

International Convention on the Elimination of All Forms of Racial Discrimination Civil Society Organizations' Report on Racial Discrimination in Iraq

Submitted to: Committee on the elimination of all forms of racial discrimination – Session 97 on Iraq's twenty second to twenty fifth periodic reports.

Submitted by:

1. Iraqi Al-Amal Association¹ (with advisory status in the UN's Economic and Social Council)
2. Al-Namaa Center for Human Rights² (a group of human rights defenders from all Iraqi governorates)

Date of submission: October 2018

Country: Iraq

A- Introduction

1 Iraqi Al-Amal Association (IAA) is a non-political, non-sectarian association of volunteers actively engaged in projects for the benefit and wellbeing of the Iraqi population regardless of race, gender and political or religious affiliation. Al-Amal was established in 1992. In May 2003, the head office of Al-Amal was opened in Baghdad. Its activities and services are now provided throughout Iraq.

2 IAA has been registered in Iraq³. Its mission is for rehabilitation and raising social consciousness among Iraqi citizens to contribute to the building a democratic state in Iraq. IAA has been working to support human rights and fundamental freedoms in Iraq for many years. Recently, a network of 550 human rights defenders has been established, which expanded through social media to more than 210,000 members throughout Iraq.⁴ Hence IAA has found an urgent need to submit this report to the Committee on the Elimination of Racial Discrimination, and the need to consider its comments and inputs on the state report.

3 Al-Namaa Center for Human Rights⁵ aiming to provide accurate information about Human Rights situation in Iraq. This report as part of the continues efforts and commitment to improve Human Rights situation by promoting the respect for human rights and reduce serious human rights violations cases, all the information gathered and verified by working closely with a group of 36 trusted Iraqi young Human Rights defenders⁶ representing all Iraqi Governorates.

4 Iraq is a diverse country in ethnicity, religion, sect and cultures as designated in Article 3 of the 2005 Iraqi Constitution. This report will highlight some governmental practices that are characterized by racial discrimination in the practices and laws against certain groups, which violates Iraq's obligations and commitments according to the International Convention to Eliminate All Forms of Racial Discrimination.

¹ <http://www.iraqi-alamal.org/default.aspx>

Email: baghdad@iraqi-alamal.org \ cell: 00964 7901919285

² <http://alnamaa.org/>

Email: info@alnamaa.org \ cell: 00964 7726166801

³ IAA has been registered at the NGO's Directorate under # 1Z687

⁴ On Facebook: "Iraqi Human Rights Defenders and Activist forum".

⁵ one of IAA strategic long term programs , established by Iraqi Al Amal Association 2013 and funded by European Union.

⁶ Please see annex 2 name of all HRDS group.

B – Violations

B – First: Minorities and Marginalized Groups in Society.

- Persons with disabilities are marginalized and denies opportunities to access and use public services including education and health. No public means of transport are provided for use on university, market and hospital routes due to the lack of accommodation required by persons with disabilities, although they make up 10% of the Iraqi population according to the assessment of the Central Statistical Organization in view of the multiple wars that Iraq went through.
- The policy to ignore the gypsies in the government’s periodic report submitted to the Committee to Eliminate All Forms of Racial Discrimination in 2017 persists. The national team writing the report did not trouble itself with responding to the closing recommendation submitted by the Convention’s committee in this regard, which is a questionable position.
- Gypsies in Iraq are an ethnic minority in Iraq, usually isolated on the peripheries of the Iraqi cities and towns in the governorates of Baghdad, Diwanieh, Diala, Ninawa, and Muthana. They suffer from discrimination and exclusion by the public authorities, including denial of services and employment. A large percentage of gypsy Iraqis live in disastrous conditions, lacking basic needs such as water, electricity, health care and sufficient nutrition. There are also high rates of illiteracy within the gypsy community. The local governments have failed to take the measures necessary to guarantee women within the gypsy community in the marginalized areas equal access to public health services, medical care, social security, and cultural and educational activities on an equal footing with their peers in the cities.
- Gypsies are not permitted to assume any posts in the country because they lack the Iraqi nationality, without any legal justification.
- Minorities in Iraq do not participate in sovereign positions, high level posts and in the security forces (army and police).
- Dark-skinned individuals constitute 70% of the population of Al Zabir District in Al Basra Governorate. They total 370000⁷, which is a number that qualifies them to two seats in the governorate councils and one seat in Parliament. Article 11 of the Elections Law No. 45 of 2013 did not include dark-skinned individuals in the quote system, and there were recorded cases of assault against political activists who were nominated in the elections from that group.
- The Iraqi government has failed to take action and apply measures to protect Azadeans in spite of ongoing indictors on the lack of security in their areas for a considerably long period of time. The safe passageways provided by the Iraqi government for the departure of the Azadeans during the military operations with ISIS, which led to victims and prisoners within their ranks. The governmental measures were so weak that they led to acts of genocide⁸, according to the statement by the General Directorate for Azadean Affairs⁹ at the Ministry of Islamic and Religious Affairs in the Government of Kurdistan/Iraq, which collected specific and official statistics in this regard.

