



International Covenant on Civil and Political Rights

Distr.: General
16 August 2022

Original: English

Human Rights Committee

Concluding observations on the sixth periodic report of Iraq*

1. The Committee considered the sixth periodic report of Iraq¹ at its 3846th, 3847th and 3848th meetings,² held on 7 and 8 March 2022, in hybrid format owing to restrictions imposed in connection with the coronavirus disease (COVID-19) pandemic. At its 3870th meeting, held on 23 March 2022, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the sixth periodic report of Iraq, and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken by the State party during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies³ to the list of issues,⁴ which were supplemented by the oral responses provided by the delegation during the dialogue, and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative and institutional measures:

- (a) The adoption of the national human rights plan for 2021–2025 in July 2021;
- (b) The adoption of the Law on Yazidi female survivors in March 2021;
- (c) The issuance in 2020 of Administrative Order No. 29 establishing a permanent committee to investigate high-level corruption cases and other significant crimes;
- (d) The adoption of Act No. 31 of 2019 on the High Electoral Commission;
- (e) The establishment in 2019 of a national mechanism to follow up the implementation of international recommendations;
- (f) The adoption of the Prisoners and Detainees Reform Act (Law No. 14 of 2018);
- (g) The adoption of the Joining Judicial Institute to the Supreme Judicial Council Act (Law No. 70 of 2017);
- (h) The launch of the national child protection policy of Iraq in 2017.

* Adopted by the Committee at its 134th session (28 February–25 March 2022).

¹ [CCPR/C/IRQ/6](#).

² See [CCPR/C/SR.3846](#), [CCPR/C/SR.3847](#) and [CCPR/C/SR.3848](#).

³ [CCPR/C/IRQ/RQ/6](#).

⁴ [CCPR/C/IRQ/Q/6](#).



C. Principal matters of concern and recommendations

Domestic applicability of the Covenant

4. While noting that treaties can be applied by the courts once they have been integrated into domestic legislation by a specific law, the Committee regrets that no examples of such cases were provided by the State party. Furthermore, it notes that the State party has still not acceded to the First Optional Protocol to the Covenant (art. 2). The Committee also expresses concern about whether article 2 of the State party's Constitution is compatible with the Covenant.

5. **Recalling its previous recommendations,⁵ the Committee encourages the State party to further strengthen its efforts to raise awareness about the Covenant and its applicability in domestic law among judges, lawyers and prosecutors to ensure that its provisions are taken into account by the courts. The Committee also encourages the State party to consider acceding to the First Optional Protocol to the Covenant, which establishes an individual complaint mechanism. The State party should also take steps to ensure compatibility between its Constitution, particularly article 2, and the Covenant.**

National human rights institution

6. The Committee notes that the delay in the appointment of new members of the High Commission for Human Rights was pending the outcome of the processes under way to elect a new President of Iraq and a new President of the Council of Ministers. The Committee expresses concern that the procedure for appointment of the High Commission for Human Rights does not guarantee its independence from the influence of political parties. The Committee also notes that Law No. 53/2008 establishing the High Commission for Human Rights stipulates that women must make up at least one third of the members of the Commission. It regrets, however, that the Law stipulates that only one full member and one reserve member must be a representative of a minority and does not provide for representation of members of civil society.

7. **The Committee encourages the State party to take the necessary measures to ensure that minority groups as well as civil society are adequately represented in the membership of the High Commission for Human Rights. It should also continue its efforts to ensure that the Commission has sufficient financial and human resources, that it is equally accessible to all persons throughout the State party's territory, that all public authorities fully cooperate with it and that it is able to effectively and independently discharge its mandate in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

