



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the sixth periodic report of Iraq*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. With reference to the Committee's previous concluding observations (CCPR/C/IRQ/CO/5, paras. 5–6) and the information provided by the State party (CCPR/C/IRQ/6), please provide information on measures taken to raise awareness of the Covenant, including by providing relevant training to judges, lawyers and prosecutors. In that regard, please comment on steps taken to have the Covenant invoked or applied by national courts. Noting the decision to authorize the State party's High Commission for Human Rights to receive individual complaints, the Committee requests updated information on the State party's efforts to ratify the first Optional Protocol to the Covenant. Please provide information on the coexistence of statutory law with sharia law and on how compliance with the Covenant is ensured in that regard.

2. With reference to the Committee's previous concluding observations (paras. 7–8) and the information provided by the State party (paras. 14–23), please provide updated information on 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). In particular, please explain the decrease in the budget of the High Commission between 2014 and 2018 and clarify whether the current budget and human resources are sufficient to enable the High Commission to effectively discharge all of its mandated activities. In addition, based on Act No. 47 of 2017, pursuant to which the membership of the board of commissioners was expanded, please indicate whether the current membership of the board ensures effective representation of different population groups and complies with the Paris Principles.

Transitional justice (arts. 3, 6, 7, 9, 14 and 26)

3. With reference to the Committee's previous concluding observations (paras. 19–20), please provide information on the legal guarantees in place during the criminal trials that were held under the counter-terrorism laws in 2018 and 2019, in the aftermath of the widespread violence perpetrated by Islamic State in Iraq and the Levant (ISIL). In particular, please provide information on guarantees in place to ensure (a) equality before the courts, including an indication of whether appointed lawyers were granted access to court files, especially during the investigation phase, and if they had sufficient time to familiarize themselves with the case and prepare their defence; and (b) the presence of lawyers during interrogations by police or other security forces and during court hearings. Please respond to reports indicating that anonymous witness statements and information based on security or intelligence reports was admitted as primary evidence for criminal conviction and that evidence obtained through torture or ill-treatment was admitted in criminal proceedings.

* Adopted by the Committee at its 129th session (29 June–24 July 2020).



4. Please indicate whether there is a prosecution strategy in place that gives priority to addressing the worst human rights abuses. Please explain the low number of prosecutions in cases involving sexual offences committed by ISIL members against Yazidi women and girls during the armed conflict.

5. Please report on measures taken to clarify the fate of the approximately one thousand males, including boys, who were allegedly forcibly disappeared or victims of related violations, including extrajudicial execution, torture, arbitrary arrest and unlawful detention, perpetrated by pro-government forces during combat and subsequent clearing operations in Anbar province, targeting fighters belonging to ISIL or its supporters. In that regard, please provide up-to-date information on (a) the establishment of two fact-finding committees, one in 2016 and one 2018; (b) the bill on the protection of persons from enforced disappearance currently being considered by the Council of Representatives; and (c) the national reconciliation and peacebuilding work conducted under the leadership of the Permanent Higher Committee of Peaceful Coexistence and Social Peace, mandated to examine allegations of abductions, disappearances and other detention-related issues. Please comment on reports received by the Committee of allegations of enforced disappearances perpetrated in other provinces, including Babil, Baghdad, Diyala, Kirkuk, Ninawa and Salah al-Din.

Non-discrimination and equality between men and women (arts. 2, 3, 18, 23 and 26)

6. Please provide information on the measures taken to ensure equality between men and women. With reference to the Committee's previous concluding observations (paras. 25–26), the Committee's 2017 follow-up report (CCPR/C/122/2, pp.16–17) and the information provided by the State party (paras. 69–96), please provide information on measures taken to repeal all provisions that discriminate on the basis of sex in the Criminal Code, the Code of Criminal Procedure and other legislation, regulations and directives, including the provisions on (a) rape, contained in articles 393 and 398 of the Criminal Code; (b) domestic violence, contained in article 41 (1) of the Criminal Code; and (c) so-called honour killings, contained in article 409 of the Criminal Code. Please also provide updated information on the draft act on protection against domestic violence and indicate whether it is in line with the Covenant. Please further provide information on the application of the Kurdistan Region Act (Act No. 8) of 2011 on domestic violence and on whether the State party intends to extend its scope so that all forms of violence against women are fully covered.

7. With reference to the Committee's previous concluding observations (paras. 11–12) and the information provided by the State party (paras. 39–40), please comment on reports of persistent allegations of acts of discrimination and violence 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 those persons. In that regard, please provide updated information on the investigation into the killing of the actor and model, Karar Nushi, in Baghdad on 2 July 2017. Please also provide information on any awareness-raising campaigns to promote sensitivity and tolerance among law enforcement officers, prosecutors, courts and the general public with regard to sexual orientation and gender identity. Please indicate whether the State party is considering revising articles 394 and 401 of the Criminal Code.