⁷ Central Statistical Organization 2014.

⁸ Resolution of the Federal Council of Ministers No. 92 of 2015 declared it a genocide.

⁹ Statistics of the General Directorate for Azadean Affairs indicate that the number of victims was 1293, children who lost their fathers totaled 1759 while the children who lost their mothers totaled 407, and children who lost both parents totaled 359.

- Law No. 105 of 1970 continues to deny Bahai's many of their rights and discriminates against them, which excludes them from political and job representation and causes them to fear revealing their identity. (Law Criminalizing Bahai' Activity).
- The procedures for registering cars for Arabs not residing in Kurdistan Region have clear racist discrimination against Arabs, as the license plates for their vehicles start with a distinctive number (555)¹⁰. This could subject the owners of these vehicles to clear discrimination and security risks such as targeting or persecution in some cases.
- The weak government performance in managing the security portfolio for the disputed areas, and its failure to enhance security protection and measures for the residents of those areas led to assaults against Kurd citizens in the Districts of Khanqeen, Daqouq, Touz, the neighborhoods of Sadieh and Jaloula, and a number of villages parallel to the Himrein Mountains. This in turn caused the migration of some of them and a decrease in the number of Kurdish residents in some villages and areas.
- Migrant workers from Sudan, Bangladesh, Nepal, Ethiopia and other countries do not enjoy equal rights that guarantee human dignity and protection like Iraqi workers, including wages and guarantees. The workers in domestic services, especially women, suffer from extreme exploitation, and there is no law regulating their circumstances.
- The Central Statistical Organization did not provide any accurate information on the social status of the ethnic and racial groups.
- The government has not taken any of the necessary measures to protect homosexuals, and the expression of their opinions is almost impossible. According to the estimates of the Iraq Queer Organization¹¹, over 220 homosexuals were killed in Iraq in 2017, and approximately 96% of Iraqi homosexuals were subjected to verbal or physical violence.
- Some minorities suffer from clear governmental negligence and oversight, including Mandaean, who are not provided with their own houses of workshop like other minorities, as the government has failed to designate land or buildings for this group to be allowed to practice its religious rites.

B – Second: Freedom of Expression and Basic Freedoms

- Many human rights defenders are at risk of arbitrary detention, judicial prosecution, security tracking and malicious suites by political parties and other powerful groups due to their activism in human rights and freedoms.
- There are no laws and regulations that regulate freedom of assembly and peaceful protest although Article 38 of the Constitution stipulated a special law in this regard. There is a Freedom of Expression, Assembly and Demonstration Bill deliberated by the Iraqi Parliament, with many restrictions and violations, and CSOs have fought to prevent its adoption in 2016 and 2017. The Bill requires serious amendment so that it is compliant with constitutional provisions and international standards.
- The Iraqi Government and the Kurdistan Region Government have shut down, banned and restricted a number of media outlets, including Al Baghdadia in 2017, Al Sharqiya in 2017 in Anbar, and N R T in Kurdistan in 2017, for reasons relevant to differences of

¹⁰ On 22/6/2016, according to the Erbil Traffic Spokesperson, who indicated that the registration of vehicles for citizen from outside the Region must follow controls and conditions.

