

**The National Assembly of Iraqi Kurdistan**

October 13 and 14 2008

## **Draft Constitution of the Iraqi Kurdistan Region**

Prepared by: The Committee for Revising the Draft Constitution of the Iraqi Kurdistan  
Region  
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## **The Preamble**

We, the People of Iraqi Kurdistan,

Acknowledging that successive generations of our people have suffered from oppression, persecution, tyranny and campaigns of genocide, that they have been deprived and dispossessed of their rights to freedom, equality and justice which were granted by God to all of mankind ;

Cherishing the leaders and symbols of the Kurdish Liberation Movement, its Peshmerga fighters, and its devoted martyrs; appreciating the sacrifices they offered for our freedom, for the defense of our dignity, the protection of our nation, and in order to safeguard our right to determine our destiny in our own complete free will ;

Honoring the mission, the goals and the values for which they sacrificed so much ;

Aiming to establish a developed and cultivated Kurdish society which prides itself on its ethnic and religious groups, is open to all, unleashes the energies of its citizens, and where a spirit of fraternity and tolerance prevails ;

Seeking to build Kurdistan as a nation united for all, founded upon democratic values, enlightened by the principles of human rights, where law and justice prevail ;

Striving to anchor good governance that emanates from our free will, embodies our hopes, and honors our sacrifices ;

Our choices have become unified, and our desire converges with that of the other components of the people of Iraq and its national forces for Iraqi Kurdistan to be a federal region within the federal state of Iraq ;

As an embodiment of this desire, and a fulfillment of these aims, we have adopted this constitution.

## **Section One**

### **Fundamental Principles**

#### **Article 1:**

The Iraqi Kurdistan Region is a region within the Federal State of Iraq. It is a democratic republic with a parliamentary political system that is based on political pluralism, the principle of separation of powers, and the peaceful transfer of power through direct, general, and periodic elections that use a secret ballot.

#### **Article 2:**

First: The Iraqi Kurdistan Region is a geographical, historical and political entity that includes all of the areas indicated in Article 143 of the Federal Constitution, and the other areas that shall be recovered according to Article 140 of the aforementioned Constitution.

Second: The political borders of the Region shall be determined through the implementation of Article 140 of the Federal Constitution.

Third: A new region may not be established within the borders of the Iraqi Kurdistan Region.

#### **Article 3:**

First: The people are the source of authority and the basis of its legitimacy; said authority shall be exercised by the people through their constitutional institutions. The Constitution and the laws of the Kurdistan Region are sovereign and supersede all laws issued by the Iraqi government outside of the exclusive jurisdiction of the Federal Authorities, as stipulated in Article 110 of the Constitution of the Federal Republic of Iraq.

Second: In accordance with Article 115 and Paragraph 2 of Article 121 of the Federal Constitution, in the event that the federal law deals with matters within the exclusive jurisdiction of the federal authorities, as listed in Article 110 of the Federal Constitution, or with other matters outside this jurisdiction, this shall not detract from the sovereignty

and supremacy of the Constitution and laws of the Kurdistan Region, nor shall it limit the powers of the Region's authorities.

**Article 4:**

The Parliament of Kurdistan may put into effect in the Region any federal law that is outside the exclusive jurisdiction of the federal authorities, as stipulated in Article 110 of the Federal Constitution of the Republic of Iraq.

**Article 5:**

First: The people of the Kurdistan Region are composed of Kurds, Turkmens, Arabs, Chaldo-Assyrian-Syriacs, Armenians and others who are citizens of Kurdistan.

Second: The right to citizenship in the Region shall be regulated by law.

**Article 6:**

This Constitution confirms and respects the Islamic identity of the majority of the people of Iraqi Kurdistan. It considers the principles of Islamic *Sharia* as one of the main sources of legislation. Likewise, this Constitution upholds and respects all the religious rights of Christians, Yazidis, and others, and it guarantees to every individual in the Region freedom of belief and the freedom to practice their religious rites and rituals.

**Article 7:**

The people of Iraqi Kurdistan shall have the right to determine their own destiny, and they have chosen, out of their own free will, to be a federal region within Iraq, as long as Iraq abides by the federal, democratic, parliamentary and pluralistic system, and remains committed to the human rights of individuals and groups, as stipulated in the Federal Constitution.

**Article 8:**

First: International treaties and agreements which the Federal Government enters into with any foreign state or party, and which affect the status or rights of the Kurdistan

Region shall be effective in the Region if said treaties and agreements meet with the approval of an absolute majority of the Members of the Parliament of Kurdistan.

Second: Treaties and agreements which the Federal Government enters into with foreign states shall not be effective in the Kurdistan Region if they deal with matters outside the Federal Government's exclusive jurisdiction, in accordance with Article 110 of the Federal Constitution, unless an absolute majority of the Members of the Parliament of Kurdistan approve the implementation of said treaties and agreements in the Region.

Third: The Kurdistan Region shall have the right to enter into agreements with foreign states or with regions within foreign states regarding issues that do not lie within the exclusive jurisdiction of the federal authorities, as stipulated in Article 110 of the Federal Constitution.

Fourth: An agreement concluded between the Kurdistan Region and the governments of foreign states shall be submitted to the Federal Government to secure its approval. Said agreement shall not be effective if the Federal Government refuses to approve it for legal reasons.

#### **Article 9:**

With regard to the Federal Government, the Region shall have a fundamental and constitutional right to:

First: An equitable share of federal income, including international grants, aid, and loans, pursuant to Articles 106 and 112 of the Federal Constitution. This share shall be determined according to the principle of demographic proportionality and equality, while taking into consideration the policy of genocide, scorching and destruction that afflicted Iraqi Kurdistan during previous regimes and deprived its people of their entitlements.

Second: Equitable participation, in a balanced and proportionate manner, in the administration of the different institutions of the federal state, in academic deputations and scholarships, in delegations and in regional and international conferences. Pursuant to Article 105 of the Federal Constitution, positions in Federal Government offices that are located in the Kurdistan Region shall be entrusted to the citizens of the Region.

#### **Article 10:**

The city of Erbil (Hewlêr<sup>1</sup>) shall be the capital of the Kurdistan Region. The parliament may select another city in Kurdistan as the capital.

**Article 11:**

First: The Iraqi Kurdistan Region shall have its own flag, which shall be flown side-by-side with the federal flag. The Kurdistan Region shall have its own national emblem, national anthem, and National Day (Noruz<sup>2</sup>). This shall be regulated by law.

Second: The flag shall be composed of a red [stripe], a white [stripe], and a green [stripe]. A yellow sun with twenty-one rays emanating from it shall be located in the middle. The dimensions of the flag and the meaning of its components shall be determined by law.

Third: A law shall be enacted to regulate official holidays, badges and medals.

**Article 12:**

The defensive Peshmerga Forces shall guard the Kurdistan Region. The organization and duties of these forces shall be regulated by law. Armed militias may not be formed outside of the scope of the law.

**Article 13:**

No fee or tax may be imposed, modified or waived in the Kurdistan Region without the approval of the parliament of Kurdistan, who must pass a law to that effect.

**Article 14:**

First: Kurdish and Arabic shall be the two official languages of the Kurdistan Region. This Constitution guarantees the right of the citizens of the Kurdistan Region to educate their children in their mother tongue, including Turkmen, Assyrian, and Armenian, in the government's educational institutions and in accordance with pedagogical guidelines.

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<sup>1</sup> Translator's Note: This is the transliteration of the Kurdish name for Erbil.

<sup>2</sup> Translator's Note: Noruz is the day celebrating the Kurdish New Year.

Second: Along with Kurdish and Arabic, Turkmen and Assyrian shall be official languages in administrative districts that are densely populated by speakers of Turkmen and Assyrian. This shall be regulated by law.

Third: Concerning the official language, Article 4 of the Federal Constitution shall be adopted wherever there exists a legal possibility to apply its provisions in the Kurdistan Region.

