


Human Rights of Minorities in Islam: From the Perspective of Iraq

İslam'da Azınlıkların İnsan Hakları: Irak Örneği

Ahm Ershad UDDIN 

Department of Basic Islamic Sciences, Kocaeli University, Faculty of Theology, Kocaeli, Turkey

ABSTRACT

This article examines the human rights of minorities (huquq al-aqalliyah) in the context of the Iraqi region. In the first part of the study, the general course of Iraqi political history, including Saddam's tenure, is discussed. After an overview of the historical and political conditions of minorities in Iraq, the political discrimination against Shiite and Kurdish groups, especially during the Saddam era, and the unofficial political oppression of Shiites on Sunnis, the dominant political element in post-Saddam Iraq, against Sunni and other minorities, are compared. The research also focuses on the ethno-religious political mobilization developed by societies against this discrimination. In addition, our article explores the current situation and rights of minorities in Iraq and the reasons for their migration from Iraq. In addition, this study points out the difficulties of minority law in Iraqi practice as it is used in "Western" states and discusses the reasons for this. Because this unofficial repression against Sunnis and Kurds paved the way for the emergence of a fanatical Sunni group called ISIS in Iraq, they described non-Muslim minorities as "dhimmis" using Islamic terminology, thus trying to legitimize their murders. From this point of view, the article aims to analyze the political discrimination applied by the Iraqi state and the murders committed by ISIS in the name of Islam from the perspective of contemporary Islamic law.

Keywords: İslamic Law, Iraq, Minorities, War, Human Rights

Öz

Bu makale, azınlıkların insan haklarını (Huquq al-Aqalliyah) Irak bölgesi bağlamında incelemektedir. Çalışmamızın ilk kısmında, Saddam'ın görev süresi de dâhil olmak üzere, günümüze kadar Irak siyasi tarihinin genel bir seyrini konu edinmektedir. Irak'taki azınlıkların tarihsel ve siyasi koşullarına genel bir bakışın ardından, özellikle Saddam dönemi Şii ve Kürt gruplara yönelik siyasi ayrımcılık ile Saddam sonrası Irak'taki siyasete hâkim unsur Şiilerin, Sünni ve diğer azınlıklara karşı uyguladığı gayri resmi siyasi baskı karşılaştırılmakta ve bunun neticesinde azınlıkları oluşturan toplumlar tarafından bu ayrımcılığa karşı geliştirilen etnik-dini siyasi seferberliğe odaklanılmaktadır. Buna ek olarak makalemiz Irak'taki azınlıkların mevcut durumu ve hakları ile azınlıkların Irak'tan göçlerinin nedenlerini araştırmaktadır. Ayrıca bu çalışma "Batılı" devletlerde kullanıldığı şekliyle azınlıklar hukukunun Irak pratiğindeki zorluklarına işaret etmekte ve bunun sebeplerini tartışmaktadır. Zira Sünni ve Kürtlere yönelik bu gayri resmi baskı Irak'ta DAİŞ denen fanatik Sünni bir grubun ortaya çıkmasına zemin hazırlamış, gayrimüslim azınlıkları İslami terminolojiyi kullanarak 'zimmi' diye nitelendirmiş, böylelikle cinayetlerine meşruiyet sağlamaya çalışmışlardır. Bu açıdan bakıldığında makale, Irak devletinin uyguladığı siyasi ayrımcılık ile DAİŞ'in İslam adına gerçekleştirdiği cinayetleri, çağdaş İslam hukuku perspektifinden analiz etmeyi amaçlamaktadır.

Anahtar Kelimeler: İslam Hukuku, Irak, Azınlıklar, Savaş, İnsan Hakları.

INTRODUCTION

The Republic of Iraq is an independent, federal, and sovereign state with an administrative parliament and a democratic government. All of its diverse 40 million residents, consisting of Muslims, Christians, Yarsans, Yazidis, Zoroastrians, and Mandaeans, recognize Article 1 for its recognition of citizenship, language, and religion for practice. The Iraqi diaspora is one of the most extensive records in modern history. Iraq was part of the Ottoman Empire, then the British Empire, and later modern-day Iraq. Saddam ruled the country from 1979 until 2003, during which there were two major wars. After the US occupation, Iraq deteriorated into a civil war from 2006 to 2008.¹ The disintegration of the state brought about sectarian tensions that have hindered the building process. The situation worsened in 2011², eventually leading to ISIS's victories in 2014. ISIS has even kidnapped non-Muslim women as enslaved people in the name of Islam and tortured them into participating in their unethical activities. The end consequence is that Christians, Yazidi³, and other minorities have been expelled from their homes due to the ISIL onslaught in the name of Islam. The Shia sect has become Iraq's deep state due to disparities in Islamic creed between Shia and Sunni Muslims. Many Sunni Muslims were informally fired from state jobs because they belonged to Sunni names.

This article will provide an overview of the Iraqi constitution and its role in shaping the law for minorities. It will also examine the debates over the rights of the minorities in Islam and the acts of notorious

1 Patrick Cockburn, "Cricket but no chess in Sistani's vision for democratic Iraq", *The Independent News*.
2 Vali Nasr, *The Shia Revival: How Conflicts within Islam Will Shape the Future* (W. W. Norton & Company, 2007), 211-220.
3 Zeynep Kaya, *Iraq's Yazidis And ISIL: The Causes And Consequences Of Sexual Violence In Conflict* (London: LSE Middle East Centre, 2019); publisher: "LSE Middle East Centre"; publisher-place: "London"; title: "Iraq's Yazidis and ISIL: the causes and consequences of sexual violence in conflict"; author: "{[*]family": "Zeynep, Kaya,"given": ""}}"; issued: "{*date-parts": [{"2019"}]}"; schema: "https://github.com/citation-style-language/schema/raw/master/csl-citation.json"

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Corresponding Author/Sorumlu Yazar:
Ahm Ershad UDDIN
E-posta: Ershad.uddin@kocaeli.edu.tr

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militant groups against non-Muslims in the name of Islamic law. The primary methodology is based on classic Islamic texts, books, articles, and newspapers to summarize the study. On the other hand, the researcher contacted, concerned about the accusation of Shii pressure leading to employment dismissals; the writer sought the facts by contacting a group of Sunni Muslim households in Turkey's Kutahya province. To ensure the migration of Christians from Iraq to various countries, Christian students (Erasmus students from Slovakia) residing in both Istanbul and Izmit provinces of Turkey to ensure the migration of Christians from Iraq to various countries.

