



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination Eighty-fifth session

Summary record of the 2307th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 19 August 2014, at 3 p.m.

Chairperson: Mr. Calí Tzay

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined fifteenth to twenty-first periodic reports of Iraq (CERD/C/IRQ/15-21; CERD/C/IRQ/Q/15-21)

1. *At the invitation of the Chairperson, the delegation of Iraq took places at the Committee table.*
2. **Mr. Al-Janabi** (Iraq) assured the Committee of his Government's deep commitment to advancing the implementation of the Convention in his country. Although the 2014 parliamentary elections had been a success for the democratic process in Iraq, the security situation was cause for grave concern. The Islamic State of Iraq and Al-Sham (ISIS) terrorist group had taken over several cities in Kirkuk, Salahuddin, Nineveh and Diyala provinces, killing women and children, burying some alive, using women and children as human shields and destroying places of worship. Many of the 1.5 million displaced had fled into Kurdistan, partly into the mountains, where they were left without food or protection. The fight against racial discrimination in Iraq was thus set against a backdrop of a terrorist group committing the most heinous crimes against humanity. In the early 21st century, the Iraqi people were paying a high price for their desire for freedom, democracy and security. The international community and the Committee must take a strong stance against the terrorists and in support of the Iraqi people. Unless ISIS was stopped, no country would be spared.
3. Much progress had been made with regard to the institutional and legal anti-discrimination framework in Iraq. The Constitution provided for equality before the law and domestic legislation guaranteed equal rights to all social components of Iraqi society. The draft constitution of the Kurdistan region recognized the multi-ethnic makeup of its population and stipulated equal rights for all. In order to ensure political representation, eight seats were reserved for minority representatives in the national parliament. In the Kurdish National Council, five seats were reserved for Turkmens, six for Christians and one each for Yazidis and Armenians.
4. Article 9 of the Constitution provided that the Iraqi armed forces and security services were to be made up of the components of the Iraqi people, with due consideration given to their balance and representation without discrimination or exclusion. Article 43 established freedom of religion and religious practice, including the Husseinite religious rites.
5. The institutional human rights framework included: the Ministry of Human Rights, the High Commission for Human Rights established in accordance with the Paris Principles, a parliamentary human rights commission, and the parliamentary committee on women and children's affairs, among others. A special unit had been set up within the Office of the Public Prosecutor to process complaints referred to it by the High Commission for Human Rights. A consultative council for religious affairs had also been set up within the Council of Ministers. The Martyrs Foundation, the Political Prisoners Foundation and the Property Claims Commission had been established to examine gross human rights violations committed by the pre-2003 regime.
6. Although there was no specific legislation on the status of international treaties in the domestic legal system, they did prevail over internal laws. A committee attached to the Council of Ministers monitored coherence between international instruments and national legislation. The Government was also undertaking a comprehensive review of domestic legislation in order to repeal any provisions that were contrary to its international obligations, taking into consideration the Committee's previous concluding observations

(CERD/C/304/Add.80) and the recommendations from the 2010 Universal Periodic Review.

7. Measures had been taken to restore Iraqi nationality and property to Fayli Kurds, to build and restore places of worship, and to compensate victims of terrorist acts. In 2013, on the occasion of the International Day for Tolerance, a conference had been held in cooperation with the United Nations Assistance Mission for Iraq (UNAMI), which had adopted the “Baghdad Principles of Tolerance”. The Ministry of Human Rights had been mandated to draw up a plan of action to implement the Principles.

8. In order to promote minority languages, 32 satellite channels in Kurdistan had been authorized to broadcast in Turkish, Arabic, Turkmen and Syriac; 68 local television channels had been authorized to broadcast in Kurdish, Arabic and Turkmen; and 89 radio stations had been authorized to broadcast in Turkish, Arabic and Turkmen. There were also three Christian channels. The Ministry of Education had established general directorates for Kurdish, Syriac and Armenian education.

9. In order to promote a culture of human rights, public awareness campaigns had been conducted, including through the media. In education, concepts such as national brotherhood, human rights principles and social equality were being added to school curricula, which also contained subjects relating to the traditions and origin of the different components of Iraqi society. Kindergardens and primary schools were teaching in all national languages; three kindergardens in Baghdad taught in Kurdish, Turkmen and Syriac and approximately 7,000 children attended primary schools that taught in Armenian and Syriac. Special school textbooks for Christians were currently being prepared. Some 6,000 Yazidi and 1,000 Christian students were enrolled for university studies and the University of Baghdad had established a Syriac Language Department. In 44 schools the language of teaching was Turkmen, Arabic or Assyrian; in 56 schools the teaching language was Assyrian.

