



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twenty-second to twenty-fifth periodic reports of Iraq*

1. The Committee considered the combined twenty-second to twenty-fifth periodic reports of Iraq (CERD/C/IRQ/22-25), submitted in one document, at its 2687th and 2688th meetings (CERD/C/SR.2687 and 2688), held on 29 and 30 November 2018. At its 2701st and 2702nd meetings, held on 10 and 11 December 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twenty-second to twenty-fifth periodic reports of Iraq. The Committee expresses its appreciation for the presentation given by the State party's high-level delegation and for the open and constructive dialogue. It also appreciates the answers provided orally by the delegation to the questions put by the Committee.

B. Positive aspects

3. The Committee notes with interest the legislative and institutional progress made by the State party and its continuing efforts to improve its legal and policy framework to ensure greater protection of human rights, which should contribute to combating racial discrimination, particularly the adoption of the:

- (a) Human Trafficking Act No. 28 of 2012;
- (b) Act No. 7 of 2014, Concerning the Official Languages in the Kurdistan Region;
- (c) Official Languages Act No. 7 of 2014;
- (d) Social Protection Act No. 11 of 2014;
- (e) Act No. 5 of 2015, Concerning Protection of the Rights of the Components of the Kurdistan Region;
- (f) Political Parties Law No. 36 of 2015;
- (g) Labour Code No. 37 of 2015;
- (h) Law of the General Authority for Guaranteeing the Rights of Regions and Governorates not organized in Region No. 26 of 2016;

* Adopted by the Committee at its ninety-seventh session (26 November–14 December 2018).



(i) Decision No. 27 of 2016 by the Iraqi Council of Representatives, which addresses – among other things – reparations for victims of the ethnically motivated attacks in the Tuz Khurmatu district;

(j) Decision No. 43 of 2016 by the Iraqi Council of Ministers, which addresses – among other things – reparations for victims of the acts of terrorism perpetrated by Daesh in Sinjar;

(k) Decision No. 92 of 2014 by the Iraqi Council of Ministers, which designated as genocide the suffering inflicted by Daesh on Yazidis, Turkmen, Christians, Shabaks and other ethnic and ethno-religious minority groups.

C. Factors and difficulties impeding the implementation of the Convention

4. The Committee notes the persistence of terrorist attacks in the State party and the clashes between, on one side, the Iraqi security forces and the popular mobilization forces established by Law No. 40 of 2016, and on the other side, the terrorist group called Daesh. It further notes the information that in the past years, tens of thousands of civilians have been killed, and more than 4 million people have been internally displaced, most of them belonging to ethnic and ethno-religious groups. The Committee acknowledges that the armed conflict has severely restricted the State party's control over important parts of its territory, where the State party has been unable to ensure the full application of the Convention. Taking into consideration the long-standing human rights issues in the State party, the Committee is particularly concerned that the conflict has had a grave impact on a variety of minority groups. It reminds the State party that it bears the primary responsibility to protect all persons on its territory without discrimination in accordance with the Convention.

D. Issues of concern and recommendations

Statistics

5. The Committee remains concerned that the State party has not collected and provided information on the ethnic and ethno-religious composition of its population, including on economic and social indicators disaggregated by sex, gender, ethnicity, disability and age (arts. 1 and 5).

6. **Bearing in mind the guidelines for reporting under the Convention (CERD/C/2007/1, para. 7) and recalling its general recommendation No. 24 (1999) concerning article 1 of the Convention, the Committee recommends that the State party collect and provide the Committee with statistics on the ethnic and ethno-religious composition of its population, including migrants and refugees, as well as economic and social indicators disaggregated by sex, gender, ethnicity, disability and age, in order to enable it to better evaluate how different groups residing in its territory enjoy their rights under the Convention.**

Convention in the domestic legal order

7. While noting the State party's efforts to harmonize its national legislation with the Convention, including by drafting a law on incorporation into the domestic legal order of international treaties that Iraq is a party to, the Committee remains concerned that the Convention has still not been fully incorporated into the State party's domestic legal order. It is also concerned that the status of the Convention, and its relation to domestic legislation, is not clear. The Committee further regrets that the State party has not provided examples of decisions related to racial discrimination taken by its domestic courts, or of the direct application or invocation of the Convention by or before such courts (art. 2).