**Article 15:**

The Kurdistan Region shall adopt a competitive legal market economy, which encourages and embraces economic development on modern foundations, as well as public and private investment. Monopolies shall not be allowed, except as regulated by law.

**Article 16:**

In light of their responsibility to current and future generations, all Regional Authorities must protect the environment, the essential means of subsistence, and the natural and human environment in the Kurdistan Region. The law shall regulate the establishment of protected areas, wild areas, natural parks and public gardens, in order to protect nature, wildlife, wilderness and natural plants and animals, and to preserve them in their natural state. The law shall not permit the erection of buildings or any motorized activity in these zones.

**Article 17:**

First: The general sources and components of natural resources, surface and ground water, unextracted minerals, quarries, and mines are a public resource. A law which protects these resources for current and future generations shall regulate the extraction, exploitation or management of said resources, and the conditions for their allocation.

Second: Lands and public property in the Region are the property of the people of Kurdistan. A law shall regulate their allocation and exploitation.

**Section Two**

## **Fundamental Rights**

### **Chapter One**

#### **Civil and Political Rights**

##### **Article 18 – Commitment and Application :**

First: The legislative, executive and judicial authorities of the Kurdistan Region shall be committed to upholding the fundamental rights listed in this Constitution, considering them a basic element of legislation that must be applied and implemented, as these are the fundamental rights of the Region's citizens.

Second: Whenever application of stipulations and provisions related to the fundamental rights listed in this Constitution is possible, such stipulation and provisions shall be mandatory for natural and juridical persons, while taking into consideration the nature of the right and the nature of the duty imposed by this right.

Third: Within the Kurdistan Region, the fundamental rights granted in this Constitution to natural persons shall also be granted to juridical persons, where applicable.

##### **Article 19 – Dignity, Life and Freedom**

First: Human dignity is safeguarded; all authorities in the Region must respect and protect this dignity.

Second: Every individual is entitled to life and liberty. No one may be deprived of life or liberty or have them restricted, except in accordance with the law.

Third: No individual may be subjected to physical or mental means of torture, treated in an inhumane or degrading fashion, or subjected to medical, scientific, or other experiments without his or her free consent. Any confession extracted through coercion, torture, threat or intimidation shall not be recognized. Any individual subjected to torture, or to harsh or degrading treatment, has to right to obtain compensation for the physical and mental injuries sustained.

Fourth: No one may be forced to perform compulsory labor, except for a general service required of all and in accordance with the law.



Fifth: Forced labor may not be imposed, except when required by judicial decision for an individual sentenced to prison.

Sixth: Everyone shall have the right to security of person.

Seventh: Everyone shall have the right to respect for his private and family life, his home, and all of his communications. Homes and all locations or structures used as homes are inviolable and may not be trespassed, entered, searched, or put under surveillance, except in accordance with the law and based on a court order. Likewise, no one or their possessions may be searched without legal justification.

Eighth: Every person shall have the right to marry and to found a family. A marriage contract may not be concluded except by mutual consent of the two parties, without coercion.

Ninth: There is no coercion in matters of religion. Every person has the right to freedom of religion, belief, thought and conscience. The Government of the Region shall guarantee the freedom of Muslims, Christians, Yazidis and others to worship and to practice their rites and the rituals of their religions without being exposed [to danger]. The government of the Region shall guarantee the sanctity of mosques, churches, and places of worship. In order to safeguard their sanctity and the holiness of their message, the government shall commit itself to the following points:

1. It is forbidden for parties, groups or persons to use mosques, churches or places of worship as a place for party activity or political activity.
2. It is forbidden for men of religion to use mosques, churches or places of worship as a pulpit to promote their factional or political ideas.

Tenth: Every person shall have the right to freedom of expression. The freedom and diversity of the press and other media must be guaranteed. This right shall not apply to libel, infringement of others' rights, sacrilege, provocation to violence, or the incitement of hatred between the groups of the people of Kurdistan.

Eleventh: The right to access information technology shall be guaranteed by law.

Twelfth: The Government of the Region shall guarantee the freedom of communication and correspondence by post, telegram, telephone, and electronic means. Such communication and correspondence may not be subject to surveillance, wiretapping, or

disclosure unless for legal or security requirements, and when authorized by a judicial decision.

Thirteenth: The Government of the Kurdistan Region shall be responsible for youth welfare, for developing the faculties and abilities of the young generation, and encouraging their initiative. The Government shall establish the institutions required to train young people and to empower them to keep up with worldwide scientific and technological developments, so that they can play an effective role in society and invest their talents in economic, social and scientific development. The Government shall lay out programs and plans to achieve this purpose.

Fourteenth: Every citizen shall have the right to practice sports. The Government of the Kurdistan Region shall encourage sporting activities, establish dedicated sporting institutions, and provide the necessary requirements for them.

Fifteenth: Artistic and literary expression and scientific research shall be free from any restrictions. Academic freedom to perform scientific research must be guaranteed and encouraged. Universities and scientific centers must be supported and sponsored; their sanctity upheld, and the elements of their moral character guaranteed. Their administrative apparatus must be developed on a decentralized basis.

Sixteenth: The Government of the Region shall be responsible for protecting intellectual property, copyright, publication rights, patents, and registered trademarks.

Seventeenth:

1. Every person shall have the right to freedom of assembly, and the right to form associations, leagues, and federations. The Regional authorities shall seek to strengthen the role and independence of civil society organizations. In addition, every person shall have the right to conduct demonstrations and to strike peacefully, in accordance with the law.
2. Associations whose goals or actions conflict with the provisions of this Constitution and with the law, or which adopt a position that opposes peaceful coexistence and rapprochement between the different ethnic and religious groups of the people of Kurdistan shall be banned.

Eighteenth:

1. The freedom to found [political] parties shall be guaranteed and regulated by law, provided that the internal order, organizations, and activities of the party, as well as the rights of its members, abide by the fundamental principles of democracy and human rights, and by the provisions of this Constitution. The party must also respect the flag of Kurdistan and its national anthem.
2. The party may not be the branch of a foreign party, or beholden to foreign interests or entities.
3. Parties shall be forbidden from using religion, quotations from holy books, or religious rites and rituals to discredit others for the purpose of achieving partisan or electoral goals.
4. A party shall be considered in violation of the Constitution if it seeks through its goals, its activities, or the behavior of its followers to violate the fundamental democratic system of the Kurdistan Region or to remove this system; or if it seeks in the aforementioned manner to threaten the unity of the Region, or the peaceful coexistence of its ethnic and religious groups. The Constitutional Court shall be the agency charged with deciding [whether or not the party is considered in violation of the Constitution] , and it shall take this decision in light of the imputed Constitutional violation, and the extent of its danger.
5. Any entity or approach that adopts, instigates, facilitates, glorifies, promotes, or justifies ethnic or sectarian cleansing or a chauvinist, fascist, racist, terrorist, or *takfiri*<sup>3</sup> ideology shall be prohibited. The authorities of Iraqi Kurdistan shall be committed to combating terrorism in all its forms, and shall work to protect the territories of the Region from becoming a center or a gateway or a platform for terrorist activity.
6. A party must disclose to the relevant authorities specified in the law its revenues and sources of funding, and how it disposes of them.

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<sup>3</sup> Translator's Note: *Takfiri* means 'declaring others infidels' (*kufar*). It is a process often used by extremist Sunni groups against other Muslims and non-Muslims alike, thereby justifying the use of violence against them. The translator has chosen to keep the Arabic term, as no single English expression accurately renders the meaning of the Arabic.

Nineteenth: The right of political asylum shall be guaranteed. A refugee shall not be expelled or returned to a state where he was persecuted. The Geneva Convention [Relating to the Status of Refugees] , adopted on 28 July 1951, and the Protocol [Relating to the Status of Refugees] of 31 January 1967 shall be taken into consideration and respected.

Twentieth: Collective expulsions shall be forbidden.

