

Social Peace through Law in Kirkuk

Adnan Shwan
Ministry of Justice

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Abstract

In the 1960s, attempts were made to change the demographic composition of Kirkuk, and its indigenous was forcibly displaced and replaced by others. Among these policies was the seizure of agricultural lands, belonging to the two communities (Kurdish and Turkmen), and then distributing them to individuals from the Arab community. The Baath regime of Iraq seized the lands through two types of decisions (decisions of the Revolutionary Command Council (RCCD) and decisions of the Northern Affairs Committee (NACD). These decisions have the force of laws, so cancelling these decisions requires the intervention of the legislative authority and the issuance of laws to cancel them. Therefore, now, the Iraqi parliament has recently passed a law to repeal the decisions of the former RCCD. Through the use of qualitative method, this study attempts to answer this question whether the law to cancel the decisions of the RCCD will work to consolidate social peace in Kirkuk?

Keyword: Law, Kirkuk, Social Peace, Communities, Coexistence

1. Introduction

Successive governments have made great efforts to change the demographic composition of Kirkuk, but the greatest efforts were during the Baath regime of Iraq in 1961 and after. The Baath regime of Iraq did not stop only at changing the demographics of Kirkuk, but also tampered with its administrative structure, by dividing it and distributing vast areas of the province's lands to other provinces, expelling Kurdish workers, dismissing them from their jobs and replacing them with Arabs. And through various policies such as the "security belt" project, which aimed to Arabize the surroundings of Kirkuk and reduce the Kurdish presence in it, despite changing its name during Saddam Hussein's time from Kirkuk to the "Ta'amim" province (*Darwesh, 2017*). The Baath regime of Iraq seized the lands of Kurdish and Turkmen farmers through two types of decisions (decisions of the Revolutionary Command Council¹ (RCCD) and decisions of the Northern Affairs Committee² (NACD). According to these decisions, more than 308,500 meters of land belonging to the Kurdish and Turkmen were confiscated. These decisions have the force of laws, so cancelling these decisions requires the intervention of the legislative authority and the issuance of laws to cancel them. After the fall of the Baath regime of Iraq and the return of the indigenous people to their lands, they demanded the return of their lands. They have ownership document of land, while some of the Arabs who were loyal to the Baath regime of Iraq stated that the land belongs to us according to the state decision. This has deepened the ethnic conflict in Kirkuk and created a deep problem for social peace. Now, after great efforts by farmers and representatives of the Kurds and Turkmen in the Iraqi parliament, a draft law was voted on to cancel the previous decisions of the RCCD.

Therefore, this study attempts to provide a theoretical perspective on the relationship between law and peacebuilding. This study attempts to analyze the law to cancel the RCCD. The main question of this study is whether the law to cancel RCCD will work to consolidate social peace in Kirkuk? The study also strives to show the different perspectives of the components in Kirkuk towards the law of canceling the RCCD. An important aspect of this study is to highlight the role of the law in an important issue such as the issue of coexistence and peacebuilding, so that the law can be a tool to suppress and deepen the conflict in society as

¹ The Iraqi Revolutionary Command Council is an Iraqi legislative council established by the Iraqi Arab Socialist Ba'ath Party after its coup on July 17, 1968, and its seizure of power. The council remained the final decision-making body in Iraq until the US invasion of Iraq in 2003. The decisions of the Supreme Revolutionary Command Council are law. The previous interim constitution issued in 1970 allowed the Revolutionary Council to issue decisions that had the force of law. The decisions of the Revolutionary Command Council are considered effective under the current Iraqi constitution (2005 Constitution) in accordance with Article 130, which confirms that laws remain effective unless they are repealed or amended by law. Therefore, the Baath regime exploited the decisions of the Supreme Revolutionary Council to serve its agenda, and issued several decisions against sects other than the Sunni Arabs. And among these decisions are decisions to confiscate the lands and properties of Kurdish and Turkmen farmers.

² The Northern Affairs Committee was the committee that supervised the Baath activities and decisions regarding northern Iraq. Ali Hassan al-Majid supervised all attempts and attacks against the Kurds in the chemical attacks on Halabja, the Anfal campaigns, the massacres, and the burial and destruction of villages. However, the decisions of this committee have no legal status and will be cancelled by a decision of the government.

was the case during the Baath regime of Iraq. The law can also be a tool to peace building and social justice in post-conflict societies. Therefore, this study attempts to show how the law of canceling the RCCD serves social peace in Kirkuk. Using a qualitative approach, including stakeholder interviews, this study examines whether the law repealing RCCD contributes to social peace in Kirkuk.

2. Conceptual and Theoretical Framework

In this part of the research, an attempt was made to explain the important concepts and discuss the relationship between social peace and law in a theoretical manner.

2.1. Social Peace

It's crucial to understand what social peace is before talking about how law contributes to it. The provision of security, fairness, and protection of all individuals' rights in a particular society without discrimination is the essence of social peace. Social peace is the creation of love and tolerance among individuals in society without regard to any discrimination that causes division and conflict (Yılmaz, 2001, p. 332 & Almunni, 2018, p. 120).

In another word, social peace is the result that democratic practices and freedom of expression have led to among segments of society in general within the state. It is a logical result on which the country's internal strength is based in many economic and developmental aspects (Al-qaeisi, 2017, p. 4). Likewise, by social or societal peace, it means "the state of peace and harmony within society itself and between its segments and forces. One of the most important basic criteria for evaluating any society is diagnosing the state of its internal relations (Asfar, 2020, p. 8). Social peace consists of five main components, which will consolidate the foundations of peace through the following components (Al-qaeisi, 2017, p. 2): (Educational System, Advocating for the Principle of Citizenship, Political Culture, Belonging to society and Social Justice).

