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Human rights situations that require the Council's attention

Written statement* submitted by Pax Christi International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

** This statement was printed late and out of numbered sequence due to a technical problem.

The situation of minorities in Iraq

Pax Christi International would like to draw the attention of the Human Rights Council to the gross and systematic human rights violations of the minorities in Iraq. Iraq's minorities including Yazidis, Shabaks, Turkoman and Assyrian Christians are facing a human rights catastrophe. These groups have been systematically targeted, including by Sunni insurgents who regard them as "crusaders" and "infidels." Moreover, the territories where most of these minorities reside are at the heart of the dispute between the Arabs and Kurds. The Kurdish Regional government (KRG) has claimed the disputed territory on the basis of historic and ethnic premises. These claims are however fiercely contested by Iraq's Arabs. In order to further their aims, the Kurds have offered minorities inducements while simultaneously exercising repression in order to keep them in tow. Kurdish forces frequently rely on intimidation, threats, arbitrary arrests, and detentions to coerce the support of minority communities and have resorted in some cases to extreme violence.

Today the minorities are being threatened from all sides as they find themselves trapped between the two ethnic rivals. The violence has already resulted in the death or displacement of thousands. Since the withdrawal of U.S. forces from Iraq's cities in June 2009, the attacks against minority groups have increased dramatically and show no sign of abating¹. Each day, their situation is becoming more acute and threatens to permanently destroy the very fabric of their communities. As they face these unprecedented levels of violence, the Christians and other minority groups risk being wiped out. This fact should be a matter of great concern for all those who believe in peace, humanity and the unconditional principles of universal human rights.

Therefore we strongly believe that the international community, including the Human Rights Council, should act swiftly and vigorously to save Iraq's endangered minorities.

The international and national rights of the Iraqi minorities

The rights of the Iraqi minorities are guaranteed by International law as well as Iraqi national law. An overview of these guaranteed rights painfully reveals the discrepancy between theory and the dire reality. At the same time it forms the basis upon which the International community and the Iraqi authorities should act.

Universal human rights - UN bodies / Special procedures

According to international law the minorities in Iraq are protected by:

- Universal Declaration of Human Rights, in particular article 2 (everyone, without distinction, is entitled to the rights and freedoms set forth in the declaration), article 5 (no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment), article 7 (equality before the law and protection against discrimination by the law), article 19 (freedom of opinion and expression) and article 18 (freedom of thought, conscience, and religion)².

¹ *On Vulnerable Ground: Violence Against Minority Communities in Nineveh Province's Disputed Territories*, Human Rights Watch, November 2009, p. 6, 9, 29-30.

² The universal declaration of human rights: <http://www.un.org/en/documents/udhr/>

- Articles 1-6 and article 10 of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion and Belief, which categorically prohibits religious discrimination³.
- Articles 1-8 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities aiming to protect fundamental freedoms of minorities ‘without any form of discrimination’⁴.

The Iraqi constitution

According to the Iraqi constitution the minorities in Iraq are protected by:

- Article 2: ... “Second: This Constitution... guarantees the full religious rights of all individuals to freedom of religious belief and practice such as Christians, Yazedis, and Mandi Sabeans.”
- Article 3: “Iraq is a country of many nationalities, religions and sects and is a founding and active member of the Arab League and is committed to its covenant. Iraq is a part of the Islamic world.”
- Article 4: “First: The right of Iraqis to educate their children in their mother tongue, such as Turkmen, Syriac and Armenian, in government educational institutions... or in any other language in private educational institutions, is guaranteed....”
- Article 14: “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, origin, colour, religion, creed, belief or opinion, or economic and social status. “
- Article 140: “First: The executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the
- Transitional Administrative Law⁵.”

Article 58 of the Transitional Administrative Law

(A) The Iraqi Transitional Government, ... shall act expeditiously to take measures to remedy the injustice caused by the previous regime’s practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work, and correcting nationality. To remedy this injustice, the Iraqi Transitional Government shall take the following steps:

(1) With regard to residents who were deported, expelled, or who emigrated; it shall ... within a reasonable period of time, restore the residents to their homes and property, or, where this is unfeasible, shall provide just compensation.”

(2) With regard to the individuals newly introduced to specific regions and territories, it shall act ... to ensure that such individuals may be resettled, may receive compensation from the state, may receive new land from the state near their

³ A/RES/50/183

⁴ A/RES/47/135

⁵ The Iraqi constitution: http://www.uniraq.org/documents/iraqi_constitution.pdf

residence in the governorate from which they came, or may receive compensation for the cost of moving to such areas.

(3) With regard to persons deprived of employment or other means of support in order to force migration out of their regions and territories, it shall promote new employment opportunities in the regions and territories.

(4) With regard to nationality correction, it shall repeal all relevant decrees and shall permit affected persons the right to determine their own national identity and ethnic affiliation free from coercion and duress⁶.

We call upon the Human Rights Council, the government of Iraq and the Kurdish regional government to adhere to these self declared principles and to take all necessary measures to ensure the rights of all Iraqi minorities.

Pax Christi International urges the Human Rights Council to call on the Kurdish regional government to:

- Modify the Kurdish constitution and to accord legal recognition to Shabaks and Yazidis as distinct ethnic groups.
- Cease repression of political and civil society organisations that oppose Kurdish policies in the disputed territories.
- Ensure that minorities can fully participate in public affairs without fear of retribution for their political views.
- Cease arbitrarily detaining minority activists.
- Initiate independent and impartial investigations of individuals, including Kurdish security forces, alleged to be responsible for carrying out killings, beatings and torture against minorities.
- Consult with minority representatives to put in place policies for protection of their communities, and allow municipalities to hire police officers from among their communities, in accordance with existing procedures set out by Iraq's Ministry of Interior.
- Invite the UN independent expert on Minority Issues to provide an impartial assessment of the situation of the minority communities.

Pax Christi International urges the Human Rights Council to call on the Government of Iraq to:

- Protect minorities at all levels of government, including regional and local administrations.
- Establish an effective, legally constituted institution for the protection of minority rights which are guaranteed under national and international law.
- Protect political and religious organisations and institutions, judges, lawyers and other Human Rights Defenders who adhere and defend the implementation of national and international laws which guarantee minority rights.

⁶ The Transitional Administrative Law: <http://www.cpa-iraq.org/government/TAL.html>

- Create an independent inquiry to determine responsibility for the reported attacks on minorities. The inquiry should not only identify the attackers, but also examine the failures of the security services in preventing the attacks.
- Initiate independent and impartial investigations of all killings, beatings, and torture against minorities.

Pax Christi International recommends the International Community, the Human Rights Council and the Member States the following:

- The Office of the High Commissioner for Human Rights (OHCHR), along with relevant Special Procedures should monitor the situation in Iraq and offer a response to the situation concerning human rights abuses, especially of the religious minorities.
- The Independent Expert on Minority Issues should make a visit to Iraq, as her mandate includes the implementation of the UN Declaration on the rights of the persons belonging to national or ethnic, religious and linguistic minorities.
- The independent expert on Minority Issues should advise the government of Iraq on the establishment of an institution for the protection of minority rights.
- To investigate and prosecute past and present war crimes and severe human rights violations on all sides.
- To build trust again in the international community and re-establish international law.
- To work cooperatively to develop a regional system of security and cooperation in the Middle East.