Twenty-First: Within the limits of the law, every person shall have the right to own, inherit, or bequeath his possessions and his property that he has obtained by legal means. Private property shall be protected. It may not be seized or confiscated except in the public interest, and in accordance with a law which provides for fair and immediate compensation being paid at the latest on the date the property is seized, unless the owner agrees [otherwise] by written approval.<sup>4</sup>

## **Article 20:**

First: All are equal before the law.

Second: All forms of discrimination on the basis of race, color, sex, language, social background, nationality, origin, religion, belief, thought, age, social, political or economic status, or handicap are prohibited. The principle of equality shall not prevent redressing the effects and consequences of past injustice perpetrated by former regimes against the citizens of Kurdistan and its ethnic, religious and linguistic groups.

Third: Men and women shall be equal before the law. The Government of the Region must seek to remove all obstacles hindering equality in all spheres of life, and in civil, political, social, cultural and economic rights. The Government of the Region guarantees that all shall enjoy their rights, as stipulated in this Constitution and the international charters signed by the State of Iraq.

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<sup>4</sup> Translator's Note: The Arabic text is unclear as to what the "owner's written approval" refers to. The translator's best guess is reflected in his rendering of the Arabic text.

### **Article 21 –Citizenship Rights:**

First: Any citizen who has reached 18 years of age shall have the right to vote in any election or referendum organized in the area of his residence within the Region of Kurdistan.

Second: Any citizen who has reached 18 years of age shall have the right to hold public office.

Third: Freedom of residence, movement and travel shall be guaranteed, within the limits of the law.

Fourth: Every citizen shall have the right to submit a complaint or petition with the authorities of the Region, who may not refuse to accept it. Whoever has submitted a complaint or petition has to right to receive a prompt response. A refusal to deliver said response, or a delay in arriving at the response with no legal justification shall entail legal responsibility.

### **Article 22 – The Right to a Fair Trial**

First: The investigating authority shall submit preliminary investigative documents to a competent judge within a period not exceeding twenty-four hours from the time at which the accused was apprehended. This period may only be extended once, for another period of twenty-four hours.

Second: [Arbitrary] detention of individuals shall be prohibited. No one shall be arrested or imprisoned except in accordance with the law, and based on an order issued to that effect by a competent judicial authority. Any arrested individual must be informed, immediately and in his own language, of the charge brought against him. The apprehended individual has the right of recourse to an attorney. During the investigation and the trial, the court shall appoint an attorney, who shall serve at the Government's expense, to defend the accused charged with committing a felony or a misdemeanor and who does not have an attorney to defend him.

Third: The accused shall be innocent until proven guilty in a fair and legal trial. After being released, the accused shall not be tried again on the same charge, unless new evidence appears.

Fourth: Every one shall have the right to a fair and speedy trial before a competent court.

Fifth: No act shall be considered a crime and no punishment shall be imposed except as stipulated by law. No one may be convicted on account of an act or an omission which did not constitute a criminal offence at the time it was committed.

Sixth:

1. No law shall have a retroactive effect, unless the text of the law stipulates otherwise. This shall not apply to taxes and fees.
2. Penal law shall not have a retroactive effect, unless this is more favorable for the accused.

Seventh: Punishment shall be individual.

Eighth: No heavier punishment shall be imposed than the one that was applicable at the time the criminal offence was committed.

Ninth: No one shall be tried or punished twice by criminal or penal procedures for an offense of which they were already acquitted or convicted in accordance with the law.

Tenth: Civilians may not be tried before a military court.

Eleventh: No one may be detained or imprisoned except in locations designated for this purpose and in conformity with the law. Such locations must include health and social services, and be subject to the authority of the Government.

Twelfth: The religious beliefs and moral principles of prisoners must be respected.

## **Chapter Two**

### **Social and Economic Rights**

#### **Article 23:**

First: The Government of the Kurdistan Region shall be responsible for the welfare of the families of the martyrs of the Kurdish People's Liberation Movement and the welfare of the families of the Peshmerga martyrs. The Government shall also be responsible for the welfare of the families of victims of *Al-Anfal* campaign, and victims of the chemical attacks and those affected by permanent disabilities as a result thereof. Qualified individuals from these groups, and their children, shall be given priority in accessing work opportunities, in accordance with the law.

Second: The authorities of the Kurdistan Region shall seek for the Federal Government of Iraq to assume its constitutional, legal and moral responsibilities toward the victims mentioned in the preceding paragraph, including political prisoners, who have suffered from the policies of repression practiced by successive central governments, by compensating said victims, and guaranteeing their right to secure healthcare and a dignified means of livelihood.

#### **Article 24:**

First: Everyone shall have the right to a standard of living adequate for a dignified life, including food, clothing and housing.

Second: Everyone shall have the right to obtain healthcare and medical treatment, regardless of their ability to assume the expenses thereof.

Third: Everyone shall have the right to social security, especially in cases of motherhood, sickness, unemployment, injury, disability, old age, displacement, and loss of one's means of livelihood in circumstances beyond one's control

Fourth: Everyone shall have the right to work in a profession or an occupation to which he or she freely consents.

Fifth: Every worker shall have the right to equal pay for equal work. The relations between workers and employers shall be regulated by law and founded on economic bases, while taking into account the rules of social justice.

**Article 25:**

The authorities of the Region must ensure the welfare of the handicapped and persons with special needs, and train them in order to integrate them into society. This shall be regulated by law.

**Article 26:**

The Government of the Region shall guarantee the right to form and to freely join professional associations, unions, organizations and federations. This shall be regulated by law.

**Article 27 – Education and Family :**

First: The Government of the Region shall guarantee free education at the primary, secondary and university levels. The Government shall also guarantee vocational training and technical education. Education shall be compulsory until the completion of the primary level.

Second: The Government of the Region shall be in charge of the campaign against illiteracy.

Third: The family is the fundamental core of society. Therefore, mothers and children must be protected, and the economic exploitation of children must be prohibited.

Fourth: The government of the Region shall guarantee the establishment of special homes to protect and care for women who have, for social reasons, lost their family security.

Fifth: All forms of discrimination, violence and abuse in society, school, and in the family shall be forbidden.

**Article 28 – Consumers’ Rights**

The Government of the Kurdistan Region must protect consumers’ rights. It must create legal means to empower consumers to defend their rights and establish consumer associations and federations.



## **Chapter Three**

### **Ethnic and Religious Rights of the Different Groups of the Kurdistan Region**

#### **Article 29:**

People belonging to one of the ethnic or religious groups shall have the right to legal recognition of their names, and the right to use the traditional, local names of places in their language, while abiding by the provisions of the language law in the Kurdistan Region.

#### **Article 30:**

First: The provisions of the personal status law for the followers of one religion may not be imposed on the followers of another religion.

Second: The followers of non-Muslim religions and sects, such as Christians, Yazidis and others may establish their own religious councils and may follow the provisions specific to the personal status law of their [faiths]. Such personal status provisions shall be determined by law, and personal status cases shall be heard before a personal status court.

Third: The provisions of personal status laws specific to non-Muslim religions and sects shall remain in effect in the Kurdistan Region as long as they are not amended or annulled by law.

#### **Article 31 – The Authorities’ Commitment to Guaranteeing Equality**

The authorities in the Kurdistan Region must guarantee the principle of effective equality among people belonging to ethnic and religious groups and must seek to achieve this equality. The authorities must create the conditions which will ensure that the identity of these ethnic and religious groups is preserved, and must take the necessary measures to reinforce this identity.

#### **Article 32 – The Authorities’ Commitment to Avoiding Forced Expulsions**

First: The authorities in the Region must protect people belonging to ethnic and religious groups from any measure aiming at forced expulsion. Likewise, the authorities must

support and encourage these people to establish their own specific leagues and associations, and ensure the continuity of such leagues and associations.