2.2. Law

Law is the basic pillar of society, and its basic objectives are: achieving freedom, the public good, regulating interests, ensuring justice and maintaining state security (Rasheed & Others, 2024, p. 18) Therefore, the main purpose of the law is to embody peace. However, it is crucial to understand the idea, philosophy of law and Philosophy of Legislation before discussing the role of law to ensure and enhance social peace.

2.2.1. The Idea of Law

The idea of law is a matter of much debate among legal scholars. For example, the French jurist Michaux believes that the idea of law is independent of the idea of the state and that it proceeds and transcends it in its existence. As the jurist Léon Duguit pointed out, "The law was not created by the state, but rather it is something outside of it, and that the idea of law is completely independent of the idea of the state, and that the legal rule imposes its obedience on the state just as it imposes its obedience on individuals." But the emergence of the idea of law as a comprehensive and complete theory goes back to George Perdue, which formulated it to define the phenomenon of state authority, and to define the basis on which all systems and activities within society operate (Abolanin, 2006).

In general, the law idea is the idea that has the upper hand among individuals with regard to the form of the state, the nature of the system of government, the organization of the powers of the authorities, and the rights and freedoms of individuals (Mustafa, 2013, p. 15). Therefore, the rights and freedoms of individuals form the basis of the legal idea. Among these rights is the property right, and among the freedoms are the freedom to work and the freedom to reside, which are considered among the most important basic freedoms for citizens. In general, the law aims to protect and regulate public interests. Therefore, a law that does not protect rights and freedoms cannot regulate interests and respect the principle of justice. Thus, when laws effectively safeguard individual rights and freedoms, they contribute to public trust and stability. However, when laws are selectively applied or fail to protect all groups, they lose legitimacy, leading to social unrest and security challenges (Allimon, 2016, p. 3).

In other words, the legal idea is a social system that reflects the people's lives and requirements, which differ from one people to another and comes about when a certain society realizes the goal that strengthens its cohesion and solidarity by establishing a social system (Ghazal, 1985, p. 6). Therefore, the legal idea is based on the needs and requirements of people's lives. Hence, a new law can be enacted or an old law can be amended, based on the current needs of society. An idea related to society cannot be born in the human mind spontaneously, but its birth is linked to the act of life within the group under certain conditions and data. And every person within a community has an idea or vision for his future, a vision for an ideal social organization and a certain pattern of collective life and every person has his own vision towards the concept of the common good or common interests. What is beyond doubt is that this individual vision is not far from flaws and is not free from individual selfishness, but when a general concept of a social system comes through the convergence of individual visions, these flaws and contradictions are eliminated. Because behind the different features of the system that we face there is an idea that confirms the homogeneity between the group and the contradictions complete the individual visions, this idea is the idea of law. It is the idea that is formed through the specific vision of the social system, and its content is decomposed into the affirmation of principles that are considered a framework for this system. Its origin is the visions of individuals through the path leading to the common good.

2.2.2. Philosophy of Law

In his Republic, Plato compared the legislator to a physician, and explains how the physician can write us a prescription to protect our health. Good legislators enact laws for any event or situation to protect and maintain the security and stability of society. He also believed that law is an important pillar of justice and enhances friendly relations between individuals (Diş, 2020, p. 1020). Law is a vehicle for social change, but these changes must be based on the needs of societies. Fundamental and natural human rights must be respected.

Law is the soul of a nation, and laws themselves are formed by the customs and traditions of the people. Laws must be against injustice, the rule of law should be established on this basis, not on force (Atya, 2023, p. 59). Hence, law is a social necessity and important for regulating relationships (Rauuf, 2009, p. 51). Since law is a social necessity, it is vital to know how law works to embody social peace.

In addition to the general introduction to law mentioned above, thinkers have different views on the philosophy of law. It is important to clarify the views of some of them. For example, from Machiavelli's point of view, the reform of society comes not through obedience to laws, but through the use of state power to enforce the law (*Machiavelli, 2014*). On the other hand, Hobbes believes that the philosophy of law is the sovereignty of the ruler. He believes that people give up all their rights and privileges in order for the ruler to provide them with security and stability, and therefore the ruler has absolute power to enact laws and amend laws (Hobbes, 1998, p.132). John Locke believes that the philosophy of law aims to define the rights and duties of the governed and prevent the emergence of tyrannical ruling authority, because individuals are free and have the right to revolt against oppressive authority (*Philosophy, 2020*). And according to Montesquieu in his famous book (*The Spirit of Laws*) that law is the necessary relationships that are necessary from the nature of things. Law is necessary to refine the natural predispositions imposed in human nature, and this natural predisposition is provided to individuals since their inception (*Majidila, 2015, p. 55*). The philosophy of law, according to Rousseau, is to protect the public interest and human rights.

Moreover, law is the basis of the state according to Friedrich Hegel, what governs and determines the life of the individual in the state is not an external factor or force external to the individual, but rather the law that the citizen perceives through consciousness. But the law here is not the law issued by the ruler, because the content of the law for him is the right (*Hegel, 2007*). In general, the philosophy of law is to regulate the relationship between the ruler and the ruled, to protect the public interest and to provide justice. As John Rawls also focuses on justice, believing that all social and political institutions have the same goal: to provide justice. Thus, the philosophy of law, as a product of political and social institutions, is to establish justice in society (*Rawls, 2011, pp. 29-30*).