1. IRAQ: DURING AND AFTER SADDAM HUSSEIN

Iraq is a strategically important state in the Middle East due to its sectarian makeup and diverse ethnic mosaic. Saddam Hussein's character goes back to when he joined the Bath Party in 1956 to augment his political intentions; in 1958, army officers led by General Abd-al Karim Qassim deposed monarch Faisal II. Nonetheless, this followed the deputization of Saddam Hussein and the rise of dominance in the hands of Ahmed Hasan al-Bakr. Soon after, in 1979, the deterioration of his health led to his retirement. In the same year, he passed on power to his subordinate, vice president, Saddam Hussein, who ruled over Iraq for the next two decades and a half as the President of Iraq. During his rule, Saddam Hussein used Iraq's oil resources to launch a series of socioeconomic changes in the 1970s and 1980s. The electrification of cities and the national distribution of free refrigerators and television sets helped him gain the trust of his people. It would be incorrect to claim that intimidation and force were Saddam Hussein's only weapons for legitimizing his reign through contentious politics. As per Sjoberg, Saddam Hussein intended to gain legitimacy by opening the gateway of happiness among people by launching a collective project that focused on enhancing social needs and requirements for the welfare of society as a whole.⁴ The Iraqi president, Saddam Hussein, was known for his benevolent acts toward his country. According to UN studies, the condition of Iraqi women improved dramatically under his leadership. The literacy rate rose from 30% to 70% in less than a decade, making Iraq one of the highest in the Arab world.⁵

Saddam Hussein's two-decade dominance left an impressionable effect on the nation, constituting his colorful personality's fear, force, control, pressure, and recollections. Large-scale recruitment took place among the tribes that pledged their allegiance to Saddam Hussein. Despite his recurrent suppression of his people, the man was reduced to dust by a fraudulently contrived and externally planned coup.⁶

The US invaded Iraq to make a powerful statement that America, as a country, holds the most powerful position in the world. To end Saddam Hussein's rule, the US imposed sanctions on Iraq from August 1990 until May 22, 2003. UNICEF estimate from 1999 calculated that 500,000 children were killed in Iraq. President Bush delivered a warning to Saddam Hussein despite Iraq's pledge to follow UN rules.⁷

Woodward's book, "Plan of Attack," published in 2004, reveals how President George W. Bush misled the American public. The book alleges that the Bush administration's war council used misinformation and deceit to lead the U.S. to war.⁸ Authors James Pfiffner and Mark Pythia look at the fallout from the 2003 Iraq war. They reveal how the U.S. and U.K. justified their actions in Iraq by shedding humanitarian cover.⁹

In 2005, Iraq held elections for the first time since the US invasions to elect 275 members of the Transitional National Assembly. Consequently, Iraq's Shia community rose to power in the government, and violence against the Sunni population escalated. Abu Musab al-Zarqawi created an alliance with Al-Qaida, which had little power in Iraq.

In 2006,¹⁰ Saddam Hussein was found guilty of crimes against humanity and condemned to death by hanging. In 2009, after Barack Obama became the President of the United States, U.S. forces gradually relinquished control of Iraq. Abu Bakr al-Baghdadi became the head of the Islamic State in Iraq in 2010. In a matter of days, ISIS conquered a large portion of Iraq and the bulk of Syria. Unfortunately, the imbalance of administrative power among the people brought down the nation, which was once a sovereign state. A U.S. think tank estimated the overall cost of the Iraq War to the U.S. economy, including interest rates, was \$1.7 trillion in March 2013. There were arguments that the cost to the U.S. economy would bring about a variation in interest rates ranging from \$3 trillion to \$6 trillion by 2053.¹¹

Since the US invasion of Iraq in 2003, one in every 25 Iraqis has been displaced from their homes, with warfare related to the Islamic State adding to even more displacement. As of 2020¹², 9.2 million Iraqis are internally displaced or refugees abroad, and the violence has increased sickness and disease.

2. THE STATUS OF MINORITIES IN IRAQ POST SADDAM

In 2003, an invasion led by the US army resulted in the destruction and deterioration of many lives, livelihoods, and shelters. As per the findings of people being displaced, it is estimated that about 4.4 million Iraqis were relocated towards the end of 2015 and have scattered into so many areas that it broke them internally as a nation and as humans being deprived of their rights. Iraqi Turkmen are Iraq's third-largest ethnic group, after Arabs and Kurds, with three million people.¹³ Around 60% of the population follows the Sunni branch of Islam, while the rest are Shia, with a sizable Christian minority.¹⁴ According to official figures, Iraqi Christians declined from 1.5 million in 2003 to 500,000 in 2015 and maybe only 275,000 in 2016.¹⁵ Iraq's Kaka'i ethnic group adheres to a syncretic religion that combines Zoroastrianism and Shia Islam. Their religious iconography revolves around the figure of Melek Taus, also known as the Peacock Angel.

4 Sjoberg L. *Gender, Justice, and the Wars in Iraq: A Feminist Reformulation of Just War* (Lanham (Maryland, US), Lexington Books, 2006).

5 Ferguson M, LJ Marso, *Stands for Women: How the George W. Bush Presidency Shaped a New Politics of Gender USA* (Duke University Press, 2007).

6 Ibrahim al-Marashi, "Iraqi Intelligence Operations and Objectives in Turkey Alternatives", *Turkish Journal of International Relations* 2/1 (2000), 78-94.

7 Federation of American Scientists (FAS), *Results of the 1999 Iraq Child and Maternal Mortality Surveys*, (UNICEF, 2013), 7.

8 Bob Woodward, *Plan of Attack* (USA: Simon & Schuster, 2004), 22.

9 Ahmed Mahdi, *Energy and US Foreign Policy: The Quest for Resource Security After the Cold War* (London: I.B. TAURIS, 2012), 95.