Counter-terrorism measures (arts. 9 and 14)

8. With reference to the Committee's previous concluding observations (paras. 9–10) and the information provided by the State party (paras. 24–26), please provide information on any initiative to revise the broad definition of terrorism contained in the 2005 federal Counter-Terrorism Act. Please also provide information on the draft Iraqi counter-terrorism strategy developed by the counter-terrorism agencies and the results of the discussions of the National Security Council at its meetings Nos. 4/2017 and 9/2017. Please comment on information received that the 2005 federal Counter-Terrorism Act and the 2006 counter-terrorism act applicable to the Kurdistan Region continue to be used excessively, including in the context of demonstrations and relating to "association with" or "membership of" terrorist organizations. Please provide specific information on the number of persons who have been detained and prosecuted under those two acts and the sentences imposed in the past five years.

Right to life (arts. 6 and 14)

9. With reference to the Committee's previous concluding observations (paras. 27–28), the Committee's 2017 follow-up report and the information provided by the State party (paras. 98–111), please provide information on steps taken to revise the current legislation to ensure that the death penalty is authorized only for the most serious crimes, is never mandatory, and that pardon or commutation of the sentence is available in all cases, regardless of the crime committed. In particular, please indicate whether the State party intends to review the mandatory death penalty imposed on a wide range of activities defined as terrorist acts. While noting the information provided by the State party that the death penalty is now applied on a smaller scale, the Committee requests the State party to comment on information it has received indicating that the number of executions in Iraq doubled between 2018 and 2019. Please clarify the legal situation pertaining to the application of the death penalty in the Kurdistan Region. Please comment on reports indicating that trials at which the death penalty is imposed do not always comply with the provisions of article 14 of the Covenant.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 7 and 9)

10. With reference to the Committee's previous concluding observations (paras. 29–30), please respond to reports of allegations of widespread torture and ill-treatment of prisoners in police custody and detention centres, and the use, in court, of confessions obtained under torture. In that regard, please also comment on information received by the Committee about the extensive use of torture in secret detention. Please provide information regarding the number of reports of torture and detainee abuse received in the past five years, the number of investigations, prosecutions and convictions in such cases, the sanctions imposed and the reparations granted to the victims. Please comment on information received by the Committee that inmates reporting cases of torture fear reprisals and believe that their complaints will be fruitless.

11. Please indicate whether non-governmental organizations, United Nations agencies and the High Commission for Human Rights have access to places of detention and, if so, indicate the number of visits carried out during the reporting period. In that regard, please also indicate whether the High Commission was able to make unannounced visits to detention facilities, and provide information on measures taken to follow up on visit reports and to implement the High Commission's recommendations. Please also indicate whether the State party plans to accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Liberty and security of person and treatment of persons deprived of their liberty (arts. 7, 9 and 10)

12. Please provide information on the effectiveness of applications for habeas corpus. Please comment on reports received by the Committee that the role of the investigative judge, which in addition to the investigative function also includes the ability to dismiss charges or take the action necessary to ensure justice in an individual case, may hinder the effectiveness of that recourse.

13. Please provide up-to-date data, disaggregated by facility, on the official and actual capacities of places of detention and specify what measures have been taken to reduce overcrowding and improve prison conditions, including addressing reports of, inter alia, inadequate health care and sanitary conditions. Please provide information on measures taken to ensure that remand detainees are segregated from convicted persons and to improve conditions of detention for women and children suspected of affiliation with ISIL. Please respond to reports of severe overcrowding in Tallkayf and Al-Faisaliah detention centres. Please elaborate on measures taken to investigate deaths that have occurred in the prison system, including by the Standing Investigations Committee, which is in charge of investigating cases of death in custody. Please provide information on the number of deaths in custody in Iraq in the past five years and the number of investigations, prosecutions and convictions in that regard. In particular, please provide information on the alleged 24 deaths in custody in Al-Hoot prison and the results of the special committee established to review that incident.

14. With reference to the Committee's previous concluding observations (paras. 33–34), please report on information received about the high number of prisoners in pretrial detention and prolonged pretrial detention of a year or more. Please also provide information on non-custodial alternative measures to pretrial detention and their application in practice. Please provide data on the number of persons being held in pretrial detention compared with the number of convicted criminals.