Finally, the philosophy of law varies from one society to another according to the type and form of laws, forms of political system and forms of government.

2.3. The Role of Law in Achieving Social Peace

The law does not find its purpose in itself, but there are reasons that make the law necessary. For example, some people have the idea that the law seeks a specific goal, which is to maintain peace and social harmony in society, in all circumstances and at any cost (Pound, 1922, p. 78). In other words, even if the law has many goals and objectives, they all revolve around how to make society safe and stable and more developed and prosperous (Vako & Barkan, 2018). This idea is very old in its roots (it dates back to the time of the ancient Greeks) and the necessity of law is estimated according to its ability to control society and establish security and stability for society in general. The Greek philosophers had a very broad view of the idea of peace and stability, as they considered that the goal of the legal system is to preserve the existing social order, and they viewed the law as the best means to keep each person in his designated place in society, which leads to preventing friction with others. For example, Socrates believed that

the law was always just and must be respected (*LévyStone, 2019*). So, he insisted that the peace and stability enjoyed by Athens was the result of the Solonian constitution³.

Another idea is that law protects social life because humankind himself is the embodiment of evil, and at best man is a mixture of good and evil motives that are in constant conflict. Since dangerous dark forces are embedded in human nature, it is necessary to curb these forces firmly so that they do not lead to the destruction of the social order. Law is the indispensable deterrent to curb the forces of evil. This idea is formed through a certain conception of a social system, and its content is broken down into an affirmation of principles that are considered a framework for this system. Its origin is the perceptions of individuals about the path leading to good and charity (Mustafa, 2013, p. 18). Plato also believed that peace would result from achieving justice. He also saw that justice is that each individual in the state performs the function for which nature has prepared him. This means that justice should not be achieved except through law, hence he disagrees with Socrates. In his Republic, he asserts that a just constitutional order is only one in which individuals agree to subject their desires, dangerous dark forces and evil tendencies to the virtue of reason or wisdom. On the other hand in Aristotle's view, all the laws of the state are for three main purposes: to provide this security by protecting citizens, protecting them from each other, and protecting them from external threats (*Aristotle, 1980*). If one return to the social contract thinkers, the state's duty, for them, is to maintain peace through law, because the goal is to concentrate legitimate authority in the hands of the state alone (*Najjar, 2022, p. 93*). John Locke states in his book, *An Explanation of Civil Government*, that although the state has a duty to protect its citizens, this does not mean that citizens lose all their rights. Rather, they have the right to revolt against the ruler if he abuses his power (*Abol-el, n.d., p. 438*).

In modern times, the role of law in rebuilding society is described as an embodiment of social justice and the development of democracy (Vako & Barkan, 2018, p. 210). Therefore, the essence of the law is to embody social justice and spread the culture of democracy, equality, the rule of law and respect for pluralism, which are the essence of social peace.

Human rights violations have been a major source of conflict in intra-states since 1990, when the nature of conflict changed from conflict between states to intra-states conflict (Efegil, 2021). Hence, the nature and philosophy of law in the modern era is to protect human dignity and human rights. Therefore, addressing these transgressions is a crucial component of any peacebuilding endeavour. Post-conflict peacebuilding initiatives typically should include significant legal and institutional transformation (Bell, 2012, p. 1). Thus, according to Richard Kaplan⁴ the first step in the peacebuilding process must include the creation and maintenance

³Solonian constitution was created by Solon in the early 6th century BC. At the time of Solon, the Athenian State was almost falling to pieces in consequence of dissensions between the parties into which the population was divided. Solon wanted to revise or abolish the older laws of Draco. He promulgated a code of laws embracing the whole of public and private life.

⁴ Richard Middleton-Kaplan: is the director of Academic Support Services at Whitman College. In 2011, Richard spent a sabbatical at the Centre for Applied Human Rights at University of York, helping to develop a course on literature and human rights. His publications include "Using Literature to Teach Peace" in *Peace Research: The Canadian Journal of Peace and Conflict Studies*.

of laws and regulations and the reform of the legal system (Sari, 2011, p. 52). These reforms aim to prevent and eliminate human rights violations and achieve social justice.

During a conflict, law will have been used and abused as a tool of war and any faith in the notion of the rule of law or confidence in law and legal institutions will have been severely damaged (Bell, 2012), especially when power is not ruled democratically, the law becomes an instrument of oppression rather than providing social justice and social peace. So that, in post conflict society, a major part of the peacebuilding project will be to rebuild the legal institutions and attempt to renew confidence in the rule of law as a potential constraint on future abuse of power. Although controversial, international law itself is designed to resolve international conflicts, from a liberal point of view; international law can reduce state aggression and help establish peace (Heywood, 2011, p. 340). Generally, peace is a state characterized by the absence of force, but there is justice and law, this law represents everyone here not just one group (Kelsen, 1922).