10 Fox News, "Judge Closes Trial During Saddam Testimony" (15 March 2006).

11 Trotta, Daniel, "Iraq war costs US more than \$2 trillion: study", *Reuters* (19 September 2017).

12 Watston Institute, "Brown University", *Iraqi Refugees* (3 March 2022)

13 "Oral Presentation of the Chairman of SOITM on Turkmen of Iraq" (11th session of Working Group on Minorities, United Nations, ts).

14 "Unrepresented Nations and Peoples Organization", *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*, 2014, 4.

15 Griswold, Eliza, "Is This the End of Christianity in the Middle East?", *The New York Times* (18 July 2016).

Another ethnic group, the Yezidis,¹⁶ are adherents of an ancient monotheistic religion associated with Zoroastrianism, and there are now an estimated 500,000 of them in Iraq.¹⁷ In the nation's religious community, few belong to Faili Kurds, contrary to the Sunni-majority society, which adheres to the Shia branch of Islam. However, some Arabic-speaking groups, known as Shabak, numbering roughly 250,000, occupy the northern and eastern parts of the city. Many Shabaks identify as Shia Muslims.¹⁸

Baghdad's Iraqi capital is divided between Sunni and Shi'a communities, with the Kurdish minority in the west and center, the major Sunni groups known as Abu Ghraib, A'adama, Rusafa, Za'farania, Doura, and Rasheed. Shia populations dominate suburbs like Sadr City, Abu Dahir, and Al Doura due to rising sectarian tensions and "mixed" neighborhoods.¹⁹ It is to be noted that in December 2012, Shia Ayatollah Ahmad Al-Hossain Al-Baghdadi passed a fatwa that declared the Christians in Iraq must either follow Islam or suffer execution. Hate speech based on rudimentary assumptions is widespread in Iraq, which is tributary to the violent acts and discrimination against minorities.²⁰ So-called scholars have delivered furious sermons against the Yezidis.²¹ Many families have faced sectarian violence, which peaked in 2006-2008. To survive, many of them fled Baghdad, according to the International Organization for Migration (IOM) 2019.²² ISIS and other extreme organizations have published pamphlets in mosques, neighborhoods, and colleges.

Between 2014 and 2017, more than six million Iraqis were internally displaced due to ISIL's crimes and the subsequent government of Iraq's efforts to destroy them. Surprisingly, the situation of minorities has deteriorated post-Saddam's administration; even Sunni Muslims, the second-largest Islamic sect, is now considered a minority group due to Shia oppression in many aspects of life.

About 1.3 million people were still displaced as of October 1, 2020, with about 250,000 living in 43 designated IDP camps. By the end of the month, 436 homes (2,370 people) had left six centers and huge informal sites in Al-Anbar, Baghdad, Diyala, and Kerbala. From the perspective of the displaced minorities, 4.8 million returned home after large-scale military operations against ISIL ended in 2017.²³

Nevertheless, the US occupation, the escalation of the Shiites' political role, the PMF, and the ISF perpetrated violations against Kurds, Turkomans, Kaka'i, Christians, and other minorities, including violence and forced relocation. According to international human rights groups, certain Shia militias, including those under the PMF banner, have continued to conduct physical atrocities against Sunni civilians. The dissolution of the Sunni security created a radicalistic feeling between Sunni insurgency and Salafi radicals.²⁴

3. THE RIGHTS OF MINORITIES UNDER THE IRAQI CONSTITUTION

Iraq is a Muslim-majority country where article 2(1) (A) of the constitution says that legislation must not contravene established Islamic law rules. Article 2 of the 2005 Constitution also recognizes the country's religious and ethnic diversity and provides freedom of religious belief and practice. One of the significant characteristics of the Iraqi draft constitution is that it does not refer to citizens as minorities, a word that makes individuals feel like second-class citizens. (Rubaii, 2019).²⁵

Iraq's Constitution was ratified on October 15, 2005, after a contentious referendum, and Article 2 of the Constitution stipulates that everyone has complete religious rights and freedom of belief and practice. According to the Iraqi Constitution, Article 4(1) provides Iraqis the right to ensure that their children are educated in their mother tongue in government educational settings, including minorities such as Armenians, Syriacs, and Turkmen. Extensive minority vetoes and federalism are two key constitutional elements for regulating the guidelines. (Salloum, 2017).²⁶

According to Article 9(1) (a), all Iraqi military forces and security services would be made up of Iraqi citizens, with proper regard to their balance and representation, without discrimination or exclusion. However, there is no regulation to implement such equality fully. Iraqis are afraid that legislation would jeopardize their liberties, cultural rights, and other rights (Articles 119 and 121), even though the article did not define how to get government posts, authority, and resources. Additionally, Iraqis are free in their commitment to their status according to their religions, sects, beliefs, or choices, which shall be regulated by Article 41. It also states that followers of all faiths and denominations are accessible in the practice of religious rights, the management of spiritual assets (waqf), and their affairs according to the Iraqi Constitution of 2005, Article 43(1). The constitution also banned some politically motivated groups like Saddam's Baath Party under Law 32 of 2016, along with 'takfiri' groups such as al-Qaida and ISIS.²⁷

The Sunni Diwan, the Shia Diwan²⁸, and the Christian, Yezidi, and Sabean-Mandean religions are the three diwans (offices) administering affairs for the country's recognized religious groups. However, the three endowments are responsible for disbursing government funding to maintain and safeguard sacred sites under the jurisdiction of the Prime Minister's Office. More than fifty Iraqi Sunni Muslim families residing in Turkey and a few Christians who relocated from Iraq to Slovakia were questioned about their experiences escaping Iraq. Unfortunately, Sunni Muslims are frequently dismissed from employment because they identify with or belong to specific names

16 Cetorelli, V. and Ashraph, S., *A demographic documentation of ISIS's attack on the Yazidi village of Kocho* (London, UK: LSE Middle East Centre, ts.), 32.