¹¹ Iraq Queer Organization: An organization monitoring the status of the homosexual community in Iraq (www.a-iraqueer.org).

opinions and attitudes. These channels were shut down with unprofessional political decisions.

- No bill has been passed criminalizing sectarian rhetoric, although the Council of Ministers on 18 July 2017 adopted a bill criminalizing sectarian and racial incitement and hate speech.
- There is sectarian rhetoric and sectarian incitement by some prominent figures in the religious and political scene in Iraq, although Article 2 First (E) of the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Iraq in 1970 provides for undermining anything that may strengthen the racial divide. There are still some speeches by religious¹² and political leaders¹³, including some members of the Iraqi Parliament¹⁴ which are characterized by hate and violence, without any clear deterrent action being taken by the government.
- There are some examples of texts in the curricula of primary and secondary schools, like history and reading, which call for discrimination, racism, hate, marginalization of the other and entrench the stereotypes of women. They contain ideas and materials that instill violence and division which undermines community security and stability in the long term.

B – Third: Women Rights

- A clear regression in women's rights has been observed. Many of the women are displaced and are heads of households, facing various levels of physical and sexual violence, as well as harmful practices such as child marriage, interim marriage, women trafficking and the so-called crimes of honor. They are also denied basic rights such as education and labor and have limited resources. Many of the Iraqis law contain discriminatory provisions against women that contribute to escaping punishment, undermine their dignity, and enhance violence and discrimination against women.
- The lack of political will and actual legal guarantees, the dominance of patriarchal thought patterns, sectarian and party divisions and gender based violence all leads to a regression in the percentage of women's representation in the executive authority, the marginalization of their roles in decision making positions and their exclusion from negotiation committees to build peace, national reconciliation and social cohesion.
- Women within minority groups in marginalized areas, including dark skinned Iraqis and gypsies benefit less from work opportunities. There are higher rates of illiteracy and incidents of child labor among these women.

¹² <https://www.youtube.com/watch?v=X8bJUtlIiBQ&fbclid=IwAR1o4m6SWdUsIFW53yRKnEXzGaVXJchGBgBzDbNNNovV1fDSO-Wz52uj2q4>

¹³

https://www.youtube.com/watch?v=IPy9_Dy3GIs&feature=youtu.be&fbclid=IwAR0RaLkE7SGymhvdjdirSXMBNtoXMArPsdGOv_kngTaBjnz5gGwvNhWW5xM

¹⁴

<https://www.youtube.com/watch?v=afW3OU8mEZs&feature=youtu.be&fbclid=IwAR01tUO5-W54awdi34SwnM1Xw6LMMI4RTf1MUQ1NfZYbtvtdAc4ULSmhkPw>

B – Fourth: Refugees and Internal Displaced Persons

- The current legal framework does not guarantee refugee protection. For example, Iranian refugees in Quinsak District face missile attacks from outside the borders every once in a while.
- The process of returning the displaced persons to their areas after their liberation from ISIS has been slow. Kurdistan still has over one million displaced persons who are unable to return to their homes due to their destruction as a result of terrorist operations or for fear of the security circumstances in their areas.
- Many children within the camps lack proof of ID documents (Civil Status ID) as procedures prevent their partners from leaving the camp to conclude the procedures in the relevant departments.
- The families of persons accusing of affiliation with ISIS are faced with discriminatory practices against them. They are isolated in camps without the requirements of a dignified life. The main discriminatory practices that they are faced with are: Withdrawal of all their personal identification documents by the camp administration, prevention of leaving the camp under any circumstances, prevention of possession of cell phones or any other communication device, prevention of receiving any assistance offered by aid organizations or individuals, and prevention of practicing any work that will ensure the basic economic necessities for living. They are also faced with continuous verbal abuse by the security forces supervising the camp. There have been registered cases of attempts to sexually exploit the women of these families in return for assistance (food items, phone calls, access to personal documents) in the camps of Salahuddin, Anbar and Ninawa Governorates.