Fight against impunity and past human rights violations

8. The Committee notes with interest that a bill on the protection of persons from enforced disappearance is currently before the Council of Ministers for final approval. It welcomes the establishment of a Da'esh crime investigation unit for cases related to the slavery of Yazidi Kurdish women and children and persons belonging to other communities and of a special judicial body to investigate crimes committed against the Yazidis in the governorate of Nineveh. The Committee also welcomes the establishment of two fact-finding commissions in 2016 and 2018 to investigate allegations of human rights violations and ensure accountability in relation to the 2019 demonstrations. However, it regrets the lack of information regarding the outcome of these commissions and whether any of their recommendations have been implemented. Furthermore, the Committee is concerned about reports that despite a large number of cases of alleged violence, there have been very few prosecutions. The Committee also regrets the absence of information regarding the number of prosecutions and convictions of, and the type of penalties imposed against, perpetrators of sexual violence against Yazidi women. The Committee also notes with concern reports of

⁵ CCPR/C/IRQ/CO/5, para. 6.

reprisals against activists advocating for accountability and against judges and investigating officers involved in cases relating to violence in the demonstrations. Furthermore, the Committee expresses concern about reports of continued cases of enforced disappearance (arts. 3, 6–7, 9, 14 and 26).

9. **The Committee recommends that the State party:**

(a) **Take the measures necessary to investigate and prosecute in a timely manner all reported cases of human rights violations, including in cases involving sexual offences committed by Da'esh members during the armed conflict against Yazidi women and girls, and those violations that occurred in the context of the 2019 and 2020 demonstrations, particularly allegations of enforced disappearances, arbitrary detention, and torture and other violence;**

(b) **Ensure that perpetrators are punished and that penalties imposed are commensurate with the severity of the offence, but do not include the death penalty, and that the victims or members of their families receive full reparation;**

(c) **Ensure the swift adoption of the bill on the protection of persons from enforced disappearance, and take all necessary measures to ensure the cessation of this practice.**

Gender equality

10. The Committee notes with appreciation the State party's indication that it is working to promote the active participation of women in public and political life and that these efforts have borne fruit in recent elections. It is nevertheless concerned at the low representation of women at the highest levels of Government and in the judiciary and the public prosecution (arts. 2–3 and 26).

11. **The State party should take more robust measures to guarantee de jure and de facto equality between men and women. In particular, it should:**

(a) **Strengthen its efforts to increase the representation of women in public life, particularly at the highest levels of the Government and in the judiciary and the public prosecution;**

(b) **Step up its efforts to eliminate gender stereotypes regarding the roles and responsibilities of women and men in the family and society.**

Non-discrimination

12. While taking note of the State party's indication that Iraqi law has no provisions that discriminate against persons of any specific category on the basis of sexual orientation or gender, the Committee is nevertheless concerned about continuing reports of discrimination and violence, including abduction, rape, torture and murder, against persons on the basis of their real or perceived sexual orientation or gender identity, as well as the social stigmatization and social exclusion of these persons and the fact that these serious crimes are not investigated and punished. Furthermore, the Committee notes with regret that the State party is not considering revising articles 394 and 401 of the Criminal Code which, it is alleged, have been used to prosecute persons due their sexual orientation or gender identity (arts. 2–3, 7 and 26).

13. **In line with the Committee's previous recommendations,⁶ the State party should ensure that all persons can, regardless of their real or perceived sexual orientation or gender identity, fully enjoy all the human rights enshrined in the Covenant. In particular, the Committee recommends that the State party:**

(a) **Consider enacting comprehensive anti-discrimination legislation that provides full and effective protection against discrimination in all spheres and contains a comprehensive list of prohibited grounds for discrimination, including sexual orientation and gender identity;**

⁶ Ibid., para. 12.

- (b) **Take steps to combat stereotypes about and negative attitudes towards persons on the basis of their sexual orientation or gender identity;**
- (c) **Adopt concrete measures, including the provision of training and awareness-raising programmes for the police and the judiciary, including the public prosecution, to effectively prevent acts of discrimination and violence against such persons;**
- (d) **Ensure that all acts of violence against persons due to their sexual orientation or gender identity are promptly and effectively investigated, perpetrators brought to justice and victims compensated;**
- (e) **Take steps to ensure that existing legislation alluding to vague notions of morality and decency is not used to criminalize acts of persons on the basis of their sexual orientation and gender identity.**