8. **The Committee urges the State party to fully incorporate the Convention into its domestic legal order, and to ensure that it takes precedence over domestic legislation in case of conflict. It also recommends that the State party conduct trainings and awareness-raising campaigns for judges, prosecutors, lawyers and other**

law enforcement officials, as well as for the population, to ensure that the Convention is invoked by and before domestic courts. It recommends that the State party include in its next report specific examples of the application of the Convention by domestic courts.

Anti-discrimination legislation

9. The Committee notes that there is no general anti-discrimination law that prevents and combats discrimination in all areas of life. While noting the adoption by the State party of provisions in certain pieces of legislation prohibiting racial discrimination, including the Labour Code, it is concerned that the definition of direct and indirect discrimination in the Labour Code does not contain the grounds of race, colour, descent or ethnic origin, as required under article 1 of the Convention (art. 1).

10. The Committee recommends that the State party adopt a comprehensive anti-discrimination law to prevent and combat discrimination in all areas of life and that it include in such legislation, as well as in the Labour Code, a definition of direct and indirect discrimination on all prohibited grounds, in line with article 1 of the Convention.

National human rights institution

11. While acknowledging the increased human and financial resources of the High Commission for Human Rights, which was awarded B status in March 2015 by the Global Alliance of National Human Rights Institutions, the Committee is concerned at the difficulties reportedly faced by the institution, including inadequate resources, and the lack of a transparent, participatory and merit-based process for the selection of its members that ensures the independence of the institution (art. 2).

12. Recalling its general recommendations No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, the Committee recommends that the State party adopt measures to ensure that the High Commission for Human Rights is able to carry out its mandate fully, effectively and independently, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (see General Assembly resolution 48/134). The State party should ensure a transparent, participatory and merit-based process for the selection of members of the High Commission for Human Rights, and provide it with adequate human and financial resources which are necessary for it to fulfil its mandate effectively.

Hate crimes and hate speech

13. The Committee is concerned by reports of expression of hate speech by public figures, including politicians. The Committee is also concerned that the State party's legislation, as referred to in paragraphs 83 and 84 of the State party's report, does not sufficiently cover the prohibition of hate crime and hate speech (art. 4).

14. The Committee recommends that the State party condemn and distance itself from racist hate speech expressed by public figures, including politicians, and effectively investigate and, as appropriate, prosecute and punish acts of hate speech. In the light of its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention, No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee also recommends that the State party enact legislation in compliance with the requirements of article 4.

Complaints of racial discrimination

15. While taking note of the information provided by the State party's delegation, which deals with complaints within the framework of the Labour Code, the Committee still regrets the lack of information on the complaints received by the High Commission for Human Rights and the domestic courts regarding racial discrimination. The Committee recalls that the absence of complaints and legal actions for racial discrimination may reveal a lack of

suitable legislation, poor awareness of the legal remedies available, a lack of trust in the judicial system, a fear of reprisals or a lack of will on the part of the authorities to prosecute the perpetrators of such acts (art. 6).

16. The Committee draws the State party's attention to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, and recommends that the State party provide, in its next report, information and statistics on complaints of racial discrimination received by the High Commission for Human Rights and domestic courts as well as their outcome, including convictions or disciplinary measures handed down and reparations for victims. It also recommends that the State party take all steps necessary to ensure access to justice by all groups and individuals protected by the Convention, to disseminate information on legislation relating to racial discrimination and to inform the population residing in its territory about all the legal remedies available to them and about the possibility of obtaining legal assistance.

Situation of ethnic and ethno-religious groups in the context of the armed conflict

17. The Committee notes with concern:

(a) That, according to the report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/28/18, para. 78), Daesh may have perpetrated genocide against the Yazidi community, as well as crimes against humanity and war crimes;

(b) Reports of other grave human rights violations perpetrated by Daesh against ethnic and ethno-religious groups, including summary executions, enforced disappearances, torture, forced religious conversions, sexual and gender-based violence including rape and sexual slavery, and destruction and looting of their places of worship, homes and other properties, as well as reports that there are Yazidis and members of other ethnic and ethno-religious groups still being held captive by Daesh;