15. Please provide information on measures taken in detention centres to prevent the spread of coronavirus disease (COVID-19), including the potential release of detainees and measures taken to improve sanitary conditions. Please comment on reports that individuals breaking the curfew imposed to curb the spread of COVID-19 have been deprived of their liberty and provide information on the guarantees in place for those deprived of their liberty and how those measures are compatible with the Covenant. In particular, please comment on information received by the Committee that in Baghdad, between 17 March and 23 May 2020, security forces arrested 49,233 individuals for breaking the curfew.

Refugees, asylum seekers and internally displaced persons (arts. 2, 6, 7, 9, 10, 12, 13 and 25)

16. With reference to the Committee's previous concluding observations (paras. 21–22), please provide up-to-date information on the situation of internally displaced persons and the measures taken by the Government to address their predicament and find durable solutions to their displacement. In particular, please provide information on the "security clearance procedure", including the criteria used to assess applications, and whether it complies with article 12 of the Covenant. Please indicate whether restrictions are placed on internally displaced persons' right to vote and respond to reports that the closing of some camps for internally displaced persons has resulted in secondary displacement.

17. Please provide information on the measures taken to combat discrimination against and stigmatization of women and children with perceived ties to ISIL who are living in camps for internally displaced persons. Please comment on reports that those women and children are subjected to multiple violations, including being denied access to food, water and health care; not having access to identity cards and other civil documents which facilitate their access to many social services; being subjected to severe restrictions on movement; and being subjected to sexual violence, including rape and sexual exploitation.

Access to justice and the independence of the judiciary (arts. 2 and 14)

18. Recalling the Committee's previous concluding observations (paras. 35–36) and the information provided by the State party (paras. 222–228), please provide information on measures taken to prevent and punish threats or acts of intimidation aimed at lawyers or judges, any interference in their work and any arbitrary disciplinary measures taken against them. Please describe the procedures and criteria used to appoint judges and subject them to disciplinary measures, such as suspension or dismissal, based on the Supreme Judicial Council Act No. 45 of 2017. Please describe the strategies adopted to prevent corruption and to ensure the accountability of judges, prosecutors, prison officers, members of the police and other members of judicial authorities.

19. Please provide information on the use of tribal courts, including to resolve disputes involving major crimes, and indicate how the State party's obligations under the Covenant are given effect in such proceedings.

20. With reference to the Committee's previous concluding observations (paras. 33–34), please respond to reports of warrantless and arbitrary arrests and detentions, including secret detentions. Please provide information on steps taken to ensure that detainees are promptly brought before a judge and are informed, from the outset of their detention, of the reasons for their arrest, of the charges against them and of their rights. In that regard, please specify whether the right to have access to a lawyer promptly upon detention is guaranteed in all circumstances and whether lawyers are present during interrogations. Please clarify whether medical check-ups are conducted in all instances of detention and if medical doctors in places of detention are independent from penitentiary management. Please respond to reports that detainees' communication with lawyers and family is restricted, particularly in the initial

phases of detention. Please explain how the provision contained in article 181 (d) of the Code of Criminal Procedure allowing convictions based solely on confessions complies with the Covenant.

Elimination of slavery and servitude (art. 8)

21. With reference to the Committee's previous concluding observations (paras. 31–32) and the information provided by the State party (paras. 156–178), please provide information on the impact of Act No. 28 of 2012. Please indicate whether the relevant guidelines have already been finalized and whether there has been any initiative to establish a national action plan to combat trafficking in persons. Please provide information on measures taken to combat the increasing incidence of internal and cross-border trafficking in women and children. Please provide information on the number of shelters available in the State party for victims of trafficking and clarify whether the refurbishment of the shelter in the Salikh neighbourhood has been concluded. The Committee takes note of the statistics provided by the State party on the number of cases and sentences handed down in 2016, but requires additional data on the number of complaints, investigations, prosecutions and convictions, and the reparations and assistance afforded to victims in the past five years.

Freedom of conscience and religious belief (arts. 2, 18 and 26)

22. Recalling the Committee's previous concluding observations (paras. 37–38) and the information provided by the State party (paras. 231–237), please report on the measures taken to ensure that the right to freedom of conscience and religious belief is fully respected, on a non-discriminatory basis. Please provide information on steps taken to 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. Please also provide a list of officially recognized religious institutions, and indicate the number of non-Muslim places of worship licensed to operate. Please provide information on the provisions of the 2016 law concerning the National Identity Card that deal with religious conversion and on their compatibility with the Covenant.