Violence against women

14. The Committee notes with interest the bill on domestic violence and the strategy for combating gender-based violence, both of which are before the parliament. The Committee welcomes the initiative to amend the Criminal Code through the deletion of article 41 (1) of the Criminal Code, which makes it legal for a husband to discipline his wife, and the amending of article 398, which allows a person accused of rape to avoid prosecution by marrying the victim. The Committee is nevertheless concerned that legislative provisions that are discriminatory against women remain in the Criminal Code, such as article 393, on rape, and 409, which provides for lenient punishment for so-called “honour” killings in certain circumstances; and in article 3 (4) of the Personal Status Law of 1959, which permits polygamy under certain circumstances (arts. 2–3, 7, 23 and 26).

15. The State party should:

- (a) **Expedite the adoption of the bill on domestic violence, continue the review of its domestic legislation and repeal or amend, in accordance with the Covenant, all provisions that discriminate against women and permit violence against them, including articles 393 and 409 of the Criminal Code and article 3 (4) of the Personal Status Law;**
- (b) **Further strengthen training, education and awareness-raising programmes on combating domestic violence for the police, the judiciary, including the public prosecution, as well as staff in the Directorate for Family and Child Protection from Domestic Violence and other relevant State departments and the general public at large.**

Counter-terrorism measures

16. The Committee takes note that an amendment to the counter-terrorism law has been referred to the Council of Ministers as part of the legislative process and that the national counter-terrorism strategy has now been passed on to relevant ministries for implementation. The Committee reiterates its previous observations⁷ regarding the overly broad definition of terrorism in the Counter-Terrorism Act and the implementation of the death penalty for a wide range of crimes that go beyond the threshold set out in article 6 (2) of the Covenant (arts. 9 and 14).

17. **The State party should take the necessary steps to ensure that its anti-terrorism legislation, including the draft amendment to the Counter-Terrorism Act and the national counter-terrorism strategy, is in line with international human rights standards, particularly by defining terrorism more precisely, limiting the use of anonymous statements, ensuring full victim and witness participation in trials and ensuring the full observance of fair trial guarantees. The State party is also encouraged to refrain from mandatory imposition of the death penalty for offences under the Counter-Terrorism Act.**

⁷ Ibid., para. 9.

Right to life

18. The Committee reiterates its concern that crimes that do not meet the threshold of the “most serious crimes” within the meaning of article 6 (2) of the Covenant are punishable by death, that the death penalty remains mandatory for certain crimes and that certain crimes punishable by death are explicitly excluded from being granted special pardon. In addition, the Committee is concerned about reports that death sentences are still frequently handed down (arts. 6 and 14).

19. In light of and bearing in mind the Committee’s general comment No. 36 (2018) and its previous recommendations,⁸ if the death penalty is maintained, the State party should take all measures necessary, including legislative action, to ensure that: the death penalty is provided only for the most serious crimes; it is never mandatory; and pardon or commutation of the sentence is available in all cases, regardless of the crime committed. The State party should also ensure that, if imposed at all, the death penalty is never imposed in violation of the Covenant, including in violation of fair trial procedures. The Committee encourages the State party to give due consideration to abolishing the death penalty and acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

20. The Committee notes with interest that an anti-torture bill is under consideration by the Council of State, but regrets that it does not provide for accession to an individual complaints mechanism. Furthermore, the Committee reiterates its concern that the State party’s criminal legislation does not adequately ensure that acts covered by the internationally accepted definition of torture are fully criminalized.⁹ The Committee is also concerned about reports of allegations of widespread torture and ill-treatment of prisoners in police custody and detention centres, that confessions obtained under torture have been accepted as evidence in courts if corroborated by other evidence and that inmates reporting cases of torture face possible reprisals. While noting that it is possible for personnel of inspection bodies, such as the Iraq High Commission for Human Rights, to visit prisons and places of detention, the Committee regrets that the timing of such visits must be agreed upon beforehand with the competent authorities (arts. 7 and 9).