In post-conflict societies, the role of law in embodying social peace is reflected in the embodiment of transitional justice. The concept of transitional justice begins within the contexts of conflict in a specific society as a result of the formation of bodies, committees and associations that aim to achieve three goals: knowing the truth about incidents and events that require the transitional justice mechanism, the most important of which is conducting serious investigations into the subject of complex violations, revealing the truth about crimes and their dimensions, then redressing the damage, and taking measures that guarantee the rule of law and the non-recurrence of what happened (Jasm & Al-tamimi, n.d, p. 175). In the report of the Secretary-General of the United Nations on the rule of law and transitional justice in conflict and post-conflict societies, transitional justice is defined as “the process and mechanisms that attempt to understand and overcome the widespread prejudices of the past in order to achieve accountability, justice, and reconciliation. These mechanisms include the judicial and other mechanisms that seek to resolve conflicts. Reparations are one of the most important elements of transitional justice. Reparations programs seek to provide redress for systematic human rights violations by offering victims a range of material and symbolic benefits. Reparations can include monetary compensation, medical and psychological services, health care services, educational support, restitution or compensation for lost property, and public apologies, all of which must be regulated by law (Jasm & Al-tamimi, n.d). Hence, the principle of transitional justice, which constitutes an important basis for social peace in post-war societies, is good law and reform of the legal system.

2. Kirkuk Issue

The oil-rich northern districts of Iraq were long considered a reflection of the country with a diversity of ethnic and religious groups; Arabs, Turkmen, Kurds, Assyrians, Yezidi, Shabak and Chaldeans, living together and portraying Iraq's demographic makeup. In Kirkuk, all religious, cultural and ethnic communities are present, therefore, Kirkuk is often described as a smaller Iraq. So, the relationship and organization between these communities and this social division since 2003 until now, is a matter of concern. The political, administrative and security

situation in Kirkuk and disputed area after 2003 had an impact on the issue of peace and coexistence among the components.

Kirkuk has long been a contested city, with Kurds, Arabs, and Turkmen holding competing territorial claims based on historical, political, and demographic arguments. Hence the most intense conflict between the Kurdish liberation movement and successive governments in Iraq over the fate of Kirkuk. Since the formation of Iraq, there has been a struggle over the identity of Kirkuk, one of the regions that have witnessed a long history of political, ethnic and national conflict (Anderson & Stansfield, 2009, p. 23). The ethnic-political conflict in Kirkuk is not very old, but dates back to the twentieth century, when the idea of national ideology developed after World War I. The presence of an important oil source, and one of the most important oil cities in the world, led to the deepening of the conflict in the city. Not at the domestic manner, but international and regional powers tried to control the city (Anderson & Stansfield, 2009, p. 24). But after the formation of the Iraqi state in 1920, the Kirkuk issue emerged as the core of the conflict between the Kurds and successive Iraqi governments (Shanks, 2013, p. 70).

The Kurds and Turkmen have different views on Kirkuk. They view Kirkuk in symbolic terms, but the authorities in Baghdad see it as a strategically important oil city, not as part of the history of the people and the Arab nation. The Turkmen describe themselves as the majority of Kirkuk's population. (Kurds claim to be the majority in Kirkuk, a position supported by historical census data, such as the 1957 Iraqi census, which recorded 48.2% of the population as Kurdish (Anderson & Stansfield, 2009, p. 48 & 76). However, demographic disputes persist, with Turkmen and Arab leaders contesting these figures. Therefore, the Kurdish revolutionary leader Mullah Mustafa Barzani proposed that Kirkuk become the capital of the Kurdistan Region (Anderson & Stansfield, 2009, p. 50). Due to the Kurds' deprivation of their rights in Iraq, such as political, property, and educational rights, the September 1961 revolution⁵ erupted under the leadership of Mullah Mustafa Barzani. The revolution aimed to grant the Kurds autonomy in the entire Mosul Vilayet, including Kirkuk and its oil production, with the exception of the central city of Mosul. However, the Iraqi government strongly rejected this and confronted the revolution with extreme firmness to avoid any threats from the Peshmerga forces (Anderson and Stansfield, 2009, p. 51).

Consequently, in response to Kurdish territorial claims, the Ba'ath government of Iraq implemented a systematic Arabization policy in Kirkuk, aiming to shift the city's demographic balance⁶. Intent on increasing Kirkuk's Arab population and achieving a majority status in the

⁵ Although the September Revolution was related to all Kurdish demands, not only in Kirkuk, but the policy of the Iraqi government towards Kirkuk and other cities, it was an important factor in the outbreak of the September Revolution.

⁶ Arabization campaigns in northern Iraq involved the forced displacement and cultural Arabization of Kurdish, Turkmen, Assyrian, and Chaldean minorities. This was in line with the settler-colonial policies led by the Ba'athist government in Iraq from the 1960s to the early 21st century, with the aim of shifting the demographic composition of northern Iraq toward Arab dominance. Under Saddam Hussein, the Ba'ath Party participated in the de facto expulsion of minorities from the mid-1970s onward, in 1978 and 1979, approximately 600 Kurdish. And as part of this policy, the Iraqi Ba'ath Party used a new method for demographic change in Kirkuk, namely the policy of "ethnic correction," which aimed to force the Kurds to change their nationality from Kurdish to Arab.

oil rich territory, the central government sought to assimilate or expel non-Arab ethnic groups from the region. Arabisation took hold of every aspect of society in Kirkuk, from the renaming of streets to reflect Arab nationalism through to education provision for minority groups (Shanks, 2013, p.71) & (Kirmanj & Rafaat, 2020) .

3.1. Changing Kirkuk Demographically and Administratively

In order to remove the Kurds from the ownership of Kirkuk in any way, the Ba'ath government of Iraq adopted a policy of changing Kirkuk administratively and demographically, both of which were aimed for the Arabization process. The Baath regime tried to annex the Arab-majority areas to Kirkuk. It tried to transfer the administration of the Kurdish-majority districts in Kirkuk to other governors. For example, under Republican Decrees No. 328 and 378, the districts of Hawija and Riyadh were annexed to Kirkuk. In turn, in 1975, the Kurdish-majority districts of Chamchamal and Kalar were annexed to Sulaymaniyah Governorate by Republican Decree No. 608. Kafrish District was also annexed to Diyala (Anderson & Stansfield, 2009, p. 53). The Baath Party's goal in this process was to reduce the Kurdish population and the area of Kirkuk province. For example, the area of Kirkuk province in 1950 was 20,000 square kilometers. However, this led to the area of the province being reduced to 9,679 square kilometers at the beginning of the twenty-first century (Babakr, 2025).

