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Al-Mesalla ORG. for Human Resources Development

Peace and Freedom Organization

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A Reading for the Law of Protecting Components in Kurdistan



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Prepared by:

Peace and Freedom Organization in Kurdistan

Al-Mesalla Organization for Human Recourses Development




For sending your opinions and recommendation please contact:

almesalla@almesalla.net

pf_ok@yahoo.com □

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Preface:

On 21 of May 2015, the Kurdistan Parliament approved the Law of Protecting Components in Kurdistan, this is the first law in Iraq and even in the region which is in a direct and legal way recognizes the existence of the components and to protect them.

In addition to present the law, a brief review for the articles and paragraphs of the law are presented. We try to identify and show the strong and weak points of the law..□

First: the Kurdistan Region and Political Participation under this Law

The article 3 of the Law of Protecting Components in Kurdistan, especially the paragraph number 1, states that the Kurdistan Regional Government provides the political participation and equal opportunity to components and in all other decisions related to them.

The article 6 of the same law says that for guaranteeing the rights of components in political participation and economic opportunity these points are implemented:

First: the right of participation

If we go back to the history of Kurdistan Parliament, we can see the participation of components as below:

- 1- In the first parliamentary elections in Kurdistan in 1992, according to the law of 'Barai Kurdistanî' which was a political front before

the government and the parliament on May 8th 1992 decided to give 5 seats to Christians in Kurdistan as a quota, at that time the number of seats was 105, the 100 seats went to PDK and PUK, as a result of competition among them 4 seats given to Assyrian Democratic Movement, and one seat to United List of Christians.

2- In the second parliamentary elections in Kurdistan in 2005, after 13 years since the first election, the number of seats increased from 105 to 111 cases. The rest of the 11 seats given to Christians, Turkmen, Armans, 5 seats to Christians and 5 to Turkmen and one seat to Armans.

3- In the 2009 and 2013 elections, the quota system for components remained the same without any change; all of these components had a representative in the Kurdistan Parliament.

Below is the information about components representatives according to the 2009 elections results:

Christian Representatives in Kurdistan Parliament

Al- Rafidain List

- 1- Salm Toma Kako Braymok
- 2- Cihan Ismail Bnyamin Ismail

Unified Chaldean List

- 1- Sair Abdul Ahad Ogsti Mushi
- 2- Sozan Yousf Khoshaba al Asrani
- 3- Amir Guga Yousf Audish

Turkmen Representatives in Kurdistan Parliament

Turkmen Democratic Movement In Kurdistan

- 1- Bashar Najm al Din Nura al Din Abdulla
- 2- Hamdia Mahruf Ahmed Taha

3- Yawz Khurshid Youns

Erbil Turkmen List

1- Sherdl Tahsin Mhamad Hamadi

Turkmen Reform List

2- Abdul Qadir Akram Jamil Abdul Samad

Arman Representatives in Kurdistan Parliament

Aram Shahin Dawd Bakoyan□

Below is the information about components representatives according to the 2013 elections results:

Christian Representatives in Kurdistan Parliament

Al Rafidain List

Yaqub Gorgis Yaqo Glya

Lina Azaria Bahram Shabo

Ibna al Nahrain List

Srud Salim Mati Yousf

Chaldean Syriac Assyrian Assembly

Wahida Yaqu Hurmz Nunn

Kamal Yalda Marquz Dmianos

Turkmen representatives un Kurdistan Parliament

Erbil Turkmen List

Majid Osman Tofiq Sleman

Change List and Reform List

Mhamad Sad al Din Anwar Shkur

Development List

Jawdat Jarjis Latif Fatah

Munah Nadr Abdulla

Turkmen Front in Iraq

Aidn Mahruf Salim Ahmed

Arman List

Yarwant Nisan Markus Botrs

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Notes and Recommendations regarding political participation as mentioned in the Law□

It can be better if the law determines the mode of participation and the level of quota system, the quota system which was determined in the law of elections.

In the past, quota was only available for Christians, Turkmen and Armans in the Kurdistan Region, according to this law, the other components are recognized and their political participation is provided, for this reason the participation of these components should be considered seriously and mechanisms to shape their participation should be established to decide whether a quota will be given to Yazidies, Kakayes, Shabaks and others or not?

In addition to participation in the Parliament, it also needs to be clear that how components can represent and participate in the government and local administrations in Kurdistan Region.

Second: Avoiding Discrimination

The article 3 of the law and its third and fourth paragraphs declare that:

Second: all types of discrimination against all components in Kurdistan are prevented; a violator will be punished by the applicable laws.