10. The security forces carried out car and foot patrols in order to enhance the protection of minority groups, including in places of worship. Seminars and workshops had been held to promote dialogue and coexistence, and special media programmes had been designed to strengthen the notion of national unity. The National Action Plan for Human Rights adopted in 2011 included a detailed plan of action on combating discrimination.

11. **Mr. Bossuyt** (Country Rapporteur) said that the Iraqi Criminal Code did not contain an explicit prohibition of discrimination. He requested information on the current status of the draft bills on implementation of articles 7 and 125 of the State party Constitution, which, respectively, prohibited racism, terrorism and ethnic cleansing and guaranteed the rights of various nationalities including Turkmens, Chaldeans and Assyrians. He asked the delegation to comment on the reported unequal application of the nationality law in regard to Jews, Palestinians and Baha’i. The Committee would welcome information on measures taken to combat racial discrimination and on complaints or court cases involving racial discrimination, since the report provided none.

12. He wished to know what impeded the proper functioning of the Iraqi High Commission for Human Rights, and whether the Kurdistan Region Independent Board on Human Rights had been established in accordance with the Paris Principles. He asked in which way those two institutions contributed to combating racial discrimination. The Committee was concerned over reports that independent bodies had been placed under the supervision of the Cabinet, and that the High Judicial Council and the Federal Supreme Court were headed by the same person. He asked the delegation to comment.

13. Was it true that school curricula and literature perpetuated negative prejudice and stereotypes, especially regarding black or dark skinned Iraqis and Yazidis? The Committee would welcome information on the ethno-religious composition of the population. It

appeared that attacks on members of the Sunni, Shabak, Yazidi and Turkmen communities and on Shi'a pilgrims were rarely investigated, creating a climate of impunity. Also, there was a reported increase in sectarian discourse after the parliamentary elections of 2010 and loyalties within the military and the police were seen to be divided along sectarian and ethnic lines. He invited the delegation to comment on those allegations. With regard to political representation, he enquired about any progress made with regard to fair allocation of seats for Yazidis and the Mandaean community.

14. He asked the delegation to offer its views on the reported prejudicial treatment and systematic discrimination affecting black Iraqis; high suicide rates among Yazidi women; prohibition for Turkmen to teach their language; and on the status of the Assyrian and Aramaic languages. The Committee was pleased to learn of the progress made in Kurdistan with regard to women's rights.

15. With regard to the situation of internally displaced persons, he asked whether it was true that Arabs fleeing conflict zones faced difficulties when attempting to enter the Kurdistan region. Iraq was not a party to the Convention relating to the Status of Refugees and reportedly no progress had been made with regard to new refugee legislation. Although nationality had been restored to many Fayli Kurds, about 100,000 remained stateless and their confiscated property had not been restored. The 222,500 Syrian refugees had not been granted refugee status and Palestinian refugees were reportedly reluctant to report the violence they suffered to the authorities. In that connection, he enquired about the current situation of refugees living in Camp Ashraf.

16. The Committee was aware of the special circumstances of its present dialogue with the State party. The meeting coincided with the eleventh anniversary of the tragic attack on the United Nations headquarters in Baghdad, which was a sad reminder that much remained to be done for peace and human rights in Iraq. The current Government of Iraq was due to be replaced by a government of national unity and had lost control over two-thirds of its territory. A country where different religions, ethnic groups and cultures had lived side by side peacefully since time immemorial had become the scene of the most extreme human rights violations. The brutal attacks and barbaric acts carried out by the "Islamic State of Iraq and Al-Sham" over the past weeks had left more than 5,000 dead and 1.5 million displaced. Many of those acts could be classified as war crimes and crimes against humanity, and many of them affected ethnic and religious minorities protected under the Convention.

17. Such atrocities were not only driven by hatred for any person belonging to a different ethnic or religious group but also by the long-term objective of establishing a new monolithic State free from the presence of any person considered to be different. Civilians were not simply collateral damage in attacks targeting military objectives; they were the targets of such attacks. One group's conviction that it followed the only true religion did not justify forcing other groups to abandon their own religious beliefs. Freedom of religion and freedom of conscience were fundamental human rights that all persons should be able to enjoy without discrimination. The acts committed in Iraq ran counter to the spirit of the Convention and therefore fell within the Committee's purview. The primary responsibility for protecting the civilian population lay with the Government of Iraq. However, it appeared that the Government was not in a position to assume that responsibility. The situation in Iraq was such that the international community could not shy away from its responsibilities. He recommended that a commission of inquiry should be set up to ascertain who was providing the Islamic State with money and weapons, who was recruiting its combatants and what was preventing effective measures from being taken to halt its advance. While welcoming the adoption of United Nations Security Council resolution 2170 (2014) on preventing the recruitment and financing of jihadists in the Syrian Arab Republic and Iraq, he asked whether there was not a need to take further

measures, as it was unlikely that displaced minority groups from the Nineveh plains would be able to return to their homes if an international peacekeeping force did not intervene to establish a demilitarized zone.