21. The State party should:

(a) **Take the necessary steps to expedite the adoption of the anti-torture bill, ensuring at the same time that its definition of torture is fully in line with article 7 of the Covenant and other internationally established norms and that it clearly prohibits torture or cruel, inhuman or degrading treatment or punishment under any circumstances;**

(b) **Take concrete measures to prevent torture and ill-treatment, including through training programmes for police, the judiciary, including public prosecution and penitentiary staff, as well as awareness-raising programmes for detainees, and to ensure that all such allegations are promptly, independently and thoroughly investigated, that perpetrators are brought to justice and adequately sanctioned and that victims receive full reparation;**

(c) **Ensure that confessions obtained in violation of article 7 of the Covenant are not accepted by courts under any circumstances and that the burden of proving that the confession was made voluntarily falls on the prosecution;**

(d) **Ensure that unannounced visits to prisons and detention centres can be carried out by inspection bodies and that any recommendations or reports emanating from such visits are followed up on.**

⁸ Ibid., para. 28.

⁹ Ibid., para. 30.

Liberty and security of person and treatment of persons deprived of their liberty

22. While taking note of the State party's indication that secret detention facilities do not exist, the Committee nonetheless remains concerned about reports to the contrary and allegations of persons having been held in such facilities. It is also concerned about reports of arbitrary arrests carried out routinely on the basis of undisclosed information and without a warrant, and is concerned that a large number of persons have been held in pretrial detention for periods exceeding those prescribed in domestic law. The Committee is further concerned that despite the State party's efforts to expand capacity and improve conditions in prisons and detention centres, unacceptable conditions of detention, such as overcrowding and lack of access to medical services for detainees, as well as denial of procedural guarantees such as access to counsel and contact with family, remain a persistent problem (arts. 7 and 9–10).

23. **The State party should adopt the measures necessary to guarantee that anyone arrested or detained enjoys, in practice, from the outset of the deprivation of liberty all fundamental legal safeguards enshrined in article 9 of the Covenant. In particular, it should ensure that:**

(a) **Deprivation of liberty is carried out in full conformity with the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), including with regard to access to counsel, the right to contact family and the provision of medical attention when needed;**

(b) **Detainees are held only at official detention facilities and any secret facilities are either closed or put under government control;**

(c) **Prescribed periods of pretrial detention are respected in order to prevent excessive periods of detention;**

(d) **Efforts to renovate and expand the capacity of prison and detention facilities and improve prison conditions are further strengthened;**

(e) **Non-custodial alternatives to pretrial detention and imprisonment are created and applied where possible.**

Treatment of aliens, including refugees, asylum-seekers and internally displaced persons

24. The Committee expresses concern about reports that women and children living in the camps for internally displaced persons are victims of discrimination and stigmatization due to their perceived ties to Da'esh, including denial of access to food, water and health care; lack of access to identity cards; and being subjected to sexual violence, including rape and sexual exploitation. The Committee is further concerned that many Yazidi women and children are still being held captive by Da'esh members in Iraq (arts. 2, 6–7, 9–10, 12–13 and 25).

25. **The State party should:**

(a) **Strengthen its efforts to ensure the return of internally displaced persons to their former places of residence or full integration into society in appropriate new places of residence with the aim of shutting down the remaining camps as soon as possible;**

(b) **Ensure that all persons residing in the remaining camps for internally displaced persons, including persons with possible ties to Da'esh, have an adequate standard of living and security without discrimination;**

(c) **Facilitate complaints by victims and effectively monitor and investigate all allegations of violations of human rights in the internally displaced person camps and impose appropriate sanctions on perpetrators, particularly those responsible for sexual violence and exploitation of women and girls;**

(d) **Adopt all possible measures to free Yazidi women and children in captivity by Da'esh members in Iraq.**

Access to justice and independence of the judiciary

26. While acknowledging that the principle of independence of the judiciary is enshrined in the Constitution, the Committee notes that legislative provisions alone are insufficient to guarantee independence and impartiality. The Committee remains concerned about reports indicating that, in practice, the judiciary is neither fully independent nor impartial, particularly in cases involving persons suspected of involvement with Da'esh, and that judges and prosecutors are often influenced by political pressure, tribal forces or religious interests. The Committee is further concerned about reports that violations of fair trial guarantees occur frequently in practice, particularly in terrorism cases, in both the formal judiciary system and in tribal courts (arts. 2 and 14).