In addition to changing the administrative borders, the Iraqi government at that time carried out the deportation, displacement and replacement of people in Kirkuk. Although the process of demographic change in the province dates back to the beginning of 1920, when oil was exploited in an organized manner, the intensity of this process increased with the Baath Party's rise to power in 1968 through a coup (Anderson & Stansfield, 2009, pp. 65-70). Saddam Hussein's Arabization policy brought about other societal changes, as Kurds and Turkmen in Kirkuk suffered from forced displacement and relocation, and Arab families, referred to as 'Arab immigrants', were given financial incentives of up to ten thousand Iraqi dinars (equivalent to thirty thousand dollars) to move to the city and settle on newly vacated lands. It is worth noting that the process of "Arabization" reached its peak in the eighties and nineties. This period is described as a dark period in the history of Iraq due to the genocidal campaigns known as the Anfal campaigns committed by the Baathist regime against the Kurds, which claimed the lives of between one hundred thousand and two hundred thousand Kurdish citizens. In addition, after the establishment of the safe haven in late 1991, forced displacement operations continued in Kirkuk, which was located outside the borders of the safe haven, where the number of displacements reached nearly a thousand cases in one month and continued in this manner until 2003 (Romano, 2007, p. 266). The policy of Arabization was to confiscate Kurdish and Turkmen property and register it in the name of imported Arabs. As part of this policy, the Iraqi government attempted to seize agricultural lands belonging to Kurdish and Turkmen farmers.

Villages were burned and destroyed, and approximately 200,000 Kurds were displaced and displaced to other parts of Iraq, See: (Mohammed, 2025).

3.2. Confiscation of Kurdish and Turkmen farmers' lands

The Ba'ath government of Iraq practiced all kinds of policies in order to bring about demographic change in Kirkuk province. Among those policies was the seizure of agricultural lands of the Kurdish and Turkmen components and then distributing them exclusively to individuals from the Arab component who were brought by the former regime from outside Kirkuk province or were henchmen of the former regime from within the province to implement the policy of the so-called (security belt). The former regime seized the lands of Kurdish and Turkmen farmers through a number of decisions.

- Revolutionary Command Council Decisions (RCCD); It is an Iraqi legislative council established by the Iraqi Arab Socialist Ba'ath Party after its coup on July 17, 1968 and its control of power. The council remained the final decision-making body in Iraq until the US invasion of Iraq in 2003. It implemented legislative and executive authority in the country, and the tasks of the Revolutionary Command Council were integrated with the tasks of the Iraqi National Council (People's Council). The Revolutionary Command Council had a president and a deputy elected by a two-thirds majority of the council. Its first president was Ahmed Hassan al-Bakr from 1968 until 1979, when his deputy Saddam Hussein assumed the presidency until 2003, and at the same time its president held the position of President of the Republic of Iraq. The cancellation of RCCD required the approval of Parliament, because the RCC was like a parliament. The RCCD include (12) decisions issued by the RCC, whose decisions had the force of laws. Therefore, cancelling these decisions requires the intervention of the legislative authority and the issuance of laws to cancel them (Mohammed Amin⁷, personal communication, January 27, 2025).

- Northern Affairs Committee Decisions (NACD)

The following table shows the lands confiscated under the decisions:

Table 1: The Confiscated Lands

eq	Decisions Numbers	Da te	Area\ meters	Place
	369	19 75	135,0 00	36 districts (Daquq - Dibs - Topzawa)
	824	19 76	38,00 0	Daquq
	949	19 77	123,0 00	Saegaran- Dibs – Kopri
	1065	19 78	10,00 0	15\ Blawa
	189	19 79	---	5\ Drka – Abdullah Kati

⁷ He is one of the representatives of Kurdish and Turkmen farmers in Kirkuk. And also owns some lands in the village of Gabraka which were confiscated by the decisions of the Council of the Revolution.

	31	19 75	---	Tiseen- Hamzali (Turkmen lands)
	181	19 76	---	Tiseen- Hamzali (Turkmen lands)
	944	19 78	---	Tiseen- Hamzali (Turkmen lands)
	33	Un known	---	Part in Makhmour district
0	12	19 98	2500	District 4 - Gabalaka in Sargaran
1	489	19 81	---	Khanaqin
2	617	19 81	---	Khanaqin

[Prepared by the researcher]

At first, when the Kurds and Turkmen were deported, the lands were distributed to different ministries, so some to the Ministry of Defense, some to the Ministry of Agriculture, and some to the Ministry of Interior. Then these lands were registered in the names of the Arab immigrants in the form of contracts, and the Arab immigrants were settled in it and agricultural work was carried out in the lands (Mohammed Amin, personal communication, January 27, 2025). The lands for which contracts were registered and given to the Arab immigrants are shown in the following figure:

[illegible]

[Prepared by the researcher]

In total, according to the RCCD and NACD, about 300 thousand acres of Kurdish and Turkmen lands were confiscated.