18. **Mr. Amir** said that the Committee was grateful for the presence of the Iraqi delegation and for the insight it would provide into the current situation in the State party. He thanked Mr. Bossuyt for his comprehensive report. He called upon the Government of Iraq to maintain the integrity of the Iraqi State and to guarantee the safety of its people.

19. **Mr. Avtonomov** said that he found it ironic that the group responsible for so many atrocities against minority groups in Iraq was called the Islamic State, as Islam was known as being a tolerant religion. He asked what school of Islam the members of the Islamic State followed. Noting that Iraqi Christians were considered to be a separate ethnic group, he said that it should be borne in mind that they did not form a homogeneous group and included, inter alia, Assyrian and Armenian Christians. He asked whether it was generally understood that Iraqi Christians varied in terms of both religious doctrine and ethnic origin. The Committee required more statistical data on the different groups of Iraqi Christians to gain a better understanding of their situation. He requested additional information on the situation of the Afro-Iraqi community. He asked whether there were any Jewish communities left in Iraq and whether they too faced persecution. Referring to the recommendations made by Mr. Bossuyt, he said that he had doubts over whether establishing a demilitarized zone in the Nineveh plains would be sufficient, and that more stringent measures could well be needed to remedy the situation in Iraq.

20. **Mr. Zebari** (Iraq) said that the Kurdistan Regional Government, which he represented, had made significant strides in implementing international conventions and the amendments to the Criminal Code. It had set up a number of new institutions to facilitate its work in that area. The number of offences committed against women in the Kurdistan region had fallen significantly over the past few years. The Kurdistan Regional Government was committed to eradicating violence against women in the region. To date, no survey on female genital mutilation had been conducted so that few statistics were available. However, cases of female genital mutilation were few in number and tended to occur in remote areas. The figures in that respect provided by international NGOs were not always accurate.

21. The independent human rights institution set up by the Kurdistan Regional Government had been operational for a year. Eleven seats were reserved for Christians, Turkmens and Yazidis in the Kurdistan Parliament. A number of seats were also reserved for those groups in municipal councils. The Kurdistan region had received a large influx of internally displaced persons and refugees, including Syrian refugees. The Kurdistan Regional Government was doing its best to accommodate them but could not assume that responsibility alone and required support from the central Government and from the international community. The situation in Iraq had reached a critical juncture and there was a clear need for an international peacekeeping force to intervene and help preserve the integrity of the Iraqi State and protect the civilian population.

22. **Mr. Bossuyt** requested clarification on the relationship between the Kurdistan Regional Government and the central Government of Iraq.

23. **Mr. Diaconu** asked whether there were any laws in the Kurdistan region that included provisions aimed at eliminating racial discrimination. He requested additional information on the situation of the Assyrian and Yazidi communities living in the Kurdistan region. The Committee had received reports that some minority groups living in the Nineveh plains had been attacked by persons from the Kurdistan region. He invited the representative of the Kurdistan Regional Government to comment on those reports.

24. **Mr. Zebari** (Iraq) said that there were still some outstanding issues between the Kurdistan Regional Government and the central Government of Iraq relating to the implementation of the Iraqi Constitution.

25. **Mr. Al-Janabi** (Iraq) said that outstanding issues between the Kurdistan Regional Government and the central Government of Iraq fell outside the Committee's purview and should not be discussed at that time. The opinions expressed by the representative of the Kurdistan Regional Government did not necessarily reflect those held by the rest of the delegation.

26. **Mr. Zebari** (Iraq) said that the Kurdistan Regional Government had taken measures to protect the rights of minority groups, including their right to participate in the political life of the region, to use their own language and to practise their religion freely.

27. **Mr. Diaconu**, noting that the Iraqi Human Rights Commission was not yet operational, said that he would have liked to know its mandate and how many complaints it had received. He asked what criteria were used to define ethnic groups as such. He enquired as to the current status of the legislation that gave effect to article 4 of the Convention, which was still in draft form. He also wished to know whether the special measures adopted to guarantee the representation of minority groups in local government were still being applied. He asked why the Retirement and Social Security Act No. 39 of 1971 precluded certain foreign workers, domestic workers, casual and seasonal workers employed for a period of less than six months, agricultural workers and self-employed persons from accessing social security benefits, and whether that law was still in force. Lastly, he wished to know which country the combatants of the Islamic State came from, who was supplying them with weapons and what ideology they espoused.

28. **Mr. Kut** said that it was the duty of the Government of Iraq to protect its citizens against attacks and security threats and that it had failed to do so. It was difficult to understand how the Iraqi Armed Forces had been unable to halt an armed insurgency. He would welcome an explanation of why the Government of Iraq had failed to comply with its obligation under the Convention to protect the minority groups present in its national territory. It was possible that certain minority groups had lost all confidence in the Government on account of the discrimination they had suffered at its hands.