Second: The Government of the Kurdistan Region shall be committed to preventing any intentional change in population percentages in the areas inhabited by ethnic or religious groups. This shall not affect the process of equitable restitution for the policies of Arabization and forced displacement practiced by the Baathist regime in Iraqi Kurdistan, particularly in the city of Kirkuk.

### **Article 33**

The authorities in the Kurdistan Region shall strengthen the principle of mutual respect between all of the Region's inhabitants, particularly in the fields of education, media and general culture. The authorities shall create the necessary conditions for persons belonging to ethnic or religious groups to participate effectively in all fields of life.

### **Article 34**

Every religious group in the Region shall have the right to establish a council to develop, organize and advance its cultural and social affairs, and its heritage. This shall be regulated by law.

### **Article 35**

This Constitution guarantees autonomy to the Turkmen, Arabs and Chaldo-Assyrian-Syriacs wherever they represent a majority of the population. This shall be regulated by law.

### **Article 36**

The provisions contained in this Chapter shall be considered additional rights to the rights of ethnic and religious groups mentioned in this Constitution.

## **Chapter Four**

### **Article 37 – International Agreements, Charters and Laws**

Everyone shall have the right to enjoy the rights mentioned in the international agreements, charters, covenants and declarations on human rights that have been ratified and acceded to by Iraq. In addition, everyone shall have the right to enjoy the rights guaranteed by this Constitution and by international law.

### **Article 38 – Scope of Restrictions on Rights**

First: No restriction may be placed on the exercise of civil, political, social, economic and cultural rights, or on the rights of ethnic and religious groups recognized in this Constitution, unless such a restriction is imposed by law. Such a restriction may only infringe upon the essence of these rights to the extent that is necessary and acceptable in a democratic and peaceful society built upon diversity, dignity, equality and freedom. Any restriction that is imposed and that conflicts with [this principle] shall be null and void.

Second: Anyone who is directly concerned [by a restriction imposed on his rights] may appeal to the Region's Constitutional Court against the measure or the law restricting these rights.

**Section Three**  
**The Authorities of the Kurdistan Region**  
**Chapter One**  
**The Parliament of Kurdistan**

**Article 39:**

The Authorities of the Iraqi Kurdistan Region shall be comprised of:

First: the Legislative Authority (the Parliament of Kurdistan).

Second: the Executive Authority.

Third: the Judicial Authority.

**Article 40:**

The Parliament of Kurdistan shall be the legislative authority, and it shall be the authority for settling decisive issues affecting the people of the Kurdistan Region. Members of the Parliament shall be elected directly by secret ballot in a free and general election.

**Article 41:**

First: The law shall determine the manner used to elect the members of the Parliament of Iraqi Kurdistan, the timing of the election, how the election is conducted, and the proportion of representation.

Second: Fair representation of all geographic localities, ethnic and religious groups shall be taken into consideration when organizing a system for electing members, as well as guaranteeing that no less than 30% of the seats in the parliament of Iraqi Kurdistan be reserved for women representatives.

Third: A Member of Parliament shall represent all the groups that make up the people of Iraqi Kurdistan, regardless of his or her political, ethnic and religious affiliation, or his or her electoral district.

**Article 42:**

First: The Parliament shall be elected for a term of four years, starting from the day of its first assembly.

Second: The Parliament shall convene at the invitation of the President of the Kurdistan Region, within fifteen days of the announcement of the final election results. If an invitation to convene is not issued, then the Parliament shall convene automatically at 12 p.m. on the day following this fifteen day period.

**Article 43:**

The Parliament shall hold its first session under the chairmanship of its oldest Member, and shall elect by secret ballot a Speaker, a Deputy Speaker, and a Secretary General chosen from its Members.

**Article 44:**

Before assuming their duties, Members of Parliament shall take the following Constitutional oath:

“I swear by God Almighty to protect the interests of the people of the Kurdistan Region, to safeguard the Region’s unity and dignity, to protect the rights and freedoms of its citizens, and to protect public funds. I swear by God Almighty to abide by the provisions of the Constitution, and to perform the duties of a member [of this Parliament] faithfully and loyally.”

**Article 45:**

Upon taking the Constitutional oath, a Member of Parliament shall be considered to have resigned from his [previous] position. He shall have the right to return to that position, or to a similar one, at the end of his term in Parliament. The length of the term served as a Member of Parliament shall be taken into account for purposes of promotion, advancement, seniority and retirement.

**Article 46:**

A Member of the Parliament of Kurdistan may not serve simultaneously as a member in the Federal Parliament, in local and municipal councils, or in the civil service. A Member of Parliament shall be dedicated exclusively to parliamentary work; and shall be forbidden from practicing any other profession while serving in Parliament.

**Article 47:**

First: Parliament shall hold two sessions a year, each lasting four months. Parliamentary procedure shall define how these sessions are held.

Second: The parliamentary session in which the general budget is proposed shall not be concluded until the budget is approved. Based on the request of the President of the Kurdistan Region, or the Speaker of the Parliament of Kurdistan, or the President of the Council of Ministers, or twenty-five Members of Parliament, a parliamentary session may also be extended for a period not exceeding thirty days to complete other tasks whose importance requires such an extension.

**Article 48:**

An absolute majority of the Members of Parliament shall constitute a quorum. Resolutions shall be issued by a majority vote of those in attendance, unless parliamentary law or procedure specify otherwise. If equal votes are cast, the Speaker of the Parliament shall cast the deciding vote.

**Article 49:**

Ten Members of Parliament, or a competent parliamentary committee, may introduce bills or draft resolutions to Parliament.

**Article 50:**

First: A Member of Parliament may question the Prime Minister, his Deputy, and the Ministers regarding matters that concern the Council of Ministers or one of the Ministries. Parliamentary law and procedure shall organize the questioning of these officials.

Second: Ten Members of Parliament may request to interpellate the Prime Minister or the Members of the Council of Ministers. The interpellation shall not take place until eight days after the date on which the request for the interpellation arrived at the Prime Minister's office. If the interpellation results in a request for a motion of no-confidence in the Prime Minister, or one of the Ministers, the motion shall be passed by the agreement

of two-thirds of the Members of Parliament in the case of the Prime Minister, and by the agreement of an absolute majority of the Members of Parliament in the case of a Minister.

**Article 51:**

The Speaker of the Parliament, the Deputy Speaker, the Secretary General, and the Members of Parliament shall be entitled to rights and privileges which ensure their independence and their livelihood. Such rights and privileges shall be fixed and regulated by law.

**Article 52:**

Parliamentary law and procedure shall determine and regulate the details of Parliament's work processes, and the manner in which its ordinary and extraordinary sessions are held, organized and conducted. Parliamentary law and procedure shall also address the situations in which membership is terminated, and how vacant seats should be filled.

**Article 53:**

The Parliament shall exercise the following powers, in addition to any other powers which the laws in force in the Region have delegated to it:

First: Settle decisive issues affecting the people of Kurdistan, by a vote of a majority of two-thirds of its members.

Second: Approve proposed constitutional amendments, according to Article 118 of this Constitution.

Third:

1. Legislate, amend and repeal laws in all matters in Kurdistan, except for issues that lie wholly within the exclusive legislative jurisdiction of the Federal Authorities, according to Article 110 of the Federal Constitution.
2. Approve the entry into force of federal laws in the Kurdistan Region, and amend their application, in accordance with the law. However, laws that lie wholly within the exclusive legislative jurisdiction of the Federal Authorities, according to Article 110 of the Federal Constitution, shall be exempt from this process, and

shall be applied in the Region upon their entry into force according to the provisions of the Federal Constitution.

Fourth: Take measures to impeach the President or Vice President of the Kurdistan Region, by the agreement of a majority of two-thirds of Parliament's members, on account of perjury of the constitutional oath, serious violation of the Constitution, or high treason.

Fifth: Pass motions of confidence and no-confidence in the Government and its members, by an absolute majority of the Members of Parliament.