3.3. Article 140

After the fall of the Baath regime of Iraq in 2003, the original Kurdish and Turkmen landowners in Kirkuk tried to return to their areas. After the fall of Baath regime of Iraq, the issue of the disputed areas, especially Kirkuk, became one of the main contentious issues between Iraqi federal government and Kurdistan Regional Government (KRG). In early 2003, noticeable changes occurred in the city's population, as a group of Arabs left Kirkuk when Kurdish forces took control of the city. There were also concerns about increased levels of violence in the early days after the fall of Baath regime of Iraq, as many Kirkuk residents, especially Kurds, returned to find their homes either destroyed or occupied by Arab families who had moved to Kirkuk. This situation led to an increase in property disputes as Kurdish and Turkmen families filed lawsuits to claim the return of their homes and lands that they had previously lost. However, in most cases, returning families were unable to return to their original homes, while some Arab families were forced to move to make room for returning families. It is worth noting that in 2004, the Provisional Authority established the Real Estate Disputes Resolution Authority with the aim of supervising compensation claims in order to erase the effects of the "Arabization" process. However, the Authority resolved only a few of the huge number of cases presented (MERI, 2015).

The indigenous people of Kirkuk, both Kurds and Turkmen, expressed their happiness at the return of their properties in accordance with the post-2003 State Administrative Law and the

2005 Iraqi Permanent Constitution. In 2005, the content of Article 58⁸ of the Law of Administration for the State of the Transitional Period issued by (See: Iraqi Constitution, 2005, Article 140). Therefore, Article 140 was included in the Constitution as a solution to the Kirkuk problem, the return of property, and the implementation of transitional justice. The resulting Article 140 of the new Iraqi constitution necessitated a three stage process: normalization, census, and referendum. Normalization would be achieved by the assisted return of internally displaced people and the recovery of their property. Arab settlers who choose to return to southern and central Iraq would be helped in doing so and the boundaries of the governorate of Kirkuk would be restored to that of pre 1974. Subsequently, a census and a referendum would be conducted to decide the future of the city and the governorate. The set deadline for the implementation of this article was December 2007, this deadline has expired, been extended and expired again (Shanks, 2013 & Meri, 2015). Negotiations over the permanent Iraqi Constitution almost failed over the Kirkuk question and efforts to resolve the status of Kirkuk have currently stalled over non-implementation of Article 140. The issue is further complicated by the absence of reliable statistics on the ethnic composition of the governorate. With no exact data available due to frequent accusations of vote rigging and disputes over voter eligibility, each group is free to claim the majority status and instigate IDP movements to reinforce their claim. This precarious situation has led to fluctuating demographics within the region; IDP's of different ethnic origins have moved toward the region, while existing members of the population have fled, with sources noting at least 2,000 families having left Kirkuk alone in the latter half of 2007. Article 140 of the constitution has not been implemented yet, due to conflict between the parties at internal level and regional and international interference. One of the most important reasons for the failure to implement Article 140 is that the Kirkuk issue is not solely a matter of internal Iraqi affairs. Rather, it is an international issue, and regional states do not expect it to be implemented easily (*Osman, 2013*).

3.4. Kirkuk after the Events of October 16, 2017

Although Article 140 has not been fully implemented, until 2017 Kurdish and Turkmen farmers were able to cultivate their lands without any problems. However, since October 16, 2017, a new situation has been emerged in Kirkuk. The failure of the Iraqi government to implement Article 140 was one of the reasons that prompted the Kurds to hold a referendum on independence, where they voted in Kirkuk for the independence of Kurdistan. But the Iraqi government rejected the referendum completely. They were against the independence referendum of the Kurdistan region in every way. This led to the Iraqi forces occupying Kirkuk

⁸ Following the fall of the Ba'ath government of Iraq, the US-led Interim Authority was established pursuant to Security Council Resolution 1483 on May 22, 2003. This authority's mission was to promote development, establish prosperity, and restore stability. The Iraqi Interim Government formed an Iraqi Governing Council, whose mission was, among other things, to draft a constitution. On June 28, 2004, the Coalition Provisional Government in Iraq ended. Among the Iraqi administrative laws approved by the Iraqi Governing Council is Article 58, which includes several provisions: Paragraph (a) refers to the normalization of Kirkuk and the other areas outside the Kurdistan Regional Government. Paragraph (b) of the same article refers to the change in the administrative borders amended by the previous regime and imposed on other Iraqi governorates. Paragraph (c) stipulates census and survey, with the two previous articles being implemented(Babakr, 2025).

and the disputed areas by force and fighting. The peshmerga forces⁹ were previously present in those areas. This came after an agreement between the Iraqi forces and the Patriotic Union of Kurdistan forces. After that incident, the situation of the people of Kirkuk and the city changed a lot, and an Arab governor was appointed for Kirkuk. The Kurdish neighborhoods were marginalized. The raising of the Kurdistan flag in the city was banned. In addition, Kurdish and Turkmen farmers faced many problems. Every time, for some reason, the Iraqi army tries to prevent farmers from practicing agriculture. The Iraqi army is trying to control agricultural lands again based on the RCCD, and NACD.

Kurdish and Turkmen farmers are concerned about the army's intervention. Kurdish and Turkmen farmers set up tents and went on strike for two months. They demanded the cancellation of the RCCD and the NACD. But this demand was rejected by the Arab immigrants and the army. Therefore, Kurdish and Turkmen farmers are implementing the decisions of the former regime and describing it as a breach of social security. They believed that this meant that Kirkuk would return to the hotbed of the conflict.