17 Lalani, M, Still Targeted. "Continued Persecution of Iraq's Minorities" (London: MRG, 2010).

18 Salloum, S, "Minorities in Iraq: Memory, Identity and Challenges" (Baghdad: Masarat for Cultural and Media Development, 2013), 157; Lalani, M, Still Targeted, Continued Persecution of Iraq's Minorities", 7.

19 "Country Information Report Iraq" (DFAT, 17 Agustus 2020).

20 "Minority Rights Group International, State of the World's Minorities and Indigenous Peoples", 194.

21 Ali, Majid. Hassan. "Aspirations for Ethnonationalist Identities Among Religious Minorities in Iraq: The Case of Yazidi Identity in the Period of Kurdish and Arab Nationalism, 1963-2003", *Nationalities Papers* 47/6 (ts.), 953-967.

22 Ali, Majid. Hassan. "Aspirations for Ethnonationalist Identities Among Religious Minorities in Iraq: The Case of Yazidi Identity in the Period of Kurdish and Arab Nationalism, 1963-2003". 953-967.

23 "2020, Iraq: Humanitarian Bulletin".

24 2019 Report on International Religious Freedom: Iraq (ts.).

25 Kali Rubaii, "ripartheid: How Sectarianism Became Internal to Being in Anbar, Iraq", *POLAR: Political and Legal Anthropology Review* 42/1 (2019), 125-141.

26 S. Salloum, "Protection of Religious, Ethnic and Linguistic Minorities in Iraq, Analytical Study in International: Regional and National Frameworks" (Baghdad: Iraqi Al-Amal Association, 2017), 13.

27 Takfir is a term used to describe a Muslim who excommunicates one of his or her fellow Muslims, i.e. accuses another Muslim of apostasy. Takfirism has been referred to as a "minority ideology" that "advocates the slaughter of fellow Muslims". See, Emin Poljarevic, "Theology of Violence-oriented Takfirism as a Political Theory: The Case of the Islamic State in Iraq and Syria (ISIS)", *Handbook of Islamic Sects and Movements* (Leiden, Netherlands: Brill Publishers, 2021), 485-512. Shiraz Maher, *Salafi-Jihadism: The History of an Idea* (United Kingdom: Penguin, 2017), 75.

28 "Diwan" refers to a government official, minister, or ruler who has power (also known as a dewan, sometimes written as "devan" or "divan"). In Mughal and post-Mughal India, diwans were members of the ruling class. With the Caliphate state becoming more engaged with work, the term extended to all the government bureaus.

like Abu Bakar, Omar, Aysha, etc.²⁹ Some Sunni Muslims who were financially destitute and disabled lived in the country, changing their identities, while others immigrated to different countries. People from a specific province, such as Mosul, who believe in Christianity were interviewed as part of this research to understand why they migrated to other countries; they said the fanatics of ISIS forced them to pay Jizya and other taxes if they wanted to live. At the same time, some minority girls were forcibly taken to the ISIS compound and forced to convert to Islam or stay among enslaved people. However, the majority of the minority people still live in refugee camps in their own country because the government has failed to take proper steps to re-house them in their own country.³⁰

4. THE STAND OF ISLAM ABOUT MINORITIES

In Islam, according to the in Arabic, the word minority is referred to as 'Aqalliyya' which comes from the root qalla, which means to be or become minor, tiny, or few. The Quran has some examples of the word qalla being used in many verses³¹, but it does not distinguish between people on the basis of differences in the elements Natural, such as color, gender or race.³² Therefore, the Islamic historical experience has known various terms that express its civilized nature of it, such as "People of the Book"³³ (أهل الكتاب) and (أهل الذمة) "Ahl al-Dhimma"³⁴ and "People of the Faith (أهل الله)".³⁵ Yusuf al-Qaradawi believed that the term minority refers to a group of people who live in a country but are different from the majority of the population in terms of religion, ethnicity, and language. For example, Christian minorities in Syria, Egypt, Iraq, and elsewhere; Berbers in Algeria and Morocco; and Kurds in Iraq, Iran, Turkey, and Syria.³⁶

However, there is a significant difference between a Muslim state and an Islamic state, despite Iraq claiming Islam to be its state religion, what would happen to minority rights if a state followed Islamic law? It is discussed here to clarify the minority's rights under Sharia law. Non-Muslims do, however, exist in the community of modern Islamic society, which cannot be ignored.

In Islam, justice and fairness are integrally tied to every human being, whether or not he is a Muslim. As per the Islamic justice system, it is unfair that Muslims will have more options for self-development while non-Muslims will have fewer opportunities. The Islamic State, like other Muslims, has taken on the obligation of protecting the lives, property, and general security of individuals who do not reflect the doctrine of the Islamic State. The need to spread the message that non-Muslims have the same civil rights and are treated with respect as Muslims according to the Quran so that the people will uphold justice.³⁷ Another Qur'anic verse stated, 'O you who have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be; that is nearer to righteousness. Moreover, fear Allah; indeed, Allah is acquainted with what you do'.³⁸ Non-Muslims who are permitted to adhere to their religions in an Islamic state are termed *Dhimmi* on the condition that they pay the jizya³⁹ and abide by the regulations of the Islamic state.

Nevertheless, the term "*Dhimmi*" is widely seen as derogatory toward non-Muslims residing in Islamic states. *Dhimmi*⁴⁰ is an Arabic term that denotes duty, protection, security, and rights. *Dhimmi*s are the Islamic State's permanent non-Muslim citizens. They have all of the state's civil rights and benefits, just like Muslims. Their lives and property are deemed equally valued and inviolable in the Islamic State as the lives and property of Muslim citizens. The Islamic State does not simply provide non-Muslim people with rights on paper; instead, the state must carry them out according to its own beliefs and religion. It results from either misunderstanding the word's true meaning or years of anti-Islam propaganda. The Islamic State takes on this obligation not just for itself and the Muslim people but also on behalf of Allah and His Messenger. Because of the importance of this responsibility, the Islamic State's legislature has no jurisdiction to deprive people of their Shariah-compliant rights. The Prophet Muhammed stated that he would be the complainant on the Day of Resurrection (in the Court of Allah) against the person who has done unjustly to a *Dhimmi*.⁴¹ Whoever murders a non-Muslim with such a contract, whom Allah and His Messenger have assumed responsibility for safeguarding, has violated the rights of Allah. Such a person will not even get the scent, the most precious perfume, of paradise, which can be felt from a distance of forty years, as it is known.⁴²