(c) Reports of long-standing inter-ethnic and interreligious violence, and structural racial, ethnic and ethno-religious discrimination in Iraq, which has been exacerbated by the armed conflict;

(d) The devastating impact of armed violence and displacement on ethnic and ethno-religious groups, such as Armenians, Assyrians, Chaldeans, Kaka'e, Sabeen Mandaeans, Shabaks, Syriacs, Turkmen, Yazidis, and other ethnic and ethno-religious groups, and reports that attacks against these groups have led to an alarming decrease in their population, particularly in the Nineveh Plain;

(e) Allegations of human rights violations perpetrated by the Iraqi security forces and affiliated militia groups in the conduct of military operations as well as in taking of anti-terrorism measures – including summary executions, enforced disappearances, torture and other ill-treatment, and destruction of homes and other properties, targeting ethnic and ethno-religious groups (arts. 1–7).

18. The Committee urges the State party to prioritize national reconciliation and transitional justice processes, including by establishing a strategy to address the human rights violations perpetrated by all parties to the armed conflict against ethnic and ethno-religious minorities in Iraq. The State party should:

(a) **Adopt all measures necessary to guarantee the safety and security of members of all ethnic and ethno-religious groups, in consultation with the communities concerned; ensure the safety and security of internally displaced persons voluntarily returning to their location of origin; use all means available to ensure that Yazidis and others who are still being held captive by Daesh are rescued;**

(b) **Take all measures necessary to address the root causes of inter-ethnic and interreligious violence and structural racial, ethnic and ethno-religious discrimination in Iraq; and continue to promote tolerance, intercultural dialogue and respect for diversity, with a view to protecting the historic diversity of languages, religions, ethnicities and cultures;**

(c) **Take steps to ensure accountability for crimes perpetrated by members of Daesh, conduct effective and independent investigations, including into reports of crimes against humanity, war crimes and genocide, prosecute those responsible, and, if convicted, punish them adequately;**

(d) **Ensure that counter-terrorism measures do not discriminate against ethnic or ethno-religious groups; and investigate the reports of human rights violations, especially reports of summary executions, enforced disappearances, torture and other ill-treatment, and destruction of homes and other properties, allegedly perpetrated by the Iraqi security forces or affiliated militia groups, prosecute those responsible, and if convicted, punish them adequately;**

(e) **Take immediate steps to provide medical, psychological, material and other support for victims, as well as adequate reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition;**

(f) **Ensure meaningful participation by ethnic and ethno-religious groups in the national reconciliation and transitional justice processes, including by engaging with these groups in the reconstruction of their communities, assessing the damage caused to their lives and property, rebuilding their temples and shrines, designing programmes to support the victims and allocating funds to provide necessary services.**

Minorities in the disputed territories

19. While taking note of explanations provided by the State party, the Committee is still concerned about the security situation of ethnic and ethno-religious groups and minorities living in the disputed territories, in particular those living in the Nineveh Plain, due, in particular, to the unsolved legal process with regard to the territorial disputes between the Central Government of Iraq and the Kurdistan Regional Government (arts. 1–7).

20. **The Committee recommends that the State party accelerate the legal and political process necessary to resolve the issue of the disputed territories, with a view to ensuring minorities' security. The State party should ensure meaningful participation in the process by ethnic and ethno-religious groups living in the disputed territories.**

Protection of minority languages

21. While welcoming the measures taken by the State party to preserve and promote the diversity of languages in Iraq, such as the adoption of the Official Languages Act and of Act No. 7 of 2014, Concerning the Official Languages in the Kurdistan Region, the Committee regrets the lack of information on measures taken to ensure quality instruction in the official languages as well as minority languages (art. 5).

22. **The Committee recommends that the State party continue its efforts to preserve and promote minority languages in law and in practice. The Committee further recommends that the State party take special measures and increase the necessary human, technical and financial resources for quality instruction in the official languages as well in as minority languages such as Aramaic, Armenian, Chechen, Circassian, Syriac, Turkmen and others.**

Minority women

23. While noting the efforts made by the State party to combat violence against women, the Committee is concerned at its persistence, particularly against women from ethnic or ethno-religious minority backgrounds. It is deeply concerned about the reports that Yazidi women have been severely affected by the armed conflict, including as victims of slavery, abductions and sexual and gender-based violence, including rape (art. 5).

