

## National Accountability Mechanism for Iraq and Syria Proposal for EU parliament

### Summary

In the context of unprecedented threat against the future of Christians and other religious and ethnic communities in Iraq and Syria there is a critical need to ensure real commitment to protecting and ensuring equal rights for all citizens in both countries, irrespective of religion.

While both Iraqi and Syrian constitutions include several articles highlighting equal citizenship and a governmental commitment to protect different religious and ethnic groups, common practice and recent developments speak of a different reality. It is estimated that between 50-80 per cent of the Christians in Iraq and Syria have left their countries since violence accelerated. The major factor for this devastation is the sense of powerlessness and hopelessness caused by losing faith in a system that has failed to provide them with dignity, equality, and a safe and secure future for their children in the countries where they belong.

Creating a national accountability mechanism for grievances is a long-term solution which aims to restore faith in a system that ensures all religious and ethnic communities are affirmed as equal citizens and deserving of protection, while also deterring negative actors from taking adverse actions against these communities.

The European Parliament Resolution of October 2016 on the situation in Northern Iraq and Mosul, and the European Commission's Strategy for Syria presented in March 2017, each called for political solutions to the conflicts in both countries leading to inclusive national and local-level reconciliation processes and mechanisms to address the grievances of all ethnic and religious groups equally.

We endorse and welcome the EU's approaches but also strongly urge that an additional element should be included in the strategy: the establishment of a national, locally-owned accountability mechanism to deal with incidents of persecution and discrimination against religious and ethnic communities in Iraq and Syria through a holistic approach of enforcement, deterrence and awareness. This mechanism will enable those from different religious and ethnic backgrounds who have felt marginalised and persecuted to approach a reconciliation process knowing that their voices have been heard and brought to the attention of their governments with the aim of ensuring full accountability for actions committed against them. This would further empower an understanding that they are valued on an equal standing with the majority of the population.

We urge the EU to sponsor the establishment of transparent and inclusive national accountability mechanisms in Iraq and Syria along these guiding principles:

- **Public access and ownership of the mechanism; include reporting on incidents of discrimination and persecution, which will help empower so-far marginalised religious and ethnic communities.**
- **High-level commitment by the government at the specific operating Human Rights or Religious Freedom level as well as senior government ownership and endorsement of accountability.**
- **Structure to include: (i) An independent legal arm to ensure criminal wrongdoings are prosecuted legally (e.g. property destruction, physical violence, etc.), and that citizens have a right of private action to challenge civil wrongdoings legally (e.g. discrimination in hiring practices, discrimination in property rentals, etc.); (ii) A reporting platform that is accessible and safe for anyone to contribute to; (iii) Representatives from**



governments, religious and local civil society representatives, and international observers; (iv) Parallel awareness campaigns in the media and via other relevant platforms.

- Effective reduction of the gap between legislative and constitutional protections and day-to-day discriminative practices.
- Shared funding and ownership between the national governments and international partners, including the EU.

## Context

### Current situation of Christians in Iraq and Syria

The Christian communities of Syria and Iraq have a tradition that goes back 2,000 years – living proof that Christianity in the Middle East is not a Western import or a foreign religion. While Christians belong to different historic ethnicities, such as Assyrian, Syriac, and Armenian, they also identify themselves with their national identity and are a vital and vibrant part of the life and culture of the Middle East.

Over the last few decades, they have made a significant contribution to the whole of society. They did so in education, healthcare, business, culture and welfare. In the current crisis they have continued to contribute through providing shelter for refugees and humanitarian relief programmes.

Civil war in Syria and Iraq has unleashed a tidal wave of violent persecution. This has targeted the highly vulnerable Christian population – a reality that is now widely recognised around the globe.

The violence has dramatically accelerated the flight of Christians from Iraq and Syria. It is now estimated that between 50 – 80 per cent have left, many with no hope or expectation of return.

Many have become Internally Displaced Persons (IDPs), taking refuge elsewhere in Iraq or Syria, or have fled over the border as refugees to Jordan, Lebanon, Turkey, and beyond. Their homes, properties and businesses have been confiscated or destroyed.