Sixth: Monitor the activities of the executive branch, and hold the Prime Minister, the Deputy Prime Minister, and the Ministers accountable, in accordance with parliamentary law and procedure.

Seventh: Approve the general budget for Kurdistan and its final accounts; transfer between [appropriation] sections; and approve expenditures not referred to in the budget.

Eighth: Approve general development plans.

Ninth: Levy, amend, annul, or grant exemptions to taxes and duties.

Tenth: Settle, by an absolute majority vote of those present, the validity of a Member of Parliament's membership. This decision shall be subject to appeal before the Region's Constitutional Court within thirty days of the date on which it is issued.

Eleventh: Put in place parliamentary procedure, appoint parliamentary staff and employees and fix their salaries, and estimate the parliament's budget.

Twelfth: Form permanent, temporary, and investigative committees.

Thirteenth: Confirm, by an absolute majority of its members, the nomination of members to the Constitutional Court for the Kurdistan Region.

Fourteenth: Confirm, by an absolute majority of its members, the nomination of the heads of the independent Authorities and Commissions listed in Article 107 of this Constitution.

#### **Article 54:**

The Parliament may not relinquish its legislative authority, except as stipulated in the seventh paragraph of Article 65 of this Constitution.



**Article 55:**

First: Members of Parliament shall enjoy parliamentary immunity, and may speak freely within the boundaries outlined in parliamentary procedure.

Second: The freedom of Members of Parliament may not be restricted, nor may they be put under surveillance without the approval of Parliament.

Third: Except in cases of *flagrante delicto*, Members of Parliament may not be prosecuted, interrogated or searched; their residences and offices may not be searched; nor may they be apprehended by any authority while Parliament is in session without prior authorization from Parliament.

Fourth: Except in cases of *flagrante delicto*, Members of Parliament may not be prosecuted, interrogated or searched; their residences and offices may not be searched; nor may they be apprehended by any authority while Parliament is not in session without prior authorization from the Speaker of the Parliament.

**Article 56:**

First: Parliament may dissolve itself by the approval of a majority of two-thirds of its members.

Second: The President of the Region shall issue a decree to dissolve Parliament in the following situations:

- A. Resignation of more than half of the Parliament's Members.
- B. Failure to achieve quorum for a parliamentary meeting within sixty days of the date on which Parliament was invited to convene after being elected.
- C. Parliament's failure to pass a motion of confidence in three different and successive proposed cabinets.

Third: A decree shall be issued ordering that elections be held for the Parliament of Kurdistan and fixing the election date within fifteen days of the date on which Parliament was dissolved, or within the two-month period preceding the end of its electoral term.

**Article 57:**

If Parliament is dissolved, or its electoral term comes to an end, new elections shall be held to elect a new Parliament within a period not exceeding 60 days from the date on

which Parliament was dissolved, or within the sixty day period preceding the end of its electoral term.

**Article 58:**

If Parliament is dissolved based on the provisions of Article 56 of this Constitution, or if Parliament's electoral term comes to an end, and new elections are delayed or unfeasible due to extraordinary circumstances, Parliament shall remain in session and continue to perform its duties and exercise its constitutional authorities until a new parliament is elected and its first session held. In this case, the decree dissolving Parliament shall be considered suspended until elections for the new parliament are held.

**Chapter Two**  
**The Executive Authority**  
**First: The President of the Kurdistan Region**

**Article 59:**

The executive authority shall be composed of The President of Iraqi Kurdistan and the Council of Ministers. The executive authority shall exercise its powers in accordance with the Constitution and the law.

**Article 60:**

First: The President of the Kurdistan Region holds the highest office of the executive authority. He is the Commander-in-Chief of the Regional Guard (the Peshmerga). He shall represent the people of the Region and act on their behalf in all national events. He shall be in charge of coordination between Federal and Regional Authorities.

Second: The President of the Region shall have a Vice President who shall assist him in performing his duties. The Vice President shall take the place of the President in case of the President's absence. The Vice President shall also be the Deputy Commander-in-Chief of the Regional Guard (the Peshmerga).

**Article 61:**

The President of the Kurdistan Region shall be elected directly by secret ballot in a general election by the citizens of the Kurdistan Region. The law shall determine the manner of this election.

**Article 62:**

If the President of the Region, or the Vice President, is impeached by a vote of a majority of two-thirds of the members the Members of Parliament on account of perjury of the constitutional oath, serious violation of the Constitution, or high treason, and is then found guilty by the Region's Constitutional Court, he shall be removed from his position.

**Article 63:**

Before assuming their duties, the President of the Kurdistan Region and the Vice President shall take the following constitutional oath before the Parliament of Kurdistan: “I swear by God Almighty to protect the rights, achievements, unity, and interests of the people of Kurdistan. I swear by God Almighty to perform my duties faithfully and loyally, and to adhere to the Constitution of the Kurdistan Region.”

**Article 64:**

The President of the Kurdistan Region shall be elected for a term of four years, beginning on the date on which he takes the constitutional oath. He may only be reelected once for a second term.

**Article 65:**

In addition to any other powers granted to him by the law, the President of the Region shall exercise the following powers:

First: Propose draft laws and resolutions to the Parliament of the Kurdistan Region.

Second: Promulgate laws and resolutions legislated by the Parliament of Kurdistan within fifteen days of receiving them. During this period, the President shall have the right to oppose the law or resolution in entirety or in part, and to send the law or resolution back to Parliament for reconsideration. Parliament’s decision regarding such a law or resolution shall then be final. If the President fails to promulgate such laws and resolutions within the aforementioned period and does not oppose them, they shall be considered promulgated and shall be published in the Official Gazette.

Third: Issue a decree for the holding of general elections for the Parliament of Iraqi Kurdistan when Parliament is dissolved or at the end of its electoral term. This shall be done in accordance with Article 56 of this Constitution, while respecting the period set forth in Article 57 herein.

Fourth: Issue a decree inviting the Parliament of Kurdistan to hold the first session of its electoral term, within fifteen days of the date on which final election results are announced. Should the President fail to call Parliament [into session], the Parliament shall convene automatically on the day following the end of the aforementioned period.

Fifth: Issue a decree dissolving the Parliament of Kurdistan in the situations that are set forth in this Constitution.

Sixth: Issue a decree dismissing a Minister, based on a proposal brought forward by the Prime Minister.

Seventh: If the Region of Kurdistan, its political system and its constitutional institutions, or the security of the Region face an imminent danger that threatens its very existence, and Parliament is unable to convene, the President shall have the power to issue decrees that shall have the force of law, after consulting with the Speaker of the Parliament and the Prime Minister of Kurdistan, and obtaining their consent. These decrees must be submitted to Parliament upon its first meeting. If these decrees are not submitted to Parliament, or if they are submitted and not approved, they shall lose their legal status.

Eighth: In cases of war, occupation, insurrection, chaos, natural disasters, epidemics, or other unexpected emergencies, the President shall have the power to declare a state of emergency, after consulting with the Speaker of the Parliament and the Prime Minister of Kurdistan, and obtaining their consent. The initial period [of the state of emergency] must be no longer than one month. Subsequent extensions shall be approved by an absolute majority of the Members of Parliament; each extension shall be no longer than three months. Provisions related to a state of emergency shall be regulated by law.

Ninth: Grant special pardons to convicted persons, by issuing a decree in accordance with the law.

Tenth: Approve death sentences, or commute them to life imprisonment.

Eleventh: Convene and chair an extraordinary meeting of the Council of Ministers when necessary, to discuss the specific issues for which the meeting was called.

Twelfth: Allow federal armed forces to enter Kurdistan territory when necessary, after obtaining the approval of the Parliament of Kurdistan and defining the mission of these forces, as well as the location and duration of their stay in the Region.

Thirteenth: Send the Regional Guard (the Peshmerga) or the Domestic Security Forces [on a mission] outside of the Region, with the approval of the Parliament of Kurdistan.