According to Maymun Ibn Mihran, a Muslim once killed a Jew in the Hira district. When Omar ibn Abd al-Aziz learned of the occurrence, he wrote to the governor, instructing him to deliver the perpetrator to the slain person's family. The governor followed orders, and the

29 "Interview on Sunni Minorities of Iraq Living in Kutahya, Turkey". (Interviewer: Ahm Ershad Uddin, Interview 11 September 2021). "The writer has taken interviews with the help of Ummel Khkhar Fatima in Kutahya province of Turkey, where more than 5000 thousand Iraqi nationalities live there; however, the interviews were taken from the Sunni Muslims who fled from Iraq due to the different circumstances, mostly identity problems".

30 "Interview about the Migration of the Christian Community from Iraq to Slovakia". (Interviewer: Ahm Ershad Uddin (Interview 21 December 2021). "The writer has taken interviews with a group of Iraqi students (ERASMUS) studying as an exchange program in different universities in both Kocaeli and Istanbul, Turkey; however, the interviews were taken from the Christian students who fled from Iraq to Slovakia due to the different circumstances, mostly identity problems".

31 el-Mayeda 5/13; el-Enfal 8/26.

32 Yusuf al-Qaradawi, *Non-Muslims in the Islamic Community* (Lebanon/ Beirut: er-Risala Publication, 1985), 7.

33 People of the Book (*Arabic: Ahlul-kitab*) is a word used in Islam to describe Jews, Christians, and Sabians (commonly identified with the Mandaeans). And also a term that is used in Judaism to refer to Jews and various Christian groups to refer to themselves. The Quran uses the term addressing Jews, Christians, and Sabians in various situations, from doctrinal polemics to passages emphasizing the community of faith among those who possess monotheistic scriptures. See, el-Hajj 22/17. Later, the phrase was applied to other Muslim-ruled religious communities, such as Sikhs and even polytheistic Hindus. Historically, under an Islamic state, these communities were bound by the dhimma contract. In an event of a Muslim-Christian marriage, which is to be dealt only with the permission of the Christian alliance, the women belonging to this faith should not be prevented from attending church for prayer and worship. See, Gündüz, Şinasi, "The Knowledge of Life. The Origins and Early History of the Mandaeans and Their Relation to the Sabians of the Qur'an and to the Harranians", *Journal of Semitic Studies Supplement* 3 (1999), 5.

34 Juan Eduardo Campo, "Dhimmi", *Encyclopedia of Islam - Ashton Central Mosque* (New York: Infobase Publishing, 2010), 194-195.

35 Kamal Al-Saeed Habib, *Minorities and Politics in the Islamic Experience from the beginning of the Prophet's State to the End of the Ottoman Empire* (Madbuli Publication, 2002), 36-42.

36 al-Qaradawi, *Non-Muslims in the Islamic Community*, 20; publisher: "eR-Risala publication"; publisher-place: "Lebanon/ Beirut"; title: "Non-Muslims in the Islamic community"; author: "[family]:"Qaradawi"; given: "Yusuf"; non-dropping-particle: "al-"; issued: "[date-parts]:[1985]"; locator: "20"; schema: "https://github.com/citation-style-language/schema/raw/master/csl-citation.json"

37 el-Hadid 57/25.

38 el-Mayeda 5/8.

39 Jizya, or Jizyah, was a tax that Jews and Christians had to pay. Jizya is mentioned in the Quran and hadiths without defining a rate or quantity. However, scholars generally agree that early Muslim rulers used existing taxation and tribute systems. Ssee, Amr G. E. Sabet, "Islam and the Secular State: Negotiating the Future of Shari'ah", *American Journal of Islam and Society* 27/2 (2010), 96-98.

40 Non-Muslims were granted protection by the state from certain taxes and were not required to serve in the military. *Dhimmi* status was formally abolished in 1839 with the Hatt-ı Şerif of Gülhane. Yusuf al-Qaradawi, Tariq al-Bisri, Salim al-Awwa, and Fahmi Huwaydi consider that the relationship between citizens and the state is now based on citizenship. See, M. Şükrü Hanoğlu, *A Brief History of the Late Ottoman Empire* (Princeton University Press, 2008), 203. A. K. S. Lambton, *State and Government in Medieval Islam* (Oxford, 1985), 203.

41 Muḥammed b. 'Isa b. Sevre b. Musa b.ed-Ḍaḥḥak et-Tirmizī, *Sünen-i Tirmizī*, ed. Ahmed, Muhammed Şâkir-Muhammed Fu'ad 'Abdülbâkî-Ibrâhîm Utve 'Avd (Mısır: Şirketü Mektebeti ve Maḥtaati Muḥtafa el-Bâbî el-Halebî, ts.), 5/1327.

42 Abu 'Isa Muḥammad ibn 'Isa as-Sulamî aḡ-Ḍarîr al-Būḡhî at-Tirmidhî, *Jami at-Tirmidhî*, Diyat, ts. (1323).

non-Muslims assassinated the Muslim murderer.⁴³ The Islamic State's administration is not only accountable for preserving the rights of non-Muslim people, but it also accepts this obligation from Allah and His Messenger. The state of the deals for non-Muslims will not be changed in any manner, and they will not face an additional tax burden. It is not permissible for a member of the Islamic State to disrupt the security of a non-Muslim, kill him, or attack his life, property, or property in any way. Moreover, Allah says: "And whoever of the polytheists seeks refuge with you, give him refuge so that he may hear the Word of Allah". Then bring him to his place of safety."⁴⁴ During Ali (the fourth Caliph), a Muslim was imprisoned for killing a non-Muslim in an incident involving manslaughter, a crime committed by a Muslim. He ordered the death penalty after being convicted, as is customary.⁴⁵