27. The State party should take all measures necessary to ensure the full independence and impartiality of the judiciary and the public prosecution in practice and guarantee that they are free to operate without any type of undue pressure or interference. The State party should also ensure that all judicial proceedings, including proceedings that take place in tribal courts, are conducted in full accordance with the fair trial guarantees enshrined in article 14 of the Covenant.

Elimination of slavery and servitude

28. The Committee notes with interest the proposal to amend the Anti-Trafficking Act in order to close legal loopholes, the State party's indication that implementation since 2019 of the national plan to combat human trafficking has had positive results and the State party's indication of its intention to set up shelters for trafficking victims in each of the country's governorates. The Committee is nevertheless concerned about the increasing incidence of internal and cross-border trafficking in women and children. It also expresses concern about allegations that forced and temporary marriages are sometimes used to traffic women within the State party and to neighbouring countries (art. 8).

29. The State party should further strengthen its efforts to combat, prevent, eradicate and punish internal and cross-border trafficking in persons and forced labour. In particular, it should:

(a) **Expedite the amendment of the Anti-Trafficking Act, ensuring that it closes all legal loopholes, including the use of forced and temporary marriages for trafficking purposes;**

(b) **Ensure that all cases of human trafficking and forced labour are thoroughly investigated, that perpetrators are brought to justice and adequately sanctioned, and that victims receive full reparation and means of protection, including access to adequately resourced shelters;**

(c) **Provide training to the judiciary, including the prosecution, law enforcement officers and border police, on the early identification of women and girls who are victims of trafficking.**

Freedom of conscience and religious belief

30. The Committee expresses its concern over the existence of legal provisions that negatively impact the Covenant's guarantees on the freedom of religion and belief, including article 17 of the Personal Status Law, which does not allow a Muslim woman to marry a non-Muslim man, and article 26 of the Unified National Identity Card Law, which does not allow a Muslim to convert to another religion and states that any child born in a marriage between a Muslim and a non-Muslim is identified as Muslim. The Committee is also concerned that Law No. 105 prohibiting the practice of the Baha'i faith remains in force. The Committee expresses further concern at reports that the State party has refused to recognize some religious groups, resulting in places of worship, in particular evangelical churches, not being able to legally register themselves (arts. 2, 18 and 26).

31. The Committee encourages the State party to take immediate steps to amend relevant legislation, including the Personal Status Law, the Unified National Identity Card Law and Law No. 105, so that it is fully in line with article 18 of the Covenant. The State party should also ensure that registration of religious organizations is based

on clear and objective criteria that are compatible with the State party's obligations under the Covenant.

Freedom of expression, peaceful assembly and freedom of association

32. Although article 38 of the Constitution of Iraq guarantees freedom of expression and assembly, the Committee notes with regret that the Criminal Code includes provisions that may limit freedom of expression, such as article 433 on defamation and insult. The Committee expresses concern about reports that freedom of expression and peaceful assembly were violated in the context of the demonstrations of 2019 and 2020, including through repression of the coverage of the demonstrations by closing down media outlets and slowing down Internet speed, as well as the use of excessive force against protestors by security forces, resulting in injuries and deaths, and alleged enforced disappearances. The Committee is concerned about allegations that journalists and media workers were subjected to attacks and intimidation by both State and non-State actors, and were prevented by security forces from covering stories. The Committee notes that the bill on freedom of expression and opinion, assembly and peaceful protest, which is currently before the Council of Representatives, has been fast-tracked to allow for its swift adoption (arts. 6, 19, 21–22 and 25–26).

33. The State party should ensure that the bill on freedom of expression and opinion, assembly and peaceful protest allows for the full exercise of the rights to freedom of expression, peaceful assembly and association as envisaged by the Covenant (arts. 2, 19 and 21–22). The State party should also take all necessary measures to ensure that journalists and media workers are free to carry out their work without fear of violence or reprisals. It should conduct prompt and impartial investigations into allegations of threats or violence against journalists and protestors and should hold perpetrators accountable.