B – Fifth: Political Participation and Special Legislation

- The Iraqi government has not taken the necessary legislative measures to guarantee that the provisions of the Convention supersede national legislation. There is also no sufficient legislation to integrate all provisions of the Convention to Eliminate All Forms of Racial Discrimination and ensure compliance with them.
- The government has not abided by applying the principle of equity in access to public jobs or the provision in the Iraqi constitution on the prohibition against discrimination in any job regardless of religion and race, Articles 14 and 16. The Federal Service Council Law No. 4 of 2009 which regulates equality in public jobs has also not been enforced.
- The Independent High Electoral Commission relied on point 5 in Article 16 and Article 17 of the Iraqi Parliament Elections Law No. 45 of 2013 to refer to the supply card and mobile teams to update the voter register database, which led to inaccurate and approximate figures when determining minority percentages. This contributed to denying a large number of

minorities from enjoying their political right to vote according to Article 16 of the 2005 Iraqi Constitution¹⁵.

- The minorities in the Iraqi Parliament and Governorate Councils were inequitably represented, especially in the 2018 election results, which had no appropriate electoral representation for all groups and components of society, as a result of their inability to practice their right to vote. This makes it difficult for the ethnic minorities to attain political representation percentages that are proportionate to their presence in society.
- The Iraqi courts were not noted for basing their decisions on the provisions of the Convention, as the judges rely on internal legislation that is devoid of the Convention's stipulations.
- The performance of government institutions mandated with human rights has been weak in raising awareness on the Convention. It was noted that the Iraqi High Commission for Human Rights failed to organize activities aimed at combating racial discrimination, and there were no reports published on discrimination instances and violations in Iraq.
- Although the gypsy population is approximately 100,000 (approximate estimates of 2017), the majority of them live in Diwanieh City, Al Zuhour Village. They do not have the right to participate in the political process (run as candidates) for parliament, governorate councils and local councils, due to the "exception" word listed on the Civil Status ID and nationality certificate that they carry.
- The Federal Court Decision No. 11 of 2010 on increasing the Azadean seats, according to Article 49, Paragraph A, of the 2005 Iraqi Constitution.
- Article 11 of the Elections Law No. 45 of 2013 classified the minority quotas as follows: Christians, Mandaeans, Azadeans and Shabak). It did not mention or refer to all other minorities, who have specificity that qualifies them as minorities and thus enables them to attain political rights and most especially the right to run as candidates in the elections – as representatives of their components.
- The Iraqi laws did not include any legal provisions to monitor the indicators and procedures that limit the hate speech and eliminate it based on Article 7 of the 2005 Iraqi Constitution. More specifically, there is no explicit provision that prohibits racial discrimination and racist hate speech in the Amended Iraqi Penal Code No. 111 of 1969.
- Victims of discrimination cannot use the Convention in the national court proceedings, because the governorate has failed to promote the content of the Convention or raise awareness on it, especially the Iraqi High Commission for Human Rights.
- The youth in the Iraqi society constitute a large group compared with the other age groups. However, there is clear discrimination against youth under 30 years of age wishing to run as candidates in the elections and to become involved in political work due to the limitations in the Iraqi Parliament Election Law of 2013 and the amendments made to it in 2017. Paragraph 1 of Article 8 prohibits every person under the age of 30 from candidacy in the elections and limits their political participation. Moreover, the governorate does not have faith in the youth

¹⁵ The founder of the Free Iraqis Movement Jalal Al Theeb was assassinated in 2013, who had demanded the classification of dark-skinned individuals among the minorities.

and is unwilling and not serious in allowing the youth to assume leadership and public positions in the country.

C – Recommendations:

We call on the Iraqi government to:

C – First: Minorities and Marginalized Groups in Society:

1. Recognize the gypsies as a minority, allow their participation in public jobs, treat them without prejudice or stereotypes, and take additional measures (laws, regulations and procedures) to address the root causes of this marginalization, including respect for their traditions, customs, rites and opinions.
2. Study the phenomenon of the migrant of minorities and address the real causes of it, then create voluntary return policies and programs that are subsidized and encouraging, such as supporting small economic projects.
3. Strengthen protection for the population in disputed areas, such as intensifying federal police patrols in coordination with the Peshmerga and Asayish forces and engage the population of those areas in the security forces in a manner that guarantees protection for all groups.
4. Take note of the closing comment of the Committee to Eliminate All Forms of Racial Discrimination No. 34 of 2011 and take special tangible measures to alleviate the fragile social and economic status of dark-skinned and gypsy Iraqis.
5. Adopt a national strategy to eliminate discrimination against the minorities in jobs, education and services, especially the women of minorities.
6. Increase the budget of The Reconstruction Fund for Areas Affected by Terrorist Operations, especially the minority areas, which was funded according to Article 28 of the Federal Budget Law of 2015.
7. Abide by the enforceable decisions of the Federal Court on the rights of the Azadean minorities and their representation in Parliament.
8. Abolish the Law Prohibiting the Bahai' Activity No. 105 of 1970 which criminalizes Bahai's, recognize them as minorities with full rights, including their right to public jobs, and offer the appropriate compensation and reparation for those affected among them by forming joint government-parliament committees.
9. Adopt a special law that guarantees the rights of Iraqi minorities in public jobs justly and fairly.
10. Take the necessary urgent measures to protect the rights of LGBT homosexuals, guarantee their dignity and hold accountable undisciplined armed groups take arbitrary action against them, as well as hold accountable the promoters of hate speech against them.
11. Follow the twenty seventh general recommendation of the fifty seventh session in 2000 on discrimination against gypsies and take the necessary measures to adopt and amend legislation to prevent all forms of racial discrimination against the gypsies.

12. Create the appropriate mechanisms to enhance the political participation of gypsies, including granting them nationality with full competence according to the Iraqi Nationality Law No. 26 of 2006 and Article 1 of the 2005 Iraqi Constitution.
13. Recognize dark skinned individuals and classify them as a national minority, as well as include them in the above-mentioned article (minorities article), to guarantee their attainment of all their political rights.
14. Enforce the Decision of the Federal Court No. 11 of 2010 on increasing the number of Azadean seats. The quota system granted them one seat while Article 49, paragraph A of the Iraqi Constitution grants one seat for every 100,000 people. The Azadeans constitute approximately 600,000 people (according to the Central Statistical Organization in 2014).
15. Kurdistan's government must revoke or amend the Law on Registering Vehicles for Arabs Not Residing in Kurdistan, register their vehicles like the citizens of Kurdistan, and replace the registration plates given to Arab vehicle owners with plates that contain other numbers on an equal footing with the rest of the citizens.
16. Investigate all reports on human rights violations by civil society organizations, including the reports relevant to religious minorities, prosecute the perpetrators of these violations and public the investigation results.
17. Ratify the Convention on the Protection of All Migrant Workers and Members of their Families.
18. The Central Statistical Organization must produce surveys, studies and reports on the numbers and indicators of the Iraqi society's components.
19. Designate places of worship and the practice of religious rites for Mandaean and other sectors that did not secure their own locations.

C – Second: Freedom of Expression and Basic Freedoms

1. Suspend all malicious cases against human rights defenders and civil society activists and hold accountable all entities that exploit their power to pressure the judiciary and secure detention orders against human rights defenders.
2. revise education curriculums based on Human Rights, remove all phrases in the school books that call for racial discrimination, enforce the human rights and ethics course in school curricula, create a policy and plan long term rehabilitation programs to train teachers on new concepts and topics (recognition of Minorities rights ,tolerance , diversity , nonviolence , antiracism culture ,gender equality and peace building).
3. Train workers in the media field by the National Communications and Media Commission on rejecting hate speech and respecting Article 4 of the International Convention Against Racial Discrimination and organize awareness programs on the diverse religious and ethnic composition in Iraq and its importance through instructions issued by the government to the media. Issue instructions and a code of ethics by the governmental National Communications and Media Commission to promote a culture of tolerance and fight hate speech.
4. Invite the Special Rapporteur on Eliminating All Forms of Racial Discrimination to visit Iraq.

5. Incorporate the comments made by the non-governmental organizations on the Freedom of Expression and Peaceful Assembly Bill and engage them in the drafting the final bill.
6. Professionally draft the National Communications and Media Commission Law to guarantee the freedom of expression by the media and hold accountable the media outlets, organizations and assemblies that adopt sectarian speech, instigate violence and contribute to creating a population divide, while proposing the creation of a mechanism to receive complaints in this regard.