The Prophet told his followers that anyone who accused a non-Muslim of adultery would be flogged with a cane on the Day of Resurrection. According to Ibn Abidin, it is forbidden to beat, torture, abuse, or slander a Muslim; similarly, all of these acts are prohibited in the case of non-Muslims, and backbiting a non-Muslim is just as haram as backbiting a Muslim.⁴⁶ If non-Muslims have a historic site of worship within a Muslim town, they will perform all religious ceremonies there without interference from the Islamic administration. One of Abu Bakr's most important directives to him during his journey to Syria under Usama's leadership.⁴⁷

The Islamic State is supposed to handle non-Muslims to protect their rights, such as not being coerced to think against their conscience and doing whatever their conscience requires that is not against the country's customary law. As a result, any pressure on non-Muslims to convert to Islam is forbidden. "There is no compulsion in the issue of religion," Allah states in this respect.⁴⁸ Allah addresses the prophet in another verse, "It is not your job to force someone to believe what you believe". Non-Muslims are permitted to do what Muslims consider a sin and a crime (drinking alcohol, buying and selling pork, carrying crosses, playing conch shells). It cannot be stopped unless they perform it openly among the Muslims.⁴⁹ Non-Muslims have the right to maintain and remodel historic houses of worship⁵⁰ in their homes and construct new ones. They have the right to reconstruct an old shrine in the exact location if it is destroyed. During Umar's rule, no worship site was demolished or tampered with within any of the areas conquered. It was also specified in Abu Bakr's deal with the Hira tribe that "their monasteries and churches shall not be demolished."⁵¹ Umar Ibn 'Abdil' Aziz instructed the regional governors that "they should not destroy worship churches, fireplaces or places of worship."⁵²

In each Islamic state, a certain amount of wealth is imposed on non-Muslims for their safety and security of life, property, and honor. This tax will be collected every year only after liberating the people from the responsibility of defending the country from those who can fight. Therefore, people who cannot fight or do not take part in the war, such as children, teenagers, women, lunatics, enslaved people, the disabled, servants of the temple, monks, beggars, and the elderly, will not pay tax. The sick, who spend most of the year sick, will also not be taxed.⁵³ Moreover, if the Islamic government cannot provide them with the security of life, property, and honor, then no form of Jizya can be taken from them.

Non-Muslims who are victims of poverty and depend on others will be forgiven their Jizya and receive regular help and allocation from the Baitul Maal.⁵⁴ It is forbidden to show any harshness toward them when collecting this tax. Such a tax burden can not be imposed if it is difficult to pay.⁵⁵ It was also mentioned in the treaty made with the Hira tribe during the time of Abu Bakr that if a non-Muslim who is an older man becomes useless, falls into any danger, or a rich man becomes poor, the people of his tribe continue to help him and will be ridden of Jizya. Furthermore, as long as he stays in Medina or under the Islamic State, Muslims must provide for him from Baitul Maal.⁵⁶ When Umar saw a non-Muslim old man begging and asked his reason, he said, "What else can I do?" Upon hearing this, he immediately forgave his Jizya and fixed a monthly amount for his maintenance. He wrote to the Baitul Maal official: "It is never fair to benefit from his youth and humiliate him in his old age."⁵⁷

The fear that arises in the minds of non-Muslims when they hear the name Jizya is only the result of the long-term propaganda of the enemies of Islam. Zakat is not only taken from capable Muslim males but also from women. Is it a penalty to accept Islam? It is also said to treat non-Muslim people humanely so that they do not encounter any injustice and not make them fall into poverty by burdening them with anything that would lead to that.⁵⁸

However, from the perspective of the Ottoman Empire, legal pluralism was meant to be reflected in the minority (non-Muslim) religious courts, which provided an excellent opportunity to reach a fair verdict. Legal pluralism was also justified as a method of governing the pragmatic Ottoman government.⁵⁹ According to Schick, Sharia law was the Ottoman empire's only primary and legally recognized law. Non-Muslims were allowed to choose their religious courts, but they were not autonomous; if they chose their courts, they had to adhere to their own rules. Despite this flexibility, most non-Muslim community members selected Islamic courts for unclear reasons.⁶⁰ The Ottoman Empire was,

43 Ebü'l-Hüseyn Müslim b. el-Haccâc Müslim, *el-Câmi' u's-şâhîh*, nşr. Muhammed Fuâd Abdülbâkî (Kahire: yy., 1374-75/1955-56), "Diyat", 2326.

44 et-Tawba 9/6

45 Ebu Bekir b. Mas'ud el-Kasani, *Beda'i-u's-sana'i fi tertibi's-şera'i* (Beyrut: Daru'l-Kutubil-İlmiyye, 1986), 7/7, 111.

46 Muḥammad Amin ibn 'Umar ibn 'Abd al-'Aziz ibn Aḥmad in 'Abd ar-Rahim ibn Najmuddin ibn Muḥammad Şalâhuddin al-Shami, *Raddul Mukhtar alad-Durrul Mukhtar* (Beyrut: Darul-Fikr, 2005), 4/351.

47 Muḥammad ibn Jarir al-Tabari, *Tarih al-Rusul wa al-Mulūk* (Leiden : E.J. Brill, 2010), 2/463.

48 el-Bakara 2/256

49 Ebü Bekir b. Mes'üd el-Kasani, *Beda'i-u's-sana'i fi tertibi's-şera'i*, 7/113.

50 Ebü Bekir b. Mes'üd el-Kasani, *Beda'i-u's-sana'i fi tertibi's-şera'i*, 7/114.

51 Ya'kub b. İbrahim Ebu Yusuf, *el-Harac* (by: el-Mektebetü'l-Ezheriyye li't-Turâs, ts.), 144.

52 Ya'kub b. İbrahim Ebu Yusuf, *el-Harac* (by: el-Mektebetü'l-Ezheriyye li't-Turâs, ts.), 144. Department of Islamic Research and Encyclopedias, *Al Mausuah Al Fiqhiyah Al Kuwaitiyah* (Kuwait: Kuwait Ministry of Awqaf and Islamic Affairs, 2012), 7/129

53 Zeynuddin Zeyn b. İbrâhim b. Muhammed Misri Hanefi İbn Nuceym, *el-Bahrü'r-râik şerhu Kenzi'd-dekâik* (Kahire: el-Matbaatü'l-İlmiyye, ts.), 5/120.