Figure 2: Strikers tent of Kurdish and Turkmen farmers



[Prepared by the researcher]

The 60 days of protests have made the voices of Kurdish and Turkmen farmers reach all Iraqi politicians. So that our rights are not lost and the army does not seize our agricultural lands (Abdullah Khamany¹⁰, Personal Communication, February 18, 2025). “We, as Turkmen and Kurdish farmers, did not decide to stop the strike. But the stakeholders came forward and promised to solve the issues. Thank God our efforts were not in vain. In conclusion, the Iraqi parliament passed a law to cancel the decisions of the RCC” (Adnan Kanan¹¹, Personal Communication, February 3, 2025).

4. Law to Cancel the RCCD

The Iraqi Council of Ministers held its regular session on January 24, 2012 and issued Resolution No. 29, due to pressure from the Kurdish component in the Iraqi government and

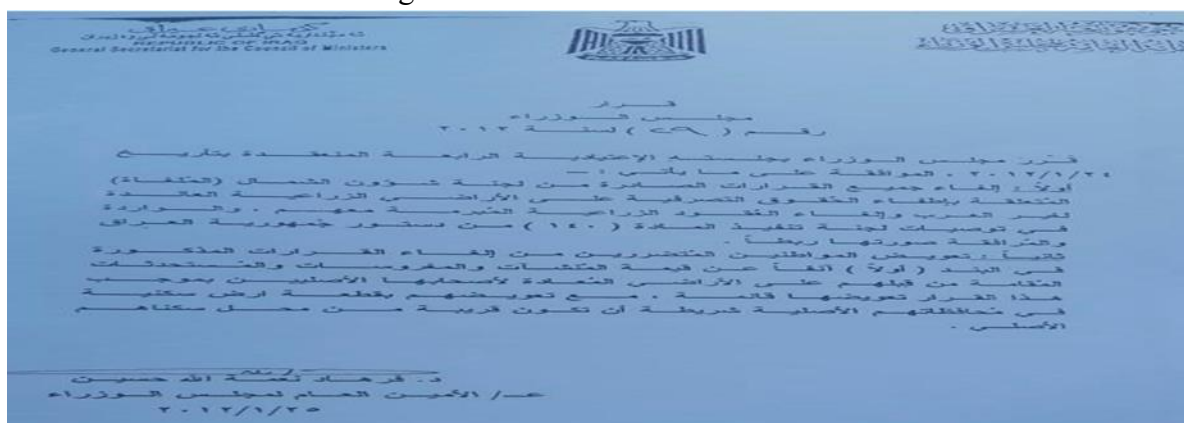
⁹ the Peshmerga forces as a legal force of the Kurdistan Regional Government (KRG)

¹⁰ He is one of the representatives of Kurdish farmers in Kirkuk.

¹¹ He is a Turkmen farmer whose land was confiscated according to the decisions of the Supreme Revolutionary Council.

protests by Kurdish and Turkmen farmers since the fall of the Bath regime of Iraq. Resolution No. 29 included two important points: first, cancel all decisions issued by the Northern Affairs Committee (cancelled) second; compensate all citizens affected by the cancellation of the aforementioned decisions. Resolution 29 was a good resolution, but it was not implemented, and it had no legal force that would enable it to cancel the RCCD (Abdullah Khamany, personal communication, February 18, 2025). Since the decisions of the Supreme Revolutionary Council, as we mentioned earlier, had legal force, they had to be repealed by law alone, not by a decision of the Council of Ministers. This decision did not prevent the resolution of conflicts. But the biggest conflict, as mentioned, occurred in these areas after 2017, when the army intervened and sided with a particular community, trying to push the indigenous Kurdish and Turkmen farmers off their lands (Muhammad Amin, personal communication, January 27, 2025). Also, Farmers' lawyer Shekar Mardan said that the Director of Agriculture in Kirkuk is working against Kurdish farmers. "Even some of the Ministry of Agriculture's writings that are in the interest of Kurdish farmers, the Director of Agriculture in Kirkuk does not implement or hide it (Rudaw Tv, Legel Ranj Program, February 3, 2022) So that, administrative positions themselves, therefore, constitute an obstacle in Kirkuk and play a role in deepening the conflict.

Figure 3: Text of Resolution No. 29



[Prepared by the researcher]

Therefore, the Kurds and Turkmen tried to pass a law to cancel the decisions of the Supreme Revolutionary Council. Some Kurdish activists, lawyers and political figures tried to cancel the RCCD through the Iraq Federal Supreme Court as well, but after 14 sessions the Federal Supreme Court issued its ruling on the subject, because the subject (became irrelevant) due to it was approved by the Parliament (Sadq, 2025).

After a long period of dispute and debate, the parliament passed the law to cancel the RCCD. Then the Iraq presidency approved it and it was published in the Iraqi Official Gazette No. 4814 on February 17, 2025¹². The law consists of five main articles. Article 1 specifies the areas and lands covered by the law.

Article 2 consists of 5 paragraphs: It stipulates that the following are exempted from the provisions of Article 1 of this law: First: Lands whose owners have previously received compensation, Second: Lands allocated to the Ministry of Oil mentioned in the table attached

¹² For further information regarding the law, see: https://moj.gov.iq/upload/pdf/4814_compressed_701.pdf.

to this law and lands allocated to the Ministry of Agriculture according to the tables containing its actual land needs attached to this law, Third: Lands for which decisions have been issued by the Property Claims Authority, Fourth: Lands allocated for public benefit and Fifth: Lands for which decisions have been issued in accordance with the Law on Compensation of Property of Victims of the Deposed Regime No. 16 of 2010.