Fourteenth:

- A. Charge the candidate of the majority parliamentary bloc with forming a government within forty five days of the date on which so charged.

- B. If the first candidate fails to form a government within forty-five days of being so charged, the President of the Kurdistan Region shall charge another candidate from the same bloc with forming a government.
- C. If the second candidate fails to form a government, the President of the Kurdistan Region may choose whoever he considers fitting, and charge him with forming a government.
- D. The person charged with forming a government may be a Member of Parliament, or not.

Fifteenth: Issue a decree ordering the government to form, after it has obtained a vote of confidence from the Parliament.

Sixteenth: Issue a decree ordering the resignation of the government or of a Minister after [Parliament] has passed a motion of a no-confidence in either of them.

Seventeenth: Issue a decree accepting the resignation of the government or of a Minister, and charging them with continuing to act as a caretaker government until a new government is formed.

Eighteenth: Issue a decree appointing the members of the Constitutional Court, after the Parliament of Kurdistan has confirmed the nominees.

Nineteenth: Issue a decree appointing judges, the Head of the Judiciary Inspection Department, as well as the Head and the members of the Public Prosecution, after these individuals have been nominated by the Judiciary Council in Kurdistan.

Twentieth: Issue a decree appointing the heads of the independent authorities and commissions listed in Article 107 of this Constitution, after their nomination has been approved by the Parliament of Kurdistan.

Twenty-First: Issue a resolution establishing special offices for the Kurdistan Region in foreign countries, based on a proposal from the Prime Minister, and in coordination with the competent agency of the Federal Government.

Twenty-Second: Appoint individuals to special grades, based on the nomination of the competent Minister and the approval of the Council of Ministers.

Twenty-Third: Confer military ranks on the officers of the Regional Guard (the Peshmerga) and the Domestic Security Force; and issue decrees, according to the laws in force, discharging them or retiring them.

Twenty-Fourth: Issue a decree awarding medals and badges, as pursuant to the law.

**Article 66:**

The salaries and allowances of the President and Vice President of the Kurdistan Region shall be specified by law.

**Article 67:**

The President of the Kurdistan Region shall have an office whose organization, privileges and responsibilities shall be specified by law.

**Article 68:**

First: If the President of the Kurdistan Region resigns, dies, or becomes afflicted with a handicap that prevents him from carrying out his presidential duties, his successor shall be elected within sixty days for a period of four years, in accordance with Article 64 of this Constitution.

Second: When the office of President of the Kurdistan Region becomes vacant, the Speaker of the Parliament of Kurdistan, in accordance with the first paragraph of this Article, shall assume the duties of the presidential office until a new President is elected within sixty days of the day on which the office becomes vacant.

Third: The Vice President of the Kurdistan Region shall assume the duties of the President of the Kurdistan Region when the latter is absent from the Kurdistan Region, is on leave, or is temporarily incapable of performing his duties.

Fourth: If the President's term comes to an end, but the holding of new presidential elections is impossible because of war or natural disasters, the President of the Region shall continue to perform his duties until the aforementioned obstacles have been removed, and a new President of the Region has been elected.

## **Second: The Council of Ministers of the Kurdistan Region**

### **Article 69:**

The Council of Ministers of the Kurdistan Region is the executive and administrative authority in the Kurdistan Region.

### **Article 70:**

First: The Council of Ministers shall be composed of a Prime Minister, a Deputy Prime Minister or Deputy Prime Ministers, and [other] Ministers. The formation of the Council of Ministers shall be determined by law.

Second: A nominee shall be charged with forming a government according to the provisions of the fourteenth paragraph of Article 104 of this Constitution.

Third: The Prime Minister-designate shall select his Deputy or Deputies and the Ministers from among the Members of the Parliament of Kurdistan; or he may select other individuals who meet the requirements necessary to become Members of the Parliament of Kurdistan.

Fourth: The Prime Minister-designate shall present a list of the members of his government to the President of the Kurdistan Region for his approval.

Fifth: Following the approval of the President of the Kurdistan Region, the Prime Minister-designate shall present the members of his government to the Parliament of Kurdistan, requesting a vote of confidence in the government.

Sixth: The Prime Minister shall preside over cabinet sessions, except for those sessions that are attended by the President of the Kurdistan Region.

### **Article 71:**

Before beginning their official duties and after obtaining Parliament's vote of confidence, the Prime Minister and members of the Council of Ministers shall take the following constitutional oath: "I swear by God Almighty to protect loyally the unity of the people and the territory of Kurdistan, to respect the Constitution and the laws that are in effect, to protect public funds, and to safeguard fully the interests of the people."



**Article 72:**

Fair representation of the groups making up the people of Kurdistan shall be taken into account in the formation of the Council of Ministers of the Kurdistan Region.

**Article 73:**

The Prime Minister and the Ministers shall be jointly accountable to the Parliament of Kurdistan for matters related to the Council of Ministers. Each Minister shall be individually, primarily, and directly responsible for the activities of his Ministry.

**Article 74:**

The Council of Ministers shall exercise the following powers and authorities:

First: Implement laws, resolutions, decrees, and regulations; protect the security of Kurdistan and its public funds.

Second: Outline the general policy of the Kurdistan Region, in coordination with the President of the Kurdistan Region; and implement this policy after it is approved by the Parliament.

Third: Prepare the draft general budget for Kurdistan.

Fourth: Draft bills and resolutions and submit them to the Parliament of Kurdistan.

Fifth: Issue regulations and executive and administrative resolutions, in accordance with the Constitution and law.

Sixth: Prepare projects for development plans, and implement such projects after they are approved by the Parliament.

Seventh: Form a joint administration with the Federal Government to manage the oil and gas extracted from [fields in] Kurdistan and put into commercial production before August 15, 2005. Revenues received from these fields must be distributed fairly in accordance with the principles specified in Article 112 of the Federal Constitution, and with the oil and gas laws of the Kurdistan Region. For the purposes of enforcing the provision of this paragraph, the scale of commercial production shall be defined as the production of no less than five thousand (5,000) barrels per day for a period of twelve (12) months.

Eighth: Work jointly with the Federal Government to formulate the strategic policies necessary to develop oil and gas resources. All matters related to the Region's resources must meet with the approval of the Parliament of Kurdistan.

Ninth: Manage, in accordance with the laws of the Kurdistan Region, all exploration, production, management, development, sales, marketing, and export activities, as well as all other operations, required for crude oil and gas fields, [including] oil and gas that has not been extracted or that has been extracted but not put into commercial production before August 15, 2005. For the purposes of enforcing the provision of this paragraph, commercial production shall be defined as the production of no less than five thousand (5000) barrels per day for a period of twelve (12) months.

Tenth: Exercise executive powers pertaining to all matters in the Kurdistan Region that do not lie within the exclusive jurisdiction of the federal authorities, in accordance with Article 110 of the Federal Constitution.

Eleventh: Exercise those powers the Federal Authorities and the Kurdistan Authorities jointly authorize it to exercise, in accordance with the provisions of the Federal Constitution.

Twelfth: Oversee, direct, follow up, monitor, and coordinate the activities of the ministries, institutions and public utilities in Kurdistan.

Thirteenth: Appoint, promote, dismiss, discharge or retire employees in accordance with the law and in a manner that does not conflict with the provisions of this Constitution, or the laws that are issued based on these provisions.

Fourteenth: Nominate representatives of the Region, with the approval of the Parliament of Kurdistan, to Independent Federal Authorities and to federal positions at or above the rank of general director.

Fifteenth: Organize and administer the Regional Guard (the Peshmerga), in order to protect the region, as well as the police, the security agencies, and other internal security forces.

Sixteenth: Propose the establishment of special offices for the Region's cultural, social and developmental affairs in the embassies and diplomatic missions, and manage such offices.