54 Bait-ul-Mal is a financial agency in charge of tax administration in Islamic governments, especially during the early Islamic Caliphate. Historically, it was an agency responsible for tax administration and other financial affairs. There was no permanent public treasury during the prophet's era.

55 Abul Hasan Ali ibn Muhammad Mawardi, *Al Ahkam As Sultaniyyah: The laws of Islamic Governance* (South Carolina, USA: Create Space Independent Publishing Platform, 2018), 184.

56 Ebu Yusuf, *el-Harac*, 144.

57 Ebu Yusuf, *el-Harac*, 72.

58 Ebu Yusuf, *el-Harac*, 71.

59 Griffiths John, "What is Legal Pluralism", *Journal of Legal Pluralism and Unofficial Law* 24 (1986), 5.

60 Irvin Cemil Schick, "Osmanlı İmparatorluğunda Yahudiler", *Tarih ve Toplum* 43/ 55.

without a doubt, one of the world's largest and longest-lived empires. From 1288 until 1922, 36 Sultans ruled in the straight male line, starting with Osman. As a result, the Ottoman Sultans may have been considered unchallenged world powers for at least two centuries, and their policy towards non-Muslim communities was liberal and without prejudice, bringing Muslim and European civilizations face-to-face and resulting in a long-lasting interaction based on toleration, justice, respect, and freedom of conscience for all citizens.⁶¹

If we look at the UK, a new section of the proposed new nationality and border law will give the government the power to strip people of their British citizenship (immigrants) without warning. It indicates that immigrants are considered second-class citizens and can be deported at any moment. The decision comes months after a top British court ruled that Shamima Begum, a British-born "ISIS bride" who fled the nation as a teenager to join the Islamic State, would not be permitted to return to the country to fight a citizenship revocation case. From 2005 onwards, "Home Office" powers to deport British people were introduced, but their use escalated throughout Theresa May's tenure as home secretary. From 2010 onwards, they were expanded in 2014.

For Muslims in an Islamic state, citizenship is based on the notion of the Dhimmi contract, which was established by Islamic legal law thousands of years ago. Allowing the government to deprive individuals of British citizenship without informing them will exacerbate the already Kafkaesque battle of those who have been stripped of their citizenship. Before criticizing the Dhimmi status established by Islamic legal law thousands of years ago, it should be noted that Islamic law attempted to safeguard them, as detailed in the Islamic legal sources above. According to the Home Secretary, British citizenship is a privilege, not a right.⁶²

However, from the view of the contemporary Islamic jurisdiction, *Darul-Islam*⁶³ and *Darul-Harb* are two different terms used to refer to nations in Islamic jurisprudence. Al-Zuhayli says the difference was due to a specific situation, namely non-Muslim countries' enmity against Muslim countries. If this hatred subsides, it will also reduce the divide between the two, called *Darul-muwadafah* or *Darul-Ahd* (treaty country). The world is unified into a single organization, the United Nations, whose members are committed to respecting its regulations. In this case, Islam dictates that all agreements be respected, according to the Qur'an.⁶⁴ As a result, nations that are members of the U.N. are no longer considered "*Darul-Harb*" but rather *Darul-Ahd*, a treaty country.

However, from the view of the contemporary Islamic jurisdiction, according to Al-Zuhayli, the difference between "*Darul-Islam and Darul-harb*" was formed due to a specific situation: non-Muslim countries' enmity against Muslim countries if the hatred subsides, it will also reduce the divide. Instead of a *darul-harb*, the government will become a *dar-and* or *dar-ahd* or *dar-muwadafah* once the fight ends (country of the treaty). The world, as per Abu-Zahrah, is unified into a single organization (the United Nations), whose members are committed to respecting its regulations. In this case, Islam dictates that all agreements be respected, according to the Qur'an.⁶⁵ As a result, nations that are members of this international organization are no longer considered *Darul-Harb*, but rather *Darul-ahd* (treaty country).⁶⁶ Zuhayli declares that, due to the United Nations Charter, non-Muslim countries must be regarded as *dar-ahd*.⁶⁷ If *dar-al-Islam* is defined as a place where Islamic standards are fully implemented, most Muslim nations can no longer be labeled *Darul-Islam*. Would it have to have rules and regulations on Shariah as a mandatory legislative policy if it is called that way? Is it enough for a country to follow the laws of personal legislation to be considered a Muslim? Is Turkey still a Muslim country if these rules are not followed? If religious rituals are the criterion, what can be said about certain non-Muslim nations where Muslims may follow their rituals more freely than in Muslim countries?

Non-Muslim nations that are not at war or have treaties with Muslim countries must be regarded as *Darul-Ahad* or *Darud-Da'wah* (missionary countries) since they have converted to Islam. As referred by Mawlawi, these are undoubtedly not Muslim countries, but there are a few distinctions between them and Muslim countries.⁶⁸ In classical Islamic discourse, a dhimmi is a form of citizenship, one form of legal linkage based on social and communal ties.⁶⁹ A nationality is a type of bond that binds a person to a specific country, and if this bond is broken, he will be unable to exercise his rights. As followed by the country's legislation, each country has the authority to select who belongs among its citizens.

5. ISIS'S ATROCITIES AGAINST MINORITIES

The nature of ISIS and its work needs to be explained through the lens of Sharia, whether the accusation of Westerners is wrong or right. The westerners and other media personalities tried to legalize the deeds of ISIS in the name of Sharia as a religion, representing Islam.