24. **Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party take immediate measures to effectively prevent, and protect minority women from, all forms of gender-based violence, including slavery, abductions and rape. It should ensure that all forms of violence against minority women are thoroughly investigated**

and that those responsible are held to account. It should further provide redress to victims.

Minorities in public and political life

25. The Committee is concerned about the limited representation of ethnic and ethno-religious minorities in the elective bodies at all levels and in public office. In particular, it is concerned that the quota system introduced in the Electoral Act does not allow for an adequate political representation of ethnic and ethno-religious minorities that is proportional to their real demographic weight in society. It is also concerned that the quota system does not benefit all minorities (arts. 2 and 5).

26. The Committee recommends that the State party, including the Kurdistan Regional Government, ensure that ethnic and ethno-religious minorities, including minority women, are adequately represented in all elective bodies as well as in public office, by taking all necessary measures, including amending its electoral laws and ensuring the representation of minorities that do not benefit from the quota system.

People of African descent

27. While taking note of the information provided by the State party's delegation, the Committee is still concerned about the persistence of structural racial discrimination, marginalization and stigmatization against people of African descent, which prevents them from fully enjoying their rights under the Convention, in spite of the Committee's recommendation (CERD/C/IRQ/CO/15-21, para. 14). In particular, the Committee is concerned about reports that people of African descent are disproportionately affected by poverty and social exclusion and face discrimination in the enjoyment of their rights to an adequate living, education, health, housing and employment (arts. 2 and 5).

28. In light of its general recommendations No. 32 (2009) on the meaning and scope of special measures in the Convention and No. 34 (2011) on racial discrimination against people of African descent, the Committee recommends that the State party redouble its efforts to effectively combat the structural racial discrimination, the stigmatization and the marginalization against people of African descent, including by taking special measures to reduce the poverty and social exclusion of people of African descent and increasing their access to adequate living conditions, education, health care, housing and employment.

Roma

29. The Committee is concerned about the continued discrimination and marginalization of Roma in the State party. In particular, the Committee is concerned that Roma are disproportionately affected by poverty and that they face difficulties in accessing employment, health care, housing and education. The Committee is further concerned about reports that most Roma citizens do not hold unified national identity documents, which reportedly exposes them to discrimination, including in access to employment (arts. 2 and 5).

30. In the light of its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party adopt concrete measures to effectively fight discrimination against, and stigmatization of, Roma. The Committee also recommends that the State party adopt special measures to improve the integration of Roma into society, including by firmly tackling their poverty and ensuring their access to health care, employment, education and housing. The Committee further recommends that the State party ensure that all members of the Roma community are granted unified official identity documents, without discrimination.

Migrant workers

31. While noting the measures taken to investigate and prosecute acts of abuse and exploitation against migrant workers by their employers, the Committee is concerned about the reports that migrant workers, including migrant domestic workers, endure working

conditions that are characterized by low salaries, long working hours and non-payment of overtime (art. 5).

32. The Committee recommends that the State party take all necessary measures to fully ensure that migrant workers, including migrant domestic workers, are protected from abuse and exploitation and that they can fully enjoy their rights under the Convention without discrimination. It also recommends that the State party fully investigate reports of abuse and exploitation and hold those responsible to account. The Committee further recommends that the State party ensure that migrant workers are informed about, and have access to, legal remedies.

Citizenship

33. While welcoming the measures taken by the State party to reinstate the citizenship of Faili Kurds, who were stripped of their Iraqi citizenship in the 1980s, the Committee is concerned about reports that the process remains slow, and Faili Kurds continue to face administrative obstacles to the reinstatement of their citizenship, due to burdensome requirements for the applicants (arts. 2 and 5).

34. The Committee recommends that the State party accelerate the process of reinstating Faili Kurds' citizenship by facilitating their access to citizenship, including by removing all administrative obstacles throughout the process.

35. The Committee is concerned about the situations that may lead to statelessness.¹ It notes, in particular, the information provided by civil society that, although women can confer nationality to their children at birth, the requirement to provide paternity documents may result in situations that may lead to statelessness, as such requirement may constitute an obstacle for children born from rape, or to an undocumented or deceased father, which reportedly puts Yazidi children at particular risk of statelessness (arts. 2 and 5).