**Article 75:**

First: In the following situations, the Council of Ministers shall be considered to have resigned, and the cabinet shall be charged with acting as a caretaker government until a new government is formed :

- A. Acceptance of the Prime Minister's resignation.
- B. A vote of no confidence in the Prime Minister by the Parliament of Kurdistan.
- C. Beginning of a new term for the Parliament of Kurdistan.
- D. Beginning of a new term for the President of the Kurdistan Region.
- E. Death of the Prime Minister.

Second: A Minister shall be considered to have resigned if the Parliament of Kurdistan passes a motion of no confidence in him.

**Article 76:**

First: The law shall regulate the impeachment and trial of the Prime Minister, the Deputy Prime Minister, and [other] Ministers.

Second: The law shall determine the salaries, benefits, and privileges of the Prime Minister, the Deputy Prime Minister, and the Ministers.

**Chapter Three**  
**The Judicial Authority**  
**First: General Principles**

**Article 77:**

The judicial authority in the Region is independent. It shall be composed of the Judicial Council, the Constitutional Court, the Court of Cassation, the Judiciary Inspection Department, the Public Prosecution Office, and of the various levels and types of courts, and their cadres. The law shall regulate the manner in which these bodies are formed, the conditions and procedures for appointing their members, and for holding these members accountable.

**Article 78:**

The judiciary shall be independent and subject to no authority except that of the law.

**Article 79:**

The judiciary shall have general jurisdiction over all natural and legal persons in Kurdistan.

**Article 80:**

Judicial rulings and decisions shall be issued and implemented in the name of the people.

**Article 81:**

All judges shall be appointed for an unlimited term, with compulsory retirement at an age specified by law. Judges may not be removed, except in the cases specified by law. Judges must be provided with suitable working conditions, and granted remuneration that is consistent with the dignity of their office and the scale of their duties, and that guarantees their independence. While judges in office, their remuneration may not be diminished, nor may their working conditions be changed.

**Article 82:**

Judges and members of the Public Prosecution shall be prohibited from:

First: Simultaneously holding a judicial position and a legislative or executive position, or any other job.

Second: Being affiliated with a political party or organization.

**Article 83:**

Court sessions shall be public, unless the court decides in favor of a closed session, for the sake of public morals, or sanctity of the family. In the case of a closed session, the ruling must be pronounced in an open session.

**Article 84:**

It shall be forbidden to establish special or extraordinary courts in Kurdistan.

**Article 85:**

The law shall regulate which courts have jurisdiction to investigate crimes of a military nature committed by members of the Regional Guard (the Peshmerga), or by members of the internal security forces, as well as crimes committed by members of these forces against each other.

**Article 86:**

It shall be prohibited for laws to stipulate that the courts are forbidden from hearing cases arising from such laws.

**Article 87:**

It shall be prohibited for laws to stipulate that any executive or administrative resolution or procedure is immune from appeal.

**Article 88:**

The law shall guarantee the impartiality of the administration, and that any individual who abuses his power shall be punished.

**Article 89:**

Anyone injured as a result of the misconduct or negligence of staff members from the Kurdistan Government's Departments or Authorities, while said staff members are performing their jobs, shall be entitled to claim compensation from the aforementioned agencies.

**Article 90:**

Judicial decisions must be implemented. Refusal to implement them, or obstructing their implementation, shall be considered a criminal offense punishable by law. If the accused is a civil servant or an individual charged with performing a public service, then in addition to receiving a punitive sanction, he shall be dismissed from his position. The judgment beneficiary shall have the right to bring an action directly before the competent court, and if he has suffered any harm, the government shall guarantee him full compensation. This compensation shall not detract from the subordinate's responsibility.

## **Second: The Constitutional Court**

### **Article 91:**

The Constitutional Court of Kurdistan shall be established by law.

### **Article 92:**

First: The Constitutional Court of Kurdistan shall be composed of seven members, including the Chief Justice. Members shall be selected from among judges, law professors, and lawyers who have a total of at least twenty years of practice in the judicial or legislative field, in teaching or in legal practice.

Second: The President of the Kurdistan Region, in consultation with the Judicial Council, shall nominate the members of the Constitutional Court.

Third: After the Parliament of Kurdistan has confirmed, by a majority of two-thirds of its members, the nominees to the Constitutional Court, the President of the Kurdistan Region shall issue a decree appointing these nominees as members of the Court.

### **Article 93:**

The Court shall elect its Chief Justice from among its members.

### **Article 94:**

Before beginning their duties, the Chief Justice and members of the Constitutional Court shall take the legal oath of office before the President of the Kurdistan Region.

### **Article 95:**

The Constitutional Court shall have jurisdiction over the following matters:

First: Explain the stipulations of the articles of the Kurdistan Region's Constitution.

Second:

- A. Monitor the constitutionality of the laws, based on a request from the President of the Kurdistan Region, the Council of Ministers, ten Members of Parliament, or any concerned party.

B. Decide the legality of decrees, regulations, resolutions and instructions, based on the request of any concerned party.

Third: Settle appeals brought before [the Constitutional Court] that arise from an ongoing case before a [lower] court and are related to the unconstitutionality of a law or the illegality of a resolution, regulation, or instruction. The aforementioned [lower] court must adjourn the case until the result of the appeal is decided.

Fourth: Certify the results of referendums and of general elections for the President of the Region, the Parliament of Kurdistan, and local and municipal councils.

Fifth: Decide on the constitutionality of proposed amendments to the Constitution of the Kurdistan Region, and decide whether said amendments conform to the requirements listed in Article 118 of this Constitution.

Sixth: Try the President or Vice President of the Kurdistan Region after they have been impeached by the Parliament in accordance with Article 62 of this Constitution. The conviction of the President or the Vice President requires the agreement of at least five of the Court's members. No punishment may be inflicted on them except removing them from their positions.

Seventh: Settle cases brought before the Court in accordance with Article 19, Paragraph 18 / 4 of this Constitution.

Eighth: Settle appeals related to the validity of membership, and lift the immunity of parliamentary members.

**Article 96:**

The law shall determine the conditions for membership in the Court, the Court's work processes, and how the Court accepts cases, motions and appeals.

**Article 97:**

The rulings of the Constitutional Court shall be final and binding for all. If the Court, in deciding the constitutionality of laws, or the legality of decrees, regulations, resolutions and instructions, resolves that any law, decree, regulation, resolution or instruction violates the Constitution or the law, the Court should notify the concerned authority in



Kurdistan, so that this authority may take the necessary measures to remove or correct the constitutional violations.

### **Third: The Judicial Council**

#### **Article 98:**

First: The Judiciary Council shall be composed of the President of the Court of Cassation and his deputies, the Head of the Judiciary Inspection Department, the Head of the Public Prosecution; and the presiding judges of the appellate district courts in Kurdistan.

Second: The Judiciary Council shall manage the affairs of the judiciary, guarantee its independence, and oversee judicial agencies, in accordance with the law.

#### **Article 99:**

First: The judicial authority shall have its own special budget that shall be appended to the budget of the Region. This budget shall be financed through judicial fees and fines collected in accordance with the law, and by the funds which the Government of Kurdistan provides for this purpose.

Second: The Judicial Council shall be responsible for preparing an annual draft budget for the judicial authority, and shall consult the Constitutional Court regarding the allocations set aside for it. The Judicial Council shall present the draft budget to the Parliament of Kurdistan for its approval. The final figure for this budget must be incorporated into the annual budget of the Kurdistan Region.

## **Section Four**

### **First: The Public Prosecution**

#### **Article 100:**

The Public Prosecution shall represent society in defending justice, protecting legality, public order, the security of the region and of its public funds, and in protecting families and individuals and their freedoms. This shall be regulated by law.