Third: Preventing any religious, or political, media speech individually or collectively, directly or indirectly that brings hate and violence, terror,

exclusion and marginalization based on national, ethnic or religious or linguistic claims.

<p style="text-align: center;">Notes and Recommendations on Preventing discrimination and violent language according to the law</p>
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* Preventing discrimination and the language that encourages hatred, violence is one of the most important points of this law.

* The law does not tell us what is discrimination, what are the punishments for those who commit discrimination? It only mentions the applicable laws, which may mean more the points mentioned in the Iraqi Criminal Law number 111, year 1969, and its amendments especially the article 372 and its paragraphs (A+B+C+D+E).

*Discrimination and encouraging violence are often indirect or even hidden with many social, political, intellectual and cultural obstacles, it makes hard to know how can we deal with discrimination and who is responsible for determining these discriminations and violent languages and ultimately deciding the punishments.

Third: Demographic Change and Cleavage

Different components in Iraq and Kurdistan, especially minorities for a long history have faced demographic disruptions and threats to distort their personal life, national, religious, sectarian particularities.□

This disruption reached its highest point in the Ba'ath era. Then these changes continued especially in Mosul. Even in Kurdistan Region, Christians have criticized the government for demographic changes especially in Ankawa, Erbil Governorate. Turkmen have also criticized the Kurdish authorities since 2003 for violations against their lands.

This law in many ways works for reorganizing and reconstructing demographic distortion, especially in the article 3 and its fourth and fifth paragraphs, as explained:

Fourth: Confronting any behaviour or any negative policy that changes the life of the origins in intentional change in population in the areas

inhabited by components, and also preventing all kinds of possession and ownership if it aims at changing the demography and to distort historical and cultural heritages for any reason and under any justification.

Fifth: Resolving implemented encroachments in component's areas and to recover and return to the status of their places before the encroachment and transcendence happened, and ending all consequences and legacies that lead to change in population and demography, and compensation in a case of difficult situation to return to their original place.

This is an important element of this law as it does not allow any intentional change for now and future, at the same time it establishes ways for resolving any transgression and violation implemented against any components. The law allows all components to go to court against any intentional change in demography made against them and solve them by referring to this law.

The paragraph 7 of the article 3 says that:

Seventh: the government works for encouraging the return of the people from components that are originally from Iraqi Kurdistan and forced to leave their places, and also guaranteeing their accepted rights.

This is an important element as it allows the Kurdistan Regional Government to work for the returning all components who left the Kurdistan Region forcefully. An important point arises here, according to this paragraph do the Jewish Kurds who forced to go to Israel in the 40s of the twentieth century can return to Kurdistan or not?

Fourth: Defining Components in the Law □

For the first time, in Kurdistan Region and Iraq, majority of components are recognized in the framework of law, to an extent that the paragraph two of the **article 1 says** that:

The purpose of this law in these terms is the meaning giving to them:

Second: components: national groups (Turkmen, Chaldo-Assyrian-Syriacs and Armans), Religious groups (Christians, Yazidis, Mandaie Sabians, Kakayes, Shabak, Faylie, Zardashti and others) who are the citizens of Iraqi Kurdistan.

When the law mentions components, it refers to minorities which have been defined; religious and national components. For the first time, it recognizes Zardashti and Manaie Sabians in the Kurdistan Region, on the other hand it keeps itself to have the law recognize that Bahaies exist in Kurdistan at it prohibited according to law since the 70s of the last century.

Fifth: Mother Language and the Law of Components

Before the law of components being made, the Kurdistan Parliament made the law number (7) of the year 2014 which is the law of official languages in the Kurdistan Region. According to the law, with Kurdish and Arabic language, the other languages Turkmen, Chaldean and Aramani language are recognized, and the right of education in their mother language is guaranteed for all citizens.

The law of the rights of components, especially the **paragraph 8 of the article 3**, which is dedicated to the language of components, states that:

Eighth:

- 1- The government commits to protect mother language, through guaranteeing learning, educating the director of their media channels.
- 2- The government opens the special department for national languages of components in Kurdistan universities, provides scientific academy of language for their own language.

The law from here does not only recognize the protection of minority languages and using them for learning and education, but it also works for opening media and scientific academy and even special department in Kurdistan universities for these languages.

Sixth: Participation in Security Forces and Peshmarga □

In fact, neither this law nor the other laws in Kurdistan addresses the participation of components in security forces and police and the other related sectors, these laws does not mention that the forces protect Kurdistan borders and Peshmarga should represent all components, while now the Ministry of Peshmarga is planning to create a special unite for Yazidish Shabak, Kakayes and Christians.