36. The Committee urges the State party to ensure that its laws and regulations relating to the acquiring, reinstating and transmitting of nationality apply to all persons without discrimination, and to take all measures necessary to prevent statelessness. It also recommends that the State party consider ratifying the Convention on the Reduction of Statelessness, of 1961, and the Convention relating to the Status of Stateless Persons, of 1954.

Refugees and internally displaced persons

37. The Committee notes that the population in the Kurdistan region has increased dramatically owing to the reported influx of refugees and internally displaced persons from conflict-affected regions. The Committee commends the Kurdistan Regional Government for supporting and providing a safe haven for displaced communities. The Committee is concerned that:

(a) As the draft refugee law has not yet been finalized, there is no adequate legal framework for the protection of refugees;

(b) Refugees and internally displaced persons, who mostly belong to ethnic and ethno-religious minorities, face dire living conditions and obstacles in accessing basic services, including health care, adequate food, electricity and water;

(c) According to reports, some internally displaced persons are prevented entry into the Kurdistan region on ethnic and sectarian grounds, in particular Arabs, Shabaks, Turkmen, and others (art. 5).

38. The Committee recommends that the State party take all measures necessary to ensure that all refugees and internally displaced persons are treated without discrimination and enjoy the equal protection of the law. The Committee recommends that the State party:

¹ CERD/C/SR.2687, para. 25; and CERD/C/SR.2688, paras. 8 and 37.

(a) Expedite the adoption of the draft refugee law and implement it, so as to ensure an adequate legal framework for the protection of refugees and asylum seekers, in line with internationally recognized principles, including the principle of non-refoulement, and consider ratifying the Convention relating to the Status of Refugees, of 1951, and its 1967 Protocol;

(b) Protect all refugees and internally displaced persons and provide them with basic needs including electricity, water, health care, adequate food and other services, including in cooperation with United Nations and other refugee and humanitarian agencies;

(c) Ensure the protection of internally displaced persons in all federal entities, including in the Kurdistan region, without discrimination based on ethnic or ethno-religious background.

Training, education and other measures to combat prejudice and intolerance

39. While noting the measures taken by the State party to combat prejudice and intolerance, such as the incorporation of human rights principles into school curricula, the Committee is concerned about the prevalence of racist stereotypes and stigmatization in Iraq, which have a negative impact on inter-ethnic relations (art. 7).

40. The Committee recommends that the State party increase its efforts to raise public awareness of the importance of ethnic, ethno-religious and cultural diversity and the fight against racial discrimination, and to integrate these into the school curriculum in order to promote inter-ethnic friendship and solidarity.

E. Other recommendations

Ratification of other treaties

41. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.

Follow-up to the Durban Declaration and Programme of Action

42. In light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, adopted in April 2009. The Committee again requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

43. In the light of General Assembly resolution 68/237, the Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

44. The Committee recommends that the State party consult and expand its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the implementation of the present concluding observations and with the preparation of the next periodic report.

Declaration under article 14 of the Convention

45. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.

Common core document

46. The Committee encourages the State party to submit a core document and to regularly update it, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I).

Follow-up to concluding observations

47. In accordance with article 9 (1) of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its follow-up to the recommendations contained in paragraphs 20 (minorities in the disputed territories), 24 (minority women) and 34 (citizenship) above.

Paragraphs of particular importance

48. The Committee also wishes to draw the attention of the State party to the particular importance of its recommendations in paragraphs 14 (hate crimes and hate speech), 18 (situation of ethnic and ethno-religious groups in the context of the armed conflict), 28 (people of African descent) and 30 (Roma) above and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement those recommendations.

Dissemination of information

49. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the concluding observations of the Committee with respect to those reports continue to be widely disseminated in the official and other commonly used languages, as appropriate.

Preparation of the next periodic report

50. The Committee recommends that the State party submit its combined twenty-sixth and twenty-seventh periodic reports, as a single document, by 15 March 2023, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60 to 80 pages for the common core document (see the harmonized guidelines for reporting contained in document HRI/GEN/2/Rev.6, para. 19).