Rights of the child

34. The Committee notes that the State party's national child protection policy, which is intended to prioritize the protection of children in areas of displacement and in liberated areas, is being implemented and that a child protection bill is currently being drafted. The Committee notes with regret that the Law on national identity cards dictates that a child born of one Muslim parent is automatically listed as Muslim, as this creates difficulties for children born of rape to Yazidi women who were held captive by Da'esh. The Committee notes that a specialized committee has been established to discuss how to address the issues faced by children born as a result of sexual violence and children born to parents perceived to be Da'esh members, in accordance with the law (arts. 8 and 24).

35. The Committee urges the State party to expedite the adoption of the child protection bill, ensuring that it provides full protection of the rights of the child in accordance with the Covenant and other international instruments to which the State is a party. The Committee also encourages the State party to consider amending the Law on national identity cards in order to take into account the situation of children born to non-Muslim mothers where the father is unknown or uninvolved in the life of the child, in particular children born of rape to Yazidi women previously held captive by Da'esh.

Minimum age of criminal responsibility

36. The Committee notes with appreciation that an amendment to the Juvenile Welfare Act (No. 76 of 1983) has been submitted to raise the minimum age of criminal responsibility from 9 to 11 years old and that the minimum age of criminal responsibility in Kurdistan is already 11 (arts. 9 and 14).

37. The Committee encourages the State party to expedite the amendment to the Juvenile Welfare Act and to consider raising the minimum age of criminal responsibility further so that it is in accord with internationally accepted standards.

Harmful practices

38. The Committee is concerned about persistent reports of early marriages despite legislation setting the minimum age of marriage. While noting that female genital mutilation is rare outside of certain areas of the Kurdistan region, the Committee nevertheless notes that cases continue to occur in the State party and regrets that female genital mutilation has not been explicitly prohibited and criminalized throughout the State party's territory (art. 7).

39. **In line with the Committee's previous recommendations,¹⁰ the State party should strengthen its efforts to prevent and eradicate harmful practices that discriminate against women and girls, particularly early marriages and female genital mutilation, including by taking more vigorous measures to generate public awareness about their negative effects. It should also ensure that all forms of female genital mutilation are explicitly prohibited and criminalized in all its territory and that relevant criminal legislation in the Kurdistan region is efficiently enforced.**

Participation in public affairs

40. While recognizing that the Electoral Code (Law No. 9) of 2020, makes provision for parliamentary seats for a number of minority communities (Christian, Yazidi, Sabaean Mandaean, Shabak and Fayli Kurd), the Committee notes with regret that Iraqis of African descent have not been allocated any quota and that there are reports that they are not adequately represented in public life (arts. 25–26).

41. **In line with the recommendations of the Committee on the Elimination of all Forms of Racial Discrimination,¹¹ the State party, including the Kurdistan Regional Government, should take measures to ensure that ethnic and ethnic-religious minorities, including Iraqis of African descent and, in particular, women from this minority group, are represented in elective bodies and public office in proportion to their real demographic weight in society, and should consider revising the Electoral Code to establish a quota for Iraqis of African descent.**

D. Dissemination and follow-up

42. **The State party should widely disseminate the Covenant, its sixth periodic report, the written replies to the Committee's list of issues and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into the other official language of the State party.**

43. **In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 25 March 2025, information on its implementation of the recommendations made by the Committee in paragraphs 9 (transitional justice), 17 (counter-terrorism measures) and 21 (prohibition of torture and other cruel, inhuman or degrading treatment or punishment) above.**

44. **In line with the Committee's predictable review cycle, the State party will receive in 2028 the Committee's list of issues prior to submission of the report and will be expected to submit within one year its replies to the list of issues, which will constitute its seventh periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in 2030 in Geneva.**

¹⁰ Ibid., para. 16.

¹¹ CERD/C/IRQ/CO/22-25, para. 26.