C – Third: Women Rights

1. Urge the Iraqi government to amend all discriminatory laws, including the Penal Code and Criminal Procedural Law, especially the provisions on the inequality of women and discrimination against them, and pass a law to combat domestic violence.
2. Enable women to participate in decision making positions, in conflict negotiations and resolution, national reconciliation, peace keeping and security operations and building an equal citizenship state.
3. Adopt policies to eliminate underage marriage and marriage outside the courts and impose stricter penalties in this regard.
4. Take the necessary action to combat inequality to enhance the protection of women rights in marginalized areas by providing and supporting basic services for migrant and minority women.

C – Fourth: Refugees and Internal Displaced Persons

1. Amend the Refugees Law No. 51 of 1971 to guarantee the rights of migrants in Iraq according to human rights and international standards. Urge the Iraqi government to join the International Convention on the Status of Refugees of 1951 and its Protocol of 1967.
2. Provide protection to refugees from external assault through diplomatic efforts or remove their camps from border areas. Allow them to claim their rights and study the possibility of collaborating with foreign entities for purposes of compensating victims of missile attacks.
3. Suspend all arbitrary practices against the families of individuals affiliated with ISIS. Allow them to enjoy a normal life, provide the necessities for a dignified life, allow them to work and leave the camps like the refugees of other camps, allow humanitarian organizations to smoothly enter these camps to ascertain their needs (medical, nutritional, psychological and legal), and introduce them into rehabilitation programs, to make progress in drying out the sources of terrorism and extremism and achieve national conciliation.
4. Launch investigations into cases of harassment and sexual exploitation of women in the camps (Al Shahama – Al Karama in Salahuddin Governorate – Al Namroud Camp in Ninawa Governorate) by the supervising security forces and engage civil society organizations in the investigation process.
5. Facilitate the procedures for registering marriage that occurred during ISIS control to guarantee the rights of wives and children, and especially ensure ID documents for

children inside the camps who do not have them, by allowing their parents to visit the competent authorities.

6. Offer incentives and facilitate the return of the Azadeans, provide safe areas for them in their areas, and provide them with compensation that is proportionate to the violations they experienced.

C – Fifth: Political Participation and Special Compensation

1. Amend the 2005 Iraqi Constitution to make a specific reference to the legal status of international conventions and stipulate that they supersede national law.
2. Provide accommodation and impose procedures to facilitate access to basic services for all persons with disabilities at public governmental establishments.
3. Adopt the law to protect diversity and prohibit discrimination, which was presented for a first reading in parliament on 6/10/2016 and ensure that it includes provisions from the International Convention on the Elimination of All Forms of Racial Discrimination, specifically complete compliance with Article 4 of the Convention, taking into account the recommendations by representatives of the minorities and civil society organizations.
4. Enforce the Federal Service Council Law No. 4 of 2009 to ensure equality among citizens in public positions.
5. Comply with and respect all ratified conventions which guarantee the principle of equality in public positions, as well as compliance with the provisions of the Iraqi constitution regarding the principle of equality among the groups of Iraqi people – Articles 14 and 16.
6. Amend the Iraqi Election Law No. 45 of 2013 to guarantee equality for all minorities.
7. Update the voter register database according to a credible population census conducted by the competent ministries in the Iraqi government.
8. Amend the Election Law by adding seats for the other minorities that did not benefit from the quota system to ensure representation for the population's components according to their demographic weight, then take the appropriate security measures to allow them to practice their electoral right within a democratic electoral environment.
9. Amend the Election Law to include the other minorities residing in Iraq (gypsies and dark-skinned individuals) and ensure just representation for them in parliament on an equal footing with the other minorities.
10. Activate the long-term role of the Iraqi High Commission for Human Rights in raising awareness on the content of the Convention, targeting the various groups in society with specific priority given to discrimination in policies and future activities, then write reports in this regard.
11. Reduce the candidacy age for parliamentary elections to below 30 years of age to involve the youth in political work and give a larger group the opportunity to practice their right in political participation.