It is undeniable that the participation of these components will strengthen the security forces, it also a reason for making components feel more secure and protected, the experience of fighting ISIS in recent months proves that.

The below is the text of the law:

In the Name of God, Most Gracious, Most Merciful

Kurdistan Region of Iraq

Kurdistan Region Presidency

The President

In the name of people

The decision number (9) of the year 2015

According to the authority that is given to us in the paragraph one of article 10 of the law of the Kurdistan Region Presidency-Iraq number (1) of the year 2005 as amended, and based on the legislation of Kurdistan Parliament-Iraq, in its session numbered (9), held on April 21 2015, decided to issue the following law:

Law No. (5) for the year 2015

Law of Protecting the Rights of Components in Kurdistan - Iraq

Part One

Article one:

The purpose of this law in mentioning these terms is the meaning that giving to them:

First: Government: Kurdistan Regional Government – Iraq.

Second: Components: national groups (Turkmen, Chaldo-Assyrian-Syriacs and Armans), Religious groups (Christians, Yazidis, Mandaie Sabians, Kakayes, Shabak, Faylie, Zardashti and others) who are the citizens of Iraqi Kurdistan.

Article two:

The provisions of this law is applied to all citizens of Kurdistan – Iraq who are from these components

Part two

Article three:

The authorities of Kurdistan Region – Iraq guarantees efficient and full equality to components.

First: the government provides equality and equal opportunity in political, cultural, social and economic life to components through law and effective policy for all individuals of any component, and participate them in all other decisions that are related to them.

Second: all types of discrimination against all components in Kurdistan are prevented; a violator will be punished by the applicable laws.

Third: Preventing any religious, or political, media speech individually or collectively, directly or indirectly that brings hate and violence, terror, exclusion and marginalization based on national, ethnic or religious or linguistic claims.

Fourth: Confronting any behaviour or any negative policy that will change the life of the origins in intentional change in population in the areas inhabited by components, and also preventing all kinds of possession and ownership if it aims at changing the demography and to distort historical and cultural heritages for any reason and under any justification.

Fifth: Resolving implemented encroachments in component's areas and to recover and return to the status of their places before the encroachment and transcendence happened, and ending all consequences and legacies that lead to change in population and demography, and compensation in a case of difficult situation to return to their original place.

Sixth: at the time of drawing borders of administrative unites and electoral districts, economic developments plans, developing communities live in sub-districts and villages, and also protecting environment should be taken into consideration, the government should take care of the context of local governance, social relations, economic interests and fixed customs and traditions of components in this place.

Seventh: the government works for encouraging the return of the people from components that are originally from Iraqi Kurdistan and forced to leave their places, and also guaranteeing their accepted rights.

Eighth:

- 1- The government commits to protect mother language, through guaranteeing learning, educating the director of their media channels.
- 2- The government opens the special department for national languages of components in Kurdistan universities, provides scientific academy of language for their own language.

Article four:

All individuals have the right to reveal their religious identity, and protect their national identity, and to protect their rights to be a

member of any specific community, and this right is only related to individuals no one can take away their rights.

Second: any component equally with majority has the rights to practice basic rights and liberties including freedom of thinking, free speech, media institutions, the freedom of gathering, establishing groups, the freedom of practicing religious beliefs, the government is committed to support and look after these practices equally for all components based on the applicable laws.

Third: each component has the right to express their culture and traditions, and the government committees to protect the culture and religion of components.

Fourth: individuals from a specific component can choose their names as they want, the name of symbols, famous historical people, or any important event passed on them, they can name streets, stadiums and other places in their places after the name of their figures, according to the applicable laws.

Fifth: components have the right to have their own holidays in national and religious occasions; these holidays will be official to them.

Article 5:

components have group, organization, components' representation, intellectual, learning and social and development relations with those who have ethnic, religious and national commons inside or outside the Kurdistan Region based on the applicable laws, and in case when the governments signs international or regional protocols related to components, their participation will be guaranteed.

Article 6:

To guarantee the rights of components:

First: they have the right to participate in executive and legislative authorities based on the applicable laws.

Second: In places which are inhabited by components, they have the right to participate in governing governmental and administrative institutions, based on the applicable laws.

Part Three

Article 7:

Any laws that are contradicted with this law will not be worked on.

Article 8:

those related to this law have to implement the provisions of this law.

Article 9:

this law from the date of publishing in the Official Gazette of Kurdistan will be implemented.

Masoud Barzani

The President of Kurdistan Region – Iraq

Erbil

17/05/2015