### **Second: The Shura [Advisory] Council**

#### **Article 101:**

First: A Shura Council of the Kurdistan Region shall be established by law. It shall have jurisdiction in the following matters:

1. Settle appeals regarding punitive and disciplinary measures, and employment issues related to employees of government departments.
2. Settle issues involving a conflict of jurisdiction between Ministries and government institutions and departments, at the request of the Prime Minister's office.
3. Study, prepare or draft bills for Kurdistan, at the request of the President of the Kurdistan Region, the Council of Ministers, the competent Ministries, or non-ministerial agencies.
4. Express its opinion and offer advice on legal matters brought before it by Ministries and non-ministerial agencies; settle issues over which these entities differ when the parties in the case appeal to the Council. In such cases, the opinion of the council shall be binding on these parties.
5. Any other jurisdiction entrusted to the Council by law.

Second: Administrative courts shall be established in the region; their makeup and their duties shall be determined by law.

**Section Five**  
**Local Administrations and Municipal Councils**

**Article 102:**

Administrative divisions in the Kurdistan Region shall be as follows: governorates, districts, counties and villages. The establishment of these administrative divisions, the designation or change of their capitals, the settling or modification of their boundaries, and the separation of one administrative unit to attach it to other such units shall take place in accordance with the law.

**Article 103:**

First: In order to achieve democracy, administrative decentralization shall be applied, continuously developed and activated in running the administrative units of Kurdistan (governorates, districts, counties and villages), because it is one of the indispensable tools for the participation of the Region's citizens in running the administrative unit's general affairs. Each administrative unit shall have a local council, chosen by secret ballot in direct and general elections. The method in which these councils are elected, as well as their powers and duties, shall be clarified by law.

Second: Each administrative unit shall have an executive council chaired by the chief officer of that administrative unit. The law shall clarify how this council is formed, determine its powers and duties, and define its relationship to the local council of the same administrative unit and to the central Ministries and institutions of Kurdistan.

**Article 104:**

The capital of each governorate, district, county, or village with a population of at least 3,000 people shall have a municipality managed by an elected municipal council which shall provide public services to its citizens in accordance with the law.

**Article 105:**

First: Local and municipal councils shall enjoy the status of a legal person.

Second: Each administrative or municipal unit shall have its own independent budget.

**Article 106:**

First: Equitable representation of the ethnic groups living within an administrative unit or municipality shall be taken into account in the composition of local and municipal councils. This process shall be regulated by law.

Second: The electoral law for local and municipal councils must aim to ensure that at least one quarter of the councils' members are women.

**Section Six**  
**Independent Authorities and Commissions**

**Article 107:**

First: The following entities shall be established by law:

1. The Independent High Authority for Elections and Referenda in Kurdistan.
2. The Civil Service Board.
3. The Financial Auditing and Integrity Board.
4. The Commission for the Protection of the People's Rights (Ombudsman)
5. The Special Commission for the Rights of the Faylee Kurds.
6. The Public Authority for the Safety and Quality of Local and Imported Products.
7. The Independent Authority of Kurdistan for Media and Communications.

Second: The following entities shall be established by law:

- A. The Advisory Council for Economic and Social Affairs.
- B. The task of this Council shall be to provide advice to the office of the President of the Region, the Parliament, and the Council of Ministers on economic and social affairs.

**Article 108:**

First: The authorities and commissions included in the first paragraph of Article 107 of this Constitution shall be subject to oversight by the Parliament of Kurdistan. The law shall regulate the relationship of each aforementioned authority or commission to the Parliament.

Second: Other authorities and commissions may be formed by law, in addition to those mentioned in the first paragraph of Article 107 of this Constitution.

## **Section Seven**

### **Financial Provisions**

#### **Article 109:**

Low income individuals shall be exempt from taxes in a manner that ensures a fair minimum standard of living. This process shall be regulated by law.

#### **Article 110:**

The revenues of the Kurdistan Region shall be composed of the following:

First: Kurdistan's share of the federal government's general budget, originating from proceeds from oil and gas resources, customs duties, and other federal revenues, including loans, grants, gifts and aid.

Second: Proceeds from taxes, fees, and charges for public utilities; and from the revenues of public institutions and companies.

Third: Charges collected from the administration and levying of federal taxes and customs fees, and other federal revenues in the Region.

Fourth: Proceeds from the regional government's investments and resources.

Fifth: Grants and gifts.

Sixth: Domestic and foreign loans specific to the Region.

Seventh: Financial support provided by the federal government to the Government of the Region.

#### **Article 111:**

The fiscal year shall be specified by law.

#### **Article 112:**

First: A budget law for the Kurdistan Region, including estimated revenues and expenditures, shall be legislated every fiscal year.

Second: The draft budget for the [next] fiscal year shall be presented to the Parliament of Kurdistan three months prior to the end of the fiscal year.

Third: In the event that the preparation or presentation of the budget is delayed for any reason beyond the beginning of the fiscal year, the Government of Kurdistan shall, each month the budget is delayed, disburse one twelfth of the approved appropriations in the budget of the elapsed fiscal year.

**Article 113:**

The President and Vice President of the Kurdistan Region, the Speaker of the Parliament of Kurdistan, Members of Parliament, the Prime Minister and the Deputy Prime Minister, Ministers, judges, public prosecutors and deputy public prosecutors, individuals with special grades, general directors, and individuals of these ranks shall be prohibited from buying or renting any public property in Kurdistan. The aforementioned individuals shall also be prohibited from leasing or selling any part of their property to the regional authorities, and from entering into contracts (either directly or by proxy) as concessionaires, suppliers, or contractors.



## **Section Eight**

### **Implementation, Explanation and Amendment of the Constitution**

#### **Article 114:**

Pursuant to Article 167 / Fourth of the federal Constitution, no amendment to the federal Constitution shall be enacted if it diminishes those powers exercised by the authorities of the Kurdistan Region that do not lie within the exclusive jurisdiction of the federal authorities, unless the agreement of the Region's Parliament to said amendment has been secured, and a majority of voters in a referendum indicate the agreement of the people of Kurdistan to this amendment.

#### **Article 115:**

In addition to its normal areas of jurisdiction, the Kurdistan Court of Cassation shall have the authority to explain the stipulations of this Constitution, and to settle appeals that arise from ongoing cases before the courts and that are related to the unconstitutionality of laws, or the illegality of resolutions, decrees, regulations and instructions. The Court of Cassation shall exercise these authorities until the Constitutional Court of Kurdistan is formed.

#### **Article 116:**

Laws shall be published in the official Kurdistan gazette (*Waqai'i Kurdistan* [Kurdistan Events]), and shall come into force on the date of their publication, unless the given law stipulates otherwise.

#### **Article 117:**

This Constitution shall be considered ratified after it has been approved in a public referendum by a majority of the voters of the people of the Kurdistan Region.

#### **Article 118:**

The Constitution may be amended according to the procedures mentioned in this article, provided that the amendment not infringe upon the integrity of Iraqi Kurdistan's

republican and democratic system, or upon its territorial unity, and provided that the amendment not undermine the basic right and freedoms set forth in the Constitution.

First: Together, the President of the Kurdistan Region and the Council of Ministers, or half of the Members of Parliament, may propose a constitutional amendment.

Second: After reviewing the proposed amendment within forty-five days, the Constitutional Court shall determine whether the proposed amendment conflicts the conditions set forth in the first paragraph of this article.

Third: The Parliament of Kurdistan may approve the proposed [amendment] by a majority of two-thirds of its members.

Fourth: The majority of the voters of the people of Kurdistan shall agree to the amendment in a general referendum.

**Article 119:**

The citizens of the Region shall have the right to a referendum. Twenty-five percent of eligible voters in the Region shall have the right to request a referendum on a particular issue, provided that such a referendum is conducted and regulated by law.

**Article 120:**

First: This Constitution shall go into effect sixty days after the date on which it is approved in a general referendum. The President of the Kurdistan Region shall be responsible for publishing this Constitution in the official gazette (*Waqai'i Kurdistan*) within ten days of the date on which it is approved in a general referendum.

Second: All of the laws in force on the date on which this Constitution comes into effect shall remain in force as long as they are not amended or annulled in accordance with the provisions of this Constitution.