Of those that remain, many want to play their part in rebuilding the shattered societies of Iraq and Syria. They want to be seen as Iraqi or Syrian citizens, enjoying the full rights of citizenship, such as equality before the law and full protection of their right to freedom of religion or belief, including the ability for everyone to freely worship, practice, teach, choose and change their religion. They are not calling for special privileges as a religious minority.<sup>1</sup>

### Gap between legal texts and practices

Both Iraqi and Syrian constitutions include several articles that set clear measures to protect the rights of all citizens and ensure their equality before the law. However, these constitutional measures have not translated to practices that provide the needed protection, which highlight the need for a mechanism to bridge the gap between the theory of the law and its implementation. Articles such as 25, 27, and 35<sup>2</sup> of the Syrian constitution, as well as articles

<sup>1</sup> Kraft and Manar, “Hope for the Middle East: The Impact and Significance of the Christian Presence in Syria and Iraq: Past, Present and Future.” 5

<sup>2</sup> United States Commission on International Religious Freedom “The Religion-State Relationship & the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Majority Muslim Countries and Other OIC Members” 103-104



2, 10, 14, 16, 39, 40, 41<sup>3</sup> of the Iraqi constitution promise equality of the citizenry before the law; protection of religious practices; protection of religious places; and safeguarding the freedom of thoughts, conscience and belief. However, reports from Christians in both Iraq and Syria present a different reality – most of these legal protections have not come to effect and the situation of Christians in Syria and Iraq continues to rest on a knife edge, as this new report clearly shows: “Understanding recent movements of Christians from Syria and Iraq to other countries across the Middle East and Europe”.

This new report, which focuses on understanding the factors contributing to the exodus of Christians from Iraq and Syria countries, highlights two underlying factors that contributed to this exodus. Firstly, it points to the direct violence of ISIS in recent years, as a key contributing factor to Christians fleeing their hometowns in the Nineveh region and Mosul towards Kurdistan, particularly Erbil and Duhok.<sup>4</sup> This direct violence however is not listed as the main reason for people leaving Iraq altogether. The report points to a second underlying factor, claiming that the overall loss of hope for a safe and secure future plays a major role in people’s decisions to leave Iraq and Syria. This reality is exacerbated by the fact that pressure on Christians is not a recent phenomenon: discrimination, corruption, attacks on Christians, seizure of their properties, and lack of economic and educational opportunities have been a reality for many years. The accumulation of all these long-standing realities is arguably the more influential factor causing people to emigrate.<sup>5</sup>

It is therefore clear that the Iraqi and Syrian governments have failed to protect Christians and other communities in accordance with the constitutional articles mentioned above. Similarly, they have failed to live up to their international commitments, not least their obligations as signatories to the International Covenant on Civil and Political Rights; the covenant that ensures in its preamble the ‘equal and inalienable rights for all (...) citizens’.<sup>6</sup> These failures highlight the need for a locally accepted framework to ensure that the government upholds these commitments and that those whose rights are violated have a place to be heard and the hope of accountability.

### The EU’s recent role

The institutions of the EU have consistently expressed unreserved condemnation of attacks against Christians and religious groups in Iraq and Syria and affirmed its commitment to support the preservation of the multi-ethnic, multi-religious and multi-confessional character of Iraqi and Syrian societies.<sup>7</sup> The European Parliament Resolution of October 2016 on the situation in Northern Iraq and Mosul reinforced the call for political representation and participation of minorities, the restoration of property rights and full respect for the rights of ethnic and religious groups, which have a long-standing history of peaceful co-existence that is worth restoring.

<sup>3</sup> United States Commission on International Religious Freedom “The Religion-State Relationship & the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Majority Muslim Countries and Other OIC Members” 87-88

<sup>4</sup> Wilkinson and Manar, “Understanding recent movements of Christians from Syria and Iraq to other countries across the Middle East and Europe” 8

<sup>5</sup> Wilkinson and Manar, “Understanding recent movements of Christians from Syria and Iraq to other countries across the Middle East and Europe” 15

<sup>6</sup> [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg\\_no=IV-4&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-4&chapter=4&lang=en)

<sup>7</sup> The EU Council conclusions of 23 May 2016 on the EU Regional Strategy for Syria and Iraq as well as the Da’esh threat, of 16 March 2015 on the EU Regional Strategy for Syria and Iraq as well as the ISIS/Da’esh threat and EU Parliament Resolutions of October 2016 on Northern Iraq/Mosul and Syria.