Article 3: Contracted farmers whose contracts have been cancelled based on the provisions of this law shall be compensated according to the following:

First: Concluding agricultural contracts in Kirkuk Governorate for those who were residing in the governorate on the date of issuance of the decision of the Revolutionary Command Council (dissolved), by virtue of which the right to the contracted lands was stripped.

Second: Concluding agricultural contracts within the governorate of one's birth for those who were not residing in Kirkuk Governorate on the date of issuance of the decision of the Revolutionary Command Council (dissolved) by virtue of which the right to the contracted lands was stripped.

Third: The value and Cost of buildings, crops, plants and wells based on their actual value as they stand.

Fourth: Funds shall be allocated for the purpose of compensating those covered by the provisions of this article within the petrodollar allocations for the governorate stipulated in accordance with the budget law.

Article 4 - The Council of Ministers shall issue instructions to facilitate the implementation of the provisions of this law.

Article 5 - This law shall be implemented from the date of its publication in the Official Gazette. The law is now ready for implementation; it only needs a decision and instructions from the Council of Ministers on how to implement it. The law is generally good and will solve the land problems of Kurdish and Turkmen farmers. However, the compensation clause is problematic. Most Kurdish and Turkmen farmers did not receive compensation due to the dictatorial decisions taken under the former regime. But there were villages that were destroyed in 1975, and in 1977 it was decided to compensate them, and the compensation was very small and symbolic. No one can say that they will not receive compensation as well.

There are different opinions about this law. The Kurds and Turkmen believe that the law will serve social peace, because it is part of transitional justice until Article 140 is implemented (Rebwar Hadi¹³, personal communication, February 24, 2025). Sipan Sherwani, a member of the Iraqi parliament, stated that Kurdish and Turkmen parliamentarians were all in favor of passing the law, except for some Sunni parliamentarians, but later they voted on the bill (Personal communication, February 23, 2025). He believed that there is no obstacle to the implementation of this law. There should be no obstacle to the law, this law will return the land and rights to their rightful owners and will achieve justice (Adnan Kanan, Personal Communication, February 3, 2025).

¹³ He is head of the Legal Committee in the Iraqi parliament.

On the other hand, some Arab farmers oppose this law, believing that it does not serve social peace. For example, Abu Fahed, a farmer from the Arab community, stated: due to they signed contracts for agricultural land, this was by a government decision and they did not occupy the land by force (Personal Communication, February, 23, 2025). In addition, after the law was passed in parliament on February 17, 2025, the Iraqi army strongly prevented Farmers of his villages (Shanagha , Palkana and Gabaraka) in working on their lands They tortured Kurdish farmers. The following photo shows a Kurdish farmer being tortured by the Iraqi army in Shangha.

Figure 4: Kurdish farmer tortured by the army



[The picture is taken from the Rudaw TV website]

The incident caused a lot of reaction. On the day of the incident, Soran Omar, a member of the Iraqi parliament, said on February 17 on Facebook: "When we voted on the law Sunni lawmakers threatened bloodshed"¹⁴ . And immediately after the incident, Iraqi Justice Minister Khalid Shwany, the farmers' land cases are taken out of the hands of the army and handed over to the local police. In general, the law is able to some extent to maintain social peace because the Kurdish and Turkmen communities agree to implement it. This is only rejected by a small part of the Arabs who have come to the Sargaran region.

This law can enhance the spirit of love and social peace in Kirkuk in several ways:

- It is a kind of embodiment of transitional justice.
- It will reduces the spirit of revenge on a social and personal level.
- Most of Kirkuk's components support the implementation of the law.
- Arab farmers who have previously benefited from the use of the land, will be compensated again, so, they benefit twice.
- Implementing the law will enhance confidence in the law, the rule of law and legal institutions.
- The law leads to the return of dignity to human rights in general and farmers' rights in particular.
- The application of the law will erase the effects of the decisions of the previous regime by law.

¹⁴ His post available at this link : <https://www.facebook.com/share/18f3kaZ4ZJ/?mibextid=wwXlfr>

5. Conclusions

According to the decisions of the Baath regime of Iraq, about 300 thousand acre of Kurdish and Turkmen lands was confiscated under 12 different decisions. This led to conflict and created a problem between different communities in Kirkuk. Kurdish and Turkmen farmers demanded the cancellation of Baathist decisions after 2003. But the RCCD has legal force, these decisions should have been repealed by law.

Therefore, as the study concludes, the law is an effective and crucial tool in the post-conflict period for peacebuilding and social harmony. The law plays a crucial role in establishing transitional justice after war. and it is one of the most important processes for coexistence and building social peace. This study also concludes that, the law to cancel the decisions of the previous Supreme Council of the Revolution could form a good basis for social peace and prevent the conflicts.

Kirkuk communities generally support the implementation of the law. With the exception of a minority of imported Arabs in the Sargaran district, they are demanding more compensation. In general, everyone agrees on the implementation of the law. The law is considered a good step that facilitates to implementing Article 140 of the permanent Iraqi constitution 2005.

6. Recommendations

This study proposes the following recommendations to resolve the issue of Kirkuk and the land of the Farmers and the implementation of transitional justice.

- 1- This law must be implemented as soon as possible. Anyone who obstructs the application of the law must be prosecuted.
- 2- The Kirkuk problem cannot be resolved by implementing the law to repeal the Supreme Revolutionary Council's decisions alone. Article 140 must be fully implemented.
- 3- Kirkuk is a multi-ethnic, multi-religious, and multicultural region, and all sectors must work to promote coexistence and social peace.

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