

- (1) Farouk Abdel-Bar, The Role of the Egyptian State Council in Protecting Rights and Freedoms, Volume 1, Part 1, Dar Al-Nahda Al-Arabiya, Cairo, 1998, p. 2.
- (2) Balqis Mansour, Political Parties and Democratic Transition, Madbouly Publishing Press, Cairo, 2004, p. 15.
- (3) Hosni Qamar, a previously mentioned source, p. 11.

Page 8

- (1) Suleiman Al-Tamawi, The Three Authorities in Contemporary Arab Constitutions and Islamic Political Thought, a comparative study, 5th edition, Dar Al-Fikr Al-Arabi, Beirut, 1996, p. 65.
- (2) Ramzy El Shaer, Ideologies and their Impact on Contemporary Political Systems, Ain Shams Press, Cairo, 1996, p. 106.

*Article (21) of the Universal Declaration of Human Rights of 1948 states that "the right of individuals to participate in the management of the public affairs of their countries, either

directly or through representatives they choose freely...".

- (3) Naji Abdel Nour, The Algerian political system from unilateralism to political pluralism, University Publication Directorate, Algeria, 2006, pg. 49.

Page 9

* The Iraqi constitution in force for the year 2005 included an explicit text in which the constitutional legislator affirmed this right within the section of public freedoms, as stipulated in Article 39 of it, which guaranteed "the freedom to establish associations and political parties or join them, and no one may be forced to join any a political party or entity, or forcing him to continue with it. This was confirmed by Article 4 of the effective Iraqi Political Parties Law No. 36 of 2015.

- (1) Faisal Shantawi, Lectures on Democracy, Hamed Publishing House, Amman, 2008, p. 183.

- (2) Kamal Al-Ghali, Principles of Constitutional Law and Political Systems, Damascus University Publications, 1993, p. 210.

Page 10

- (1))) Alaa Shalaby and Karam Khamis, Democracy and Elections in the Arab World, Arab Organization for Human Rights, Cairo, 2016, p. 32.

* This and although the Iraqi constitution in force for the year 2005 did not include any explicit text regarding the adaptation of the right to vote, it is through extrapolation of Article (4/Second) of the House of Representatives Elections Law No. (45) of 2013, which stipulates that "each voter exercises his right To vote freely, secretly and individually...." It is clear that the legislator has made this right optional stems from the freedom of the voter who meets the legal conditions for election, as there is no power for the law to compel anyone to vote and participate in general elections.

- (2) Alaa Shalaby and Karam Khamis, previous source, p. 33.

Page 11

- (1) Faisal Shantawi, a previously mentioned source, p. 189
- (2) Hani Al-Tahrawi, Political Systems, Constitutional Law, House of Culture, Amman, 2014, p. 209.
- (3) Suleiman Al-Tamawi, a previously mentioned source, p. 249.
- (4) Zainab Taleb Salman, Minorities and the Problem of Diversity Management, Iraq as a Model 1921-2014, The Academic Journal of Legal and Political Research, Volume 4, Issue 1, Ammar Tilji University, Laghouat, Algeria, 2020, p. 118.

Page 12

- (1) Faleh Abdul-Jabbar, The Constitution of Iraq: Ethnic and Religious Relations, translated by: Saeed Abdul Masih Shehata, Minority Rights Group Office, London, 2005, p. 6.
- (2) Nibras Al-Mamouri, The Ordeal of the Constitution, The Problematic of Amendment, Al-Araby for Publishing and Distribution, Cairo, 1st Edition, 2015, p.52.
- (3) Shorsh Hassan, Characteristics of the Federal System in Iraq, 2nd Edition, Cairo, 2018, p. 201.
- (4) Sa'irem Shodash and Shelly Mallat, Guide to the Iraqi Constitution, The Comprehensive Justice Project, Baghdad, 2009, pp. 9-15.
- (5) Farouk Abdullah Abdul Rahman, Rights of Minorities in the Iraqi Draft Constitution, 5/10/2005, date of visit 14/8/2021, available on the Internet via the following link: <https://www.aljazeera.net/>

Page13

- (1) Institute of International Law and Human Rights, Minorities and the Law in Iraq, 1st Edition, Beirut, 2011, p. 32.
- (2) Zainab Taleb Salman, Minorities and the Problem of Diversity Management, Iraq as a Model 1921-2014, The Academic Journal of Legal and Political Research, Volume 4, Issue 1, Ammar Thaleji Al-Awat University, Algeria, 2020, p. 120.
- (3) Antoine El-Sana, Minority Rights in Iraq, Iraqi Society for Human Rights in the United States of America, date of visit 14/8/2021, available on the International Information Network (Internet) via the following link: <http://ihrsusa.org/2018/02/02/%D8%A8%D8%AD%D8%AB%D8%A8%D8%B9%Donlin%D8%A7%D9%86-D8%AD%D8%Bann%D8%A7%D8%Ba>

n AA-
%D8%A7%D8%A7%D8%B9%D8%B1%D8
%A7%

Page 14

- (1) Fadel Abbas Sabah, Political Rights of Minorities in Iraq after 2003, Master's Thesis (unpublished) El Alamein Institute for Graduate Studies, Department of Political Science, Najaf, 2020, p. 90.
- (2) Human Rights Office of the High Commissioner for Human Rights, Human Rights Report in Iraq for 2010, Baghdad, 2010, p. 40.
- (3) Ali Najeeb Al-Husseini, Legal guarantees for minorities to exercise their right to elections and nomination, a comparative study in light of the current Iraqi election laws, Karbala University Journal, Vol. 2, No. 10, Karbala University, 2005, p. 118.
- (4) Saad Muhammad Hassan, The Political Role of Minorities in Iraq after 2003, Case Study of Turkmen, International Studies, No. 76, Center for Strategic and International Studies, University of Baghdad, 2019, p. 249.