The European Commission's Strategy for Syria presented in March 2017 outlined proposals seeking to further translate commitments into concrete actions for EU engagement in Syria. The main elements are:

- Unity and territorial integrity for all citizens and individual rights based on equal citizenship
- A diverse and inclusive Syria – a multi-cultural country in which all ethnic and religious groups feel that their identities are protected and that they have equal access to government; and
- Security and stability through effective functional institutions, a focus on citizens' security and services, and proper education and healthcare provision to citizens.

The proposal is a valuable starting point for reconstruction in Syria. It also serves as a model for Iraq in its commitment to promoting democracy, human rights and freedom of speech by ensuring equality for all citizens under the law, strengthening the capacity of civil society organisations to contribute to the monitoring of all political agreements, and creating a participatory political environment at the local level.

The Commission Strategy for Syria also emphasises that social cohesion and lasting peace will rely on inclusive national and local-level reconciliation processes and mechanisms to equally address the grievances of all ethnic and religious groups. Intercultural and interreligious dialogue, a rights-based and victim-centred transitional justice mechanism, and profound judicial reform are set out as central to working towards this goal in the long term.

Turning to the eventual reconciliation process – effective monitoring of political agreements at all levels, long-term stability and a functional justice system can only start from a position where all parties to the reconciliation process enjoy equal access to their rights. Dialogue must give way to concrete action, and the EU institutions should partner with the local governments to create an accountability mechanism that ensures that all parties are able to approach the reconciliation process from an equal place in society. This mechanism should also work to empower groups from certain religious or ethnic backgrounds by giving them a voice and restitution when their rights have been violated. Furthermore, it ensures their voices are brought to the attention of the government and are directed to implement true accountability against any party responsible for the violation of their rights. The EU is urged to use its influence by:

- (i) Advocating for the establishment of this mechanism through its contacts with the Iraqi and Syrian governments, and in any discussion regarding the future of the conflicts in these countries;
- (ii) Providing funding alongside technical and monitoring assistance to the mechanism.

### **Proposal: National Accountability Mechanism for the protection of religious and ethnic communities in Syria and Iraq**

#### **Purpose:**

To ensure that the current and future legal frameworks in Syria and Iraq fully promote and protect the equal and inalienable rights of all their citizens, irrespective of race, religion or other status.



### Concept:

The mechanism should be transparent and inclusive, ensuring all key stakeholders at all levels (government, community leaders, civil society, and the public) are represented adequately. Accountability should also span subnational, district and local levels. This national accountability mechanism should work to deal with incidents of persecution and discrimination against religious and ethnic communities in Iraq and Syria through a holistic approach of enforcement, deterrence and awareness.

### Key operating principles:

- Public access and ownership of the mechanism; include reporting on incidents of discrimination and persecution, which will help empower so-far marginalised religious and ethnic communities.
- High-level commitment by the government at the specific operating Human Rights or Religious Freedom level as well as senior government ownership and endorsement of accountability.
- Structure to include:
  - (I) Independent legal arm to ensure criminal wrongdoings are prosecuted legally (e.g. property destruction, physical violence, etc.), and that citizens have a right of private action to challenge civil wrongdoings legally (e.g. discrimination in hiring practices, discrimination in property rentals, etc.);
    - To provide rehabilitation for discriminating actions on the base of race, religion or other status, the EU should advise on how existing laws can be updated to protect all citizens from discrimination.
    - To ensure the mechanism strikes the proper balance between deterrence of future discrimination and protections of free expression, all legal rights of actions should be limited to concrete adverse actions taken against and/or incitement to violence on the basis of race, religion or other status. Such legal limitations protect against the mechanism being used to limit legitimate speech and mitigate against false accusations.
  - (II) Reporting platform that is accessible and safe for anyone to contribute to. The platform should also provide anonymity when necessary;
  - (III) Representatives from governments, religious and local civil society representatives, and international observers to be part of the committee that receives the grievances and refer them to the legal arm;
  - (IV) Parallel awareness campaigns in the media and via other relevant platforms to reinforce the equality of all before the law and affirm the country's commitment to accountability for those who violate such equality.
- Effective reduction of the gap between legislative and constitutional commitments and day-to-day common practices.
  - To provide rehabilitation for discriminating actions on the base of race, religion or other status, the EU should advise on how existing laws can be updated to protect all citizens from discrimination.
- Shared funding and ownership between national government and international partners including the EU. Such shared funding is important to ensure impartiality and prevent local corruption from hindering the effectiveness of this initiative. This funding will also lead to the presence of international observers, which will ensure high as the local government can often be the party responsible.