Freedom of opinion and expression, peaceful assembly and freedom of association (arts. 6, 19, 21, 22, 25 and 26)

23. Recalling the Committee's previous concluding observations (paras. 41–42), please provide information on the safeguards that exist to ensure the rights to freedom of expression and of peaceful assembly, pursuant to articles 19 and 21 of the Covenant. Please respond to reports that, in relation to the incidents that took place from October to December 2019 and in 2020, protesters were subjected to arbitrary restrictions of their freedom of expression and assembly. In particular, please comment on information received that (a) security forces used excessive force, including lethal force, to disperse demonstrators from the first day of demonstrations, resulting in hundreds of deaths and injured protesters; (b) hundreds of demonstrators were arbitrarily arrested across the country, in some cases based purely on their presence and participation in the demonstrations; (c) a number of arrests or detentions were conducted at people's home, without warrants, by armed men without insignia who were wearing black and whose faces were covered; and (d) security forces entered hospitals, intimidated health workers, interfered in the provision of health care and arrested patients. Please explain what steps are being taken to prevent the excessive use of force for dispersal of assemblies, and provide information on the investigations into the excessive use of force against and the deaths, arbitrary detention and mistreatment of protesters.

24. Please provide information on steps taken to protect human rights defenders' and journalists' exercise of their right to freedom of expression, as explained in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. Please comment on allegations of repression of the coverage of the demonstrations that took place in October, November and December 2019, including attacks against media outlets, orders not to cover the demonstrations, arbitrary arrest of journalists, harassment and intimidation. Please also comment on allegations that the Internet was blocked on some days during the demonstrations and that the security forces maintain a watch list of journalists, human rights defenders and civil society activists involved in protests. Please provide information on

measures taken to ensure that all the serious human rights violations that were perpetrated were thoroughly investigated and that those responsible were brought to justice. In addition, please indicate the measures taken to guarantee that officials do not interfere with the legitimate exercise of the right to freedom of expression.

25. Please clarify whether charges of terrorism, under article 2 of the federal Counter-Terrorism Act, are used to punish demonstrators who take part in protests, particularly those that took place in October, November and December 2019.

26. Please provide information on the investigations carried out into the cases of 25 individuals who participated in the demonstrations or provided support to demonstrators, and who were allegedly abducted and some of them tortured and/or ill-treated by members of unidentified armed groups between 1 October 2019 and 29 February 2020. In that regard, please provide information on the results of the fact-finding mission conducted by the Human Rights Directorate of the Ministry of Justice. Please indicate whether the State party has taken any steps to locate the missing persons or to identify and prosecute those responsible.

27. With reference to the Committee's previous concluding observations (paras. 39–40) and the information provided by the State party (paras. 238–245), please provide information on the status of the independent media in the country. In that regard, please provide updated information on the bill on freedom of expression and opinion, assembly and peaceful protest, which is currently before the Council of Representatives. Please comment on allegations of continuing attacks against and intimidation of journalists and media workers. In particular, please comment on reports of (a) a number of arrests and harassment of journalists since the outbreak of COVID-19; (b) the case of Samir al Daami, a journalist allegedly arrested in October 2017, held incommunicado and released after two months in prison; and (c) the case of Khalil Abed Khalil al Jumaili, a journalist allegedly arrested on 30 November 2019 and released on 6 January 2020.

Rights of the child (arts. 7, 8, 9, 14 and 24)

28. Please indicate whether there are plans to raise the minimum age of criminal responsibility in the State party. Please provide data disaggregated by sex and age on the number of persons under 18 years of age who are currently being held in pretrial detention. With reference to the Committee's previous concluding observations (paras. 15–16) and the information provided by the State party (paras. 62–68), please comment on reports of the persistence of the practice of early, "temporary" and forced marriages in the State party. Please provide information on measures taken to combat the practice of female genital mutilation in the State party.

29. Please provide information on the situation of children born as a result of sexual violence and children born of parents perceived to be ISIL affiliates or sympathizers. Reportedly, such children are often abandoned, taken from their mothers to unknown whereabouts or to the armed forces and militias in conflict zones or left with their biological fathers. Please provide information on the measures taken, including legislative measures, to ensure that those children are not discriminated against, stigmatized or rejected by society. In particular, please provide information on measures taken to assist families in the search for children who have been separated from their mothers and to ensure that those children have access to birth registration and social services, including education and health.

Right to participate in public life (arts. 25 and 26)

30. Please comment on reports that, despite the reserved quotas to protect the political rights of certain religious and ethnic minorities, those groups continue to face challenges in achieving adequate political representation. Please report on measures taken to boost women's political participation, including measures to raise awareness of the role of women in decision-making processes and in political and public life. In that regard, please provide updated data on the number of women currently holding positions in the Council of Representatives.