The implementation of Shariah law by ISIS against minorities (including non-Muslims and other Muslim sects in Iraq) is incompatible with Islamic law because Shariah law contains a norm known as *Fiqhul Waqiyya* or practical jurisprudence. When issuing edicts, a jurist must bear in mind his or her customs and traditions (Fatwa). Because time, place, situation, and custom vary, religious edicts change. The primary aims of Shari'ah, or Islamic law, are to abolish slavery and promote equality. Islam forbids the practice of slavery. Islam was created to eradicate such ideas from society and bring people closer to Allah. In his last pilgrimage address, Prophet Muhammad (peace be upon him) set free those chained to him.⁷⁰ ISIS has made a mockery of Islam with its so-called execution of Shari'ah, which is in direct opposition to *Fiqhul Waqiyya* (practical jurisdiction). Even though Muhammad (peace be upon him) was a prophet, he did not have the authority to compel individuals to adopt Islam. Allah says in al-Quran, "You are not a taskmaster over them".⁷¹

61 Laponee, J. A. *The Protection of Minorities* (USA: University of California press, ts), 84-85.

62 Muhammad ibn Hatthaab, Khalil ibn Ishhaaq al-Jundi, *Mawahib Al-Jalil Li Sharh Mukhtasar Khalil* (Tarābulus, Libyā: Maktabat al-Najāh, 1969), 43.

63 Islamic jurists worked hard for the house/state of Islam mainly. The term "Darul-Islam", governed by an Islamic political authority, is not disputed by anyone else. It also refers to a group of states in which the majority of the population comprises Muslims. See, Al Khanif, *Religious Minorities, Islam and the Law: International Human Rights and Islamic Law in Indonesia* (London: Routledge, 2021), 157.

64 el-Isra 17/34.

65 el-Isra 17/34.

66 Abu-Zahrah Muhammad, "Ilaqatal-Duwaliyyahfil-Islam" (Al-'a'idun Min Huqul-Naft, Muntada Al-Fikr Al-'Arabi, 26 Ocak 1986).

67 Wahbah Mustafa al-Zuhayli, *al-'Alaqa al-Dawali fi al-Islam* (Damascus: Dar Al Fikr, 2013), 68.

68 Faisal Mawlawi, *Al-Ususus-Sharyya Lil-Alakati baynal Muslimimin wa Gairil Muslimin* (Beirut: Dar Al-Irshad Islamiyya, 1988), 98-104.

69 Fuad Abdul Mun'im Riya, *Mabadi al-Kanun Addauli al-Khas* (Cairo: Dar Annahdah, 1996), 9.

70 Aysha A. Hidayatullah, *Feminist Edges of the Qur'an* (Oxford: Oxford University Press, 2014), 25.

71 ed-Dukhan 44/22.

Moreover, millions of people took refuge in many countries. Meanwhile, in areas undertaken by ISIS in the name of Shari'ah, they are implementing punishment (*hudud*) rule over the poor people by cutting their hands. However, all jurisprudence schools said that the conditions, circumstances, and clear proof are one's weakness or vulnerability. "*Masaleh al-Mursalah*" (concern for the welfare of the people) is a legal concept of the Islamic law that applies to all people, not just chevaliers or tribes.

Islamic law suggests that "*Yutahammal ad-Darar al-Khas li-daf-al-darar al-a'am*" or "a specific harm tolerated in order to prevent a more general one" removal of any harmful act, Islamic law has prioritized a boundary in all aspects and does not allow crossing that limit, Islamic maxim.⁷² However, one of the Islamic law chapters called "blocking the means" (*Sadd al-Zara'i*) states that one cannot harm another religion since this allows others to abuse your faith as well.⁷³ All schools of Fiqh jurisprudence recognize such rebellions as "*Hirabah*"⁷⁴ and agree to put all rebels to death for their crimes.

CONCLUSION AND EVALUATION

Through various research studies and references from Islamic law and interviews, this article regarding the rights of minorities that were violated in Iraq before and after the US invasion in 2003 has been examined. As the paper is evaluated from the sharia perspective, the stand of Islamic law relating to the matter is described as much as possible.

After Saddam Hussein's fall, a sectarian crisis arose, with the dominant Shia faction controlling the nation throughout the government. The US and its allies transformed the lives of Iraqi citizens to build a democracy, which is now a burden for all Iraqis. ISIS has destroyed the lives of residents regardless of belief; the only way to survive is to bend and surrender. However, during Saddam's leadership, the West put sanctions on him to rein in his authority, resulting in the deaths of millions of Iraqi children due to the shortage of medication, food, and other essentials. An oil-rich country's economy deteriorated in a matter of years. The US and its allies used propaganda to launch an invasion on its land to re-establish democracy, which had been gone for over two decades. Following Saddam Hussein's fall, a sectarian crisis arose, with the dominant Shia faction controlling the nation throughout the government. While extremist groups like ISIS have destroyed the lives of Iraqi residents regardless of belief, the only way to survive is to bend and surrender to them. Furthermore, ISIS and other extremist groups have displayed an image of Islamic Law by murdering innocent Muslims, burning non-Muslims, drowning people in ponds, and striking people with bombs. Even though ISIS captured a few cities in Iraq during their assault, Iraq's Shia majority forcibly terminated the Sunni minority's government employers.

Many people think of Islam as a religion of slaughter, murder, and tyranny, but do we know that Islam's laws a hundred years ago are not similar to those of ISIS? The uniqueness of Islamic law is far superior to the law practiced by democratic countries in terms of preserving their lives and granting human rights.

As is apparent, Islam has never condoned terrorism, either in the name of faith or as a method of corruption, from its inception. It has always been documented as accurate in the Holy Quran, Hadith, and academic literature by the schools of Jurisprudence, etc.⁷⁵ However, some object to the term *Ahlul-Kitab* being used as a dhimmi in an Islamic nation. In addition, according to contemporary Muslim scholars, the word dhimmi is no longer required to be used. However, the phrase was used for specific circumstances throughout the early Islamic rule. Nevertheless, more than 9 million Iraqis have migrated to other countries since the US invasion, with a large number of them displaced within their own country owing to sectarian, Shia, and ISIS violence. According to Western standards, Iraq is now a democratic country, though the government has yet to replace its residents' homes or end the oppression of Shia employees in the administration. The question is when and how the fate of refugees will change and how a true democracy will be built to ensure that nations will be treated fairly. It has been demonstrated that removing Saddam, Ghaddafi, or others from power is not the solution; instead, all governments around the world must ensure accountability for their work to bring justice, prosperity, and stability to the state, whether in the name of Islamic State, democracy, or something else, where all people are treated equally.

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