29. Referring to paragraph 10 of the State party's report, he welcomed the measures taken by the Committee for the Implementation of Article 140 of the Constitution of the Republic of Iraq to fulfil its mandate and to remedy the wrongs and injustices committed against the Iraqi people under the previous regime. He asked whether those measures had been effective. He requested additional information on the current situation in Kirkuk and on the Turkmen community in Iraq.

30. The introduction of quotas to guarantee the representation of minority groups at the national and local levels when those groups would otherwise go unrepresented was to be welcomed. However, under different circumstances, quotas could also prevent those groups from being represented fully. He requested additional information on the quotas established for minority groups in Iraq. Noting that the division of powers in a federal State could render the implementation of the Convention more difficult, he asked how the central Government ensured that the Convention was implemented at all levels in the State party.

31. **Mr. Khalaf** said that the minority groups in Iraq reflected the country's rich human and cultural diversity. If urgent measures were not taken, that diversity could be lost forever. The fall of Mosul and its surrounding villages had led to the displacement of a large number of persons belonging to minority groups. He asked what measures the Government envisaged taking to return those displaced persons to their homes and to protect the civilian population from the Islamic State. Given the severity of the situation,

sending an international peacekeeping force to establish a demilitarized zone and to protect the civilian population could be a feasible course of action.

32. The current situation constituted a real threat to the heritage not only of Iraq, but also of the whole Middle East region. An end must be brought to the crisis as a matter of urgency, and steps must be taken to ensure that all of the groups of Iraqi society, who had lived together in peace for 15 centuries, could be protected and that the diversity of humanity could be preserved. The Iraqi authorities at all levels should strive to solve the crisis and allow a unified Iraq to be in charge of its own destiny.

33. **Mr. Murillo Martínez** said that he welcomed the collaborative approach the State party had used in drafting its periodic report. He requested further information on the situation of the Iraqi people of African descent. He expressed support for the people of Iraq during an extremely difficult time and hoped that the State party would receive adequate support from the international community.

34. **Mr. Lahiri** said that while the Peshmerga had done well to halt the advance of ISIS militants at the Mosul Dam, he was concerned that the Kurdish and Iraqi authorities had not found a way to work together effectively. Without cooperation between them it was difficult to know how the conflict in the country could be resolved. The United Nations Security Council had adopted a detailed resolution on the situation and the Iraqi authorities had collected signatures to call for a special session of the United Nations Human Rights Council. The Committee must consider carefully what recommendations to make in any statement it might issue on the situation.

35. **Ms. Crickley** commended the effort made by the delegation to attend the meeting with the Committee, given the tragic events unfolding in the State party. She expressed concern that the rich diversity of humanity in Iraq could be lost as a result of the current humanitarian crisis. The context of that crisis could not be completely separated from the events that had taken place over the past 10 years. In that regard, the Committee had received reports related to poverty, lack of access to education, and inequalities in access to health care, in particular for ethno-religious communities, including the Yazidi, Shabak, Assyrian and Turkmen peoples. She was particularly concerned about the poverty and neglect suffered by Iraqis of African descent and the Roma population. She asked what specific measures were being taken to address the historical and systemic nature of that discrimination.

36. The current and ongoing situation for women from minority groups was especially worrying. She wished to know whether the planned national strategy for the advancement of women and Kurdistan's equivalent regional-level strategy had been adopted, and if so, whether they included specific measures to address the direct inequalities experienced by women from minority groups. She wondered whether the State party had considered resuming its work on article 41 of the Constitution to guarantee equality between men and women, in particular in minority groups. She was horrified beyond measure at the treatment of women in the north of Iraq.

37. With regard to fairness and equity in the distribution of public sector jobs, she wished to know what measures were being taken in Kurdistan to ensure that minorities were proportionally represented, and how equitable parliamentary representation was ensured at the national and regional levels. She asked how conditions could be created to ensure that the provisions of the Convention were acknowledged, respected and implemented, including in the disputed territory.

38. **Mr. Vázquez** expressed concern for the grave violations of the Convention that were being perpetrated by an insurgent group in areas of the State party's territory that were no longer under the Government's control. The primary concern in the current situation should be to regain control of those areas, after which an inclusive, tolerant society must be

established in which the rights of all ethnic groups were respected. Equality in political participation would be critical. The quota system in political representation was considered insufficient. He asked what was being done to redress the proportion of ethnic minorities represented in politics, and in the law enforcement and security forces, particularly in the Nineveh Valley.

39. After control of the disputed territories had been regained, priority would need to be placed on the resettlement of displaced persons. Displacement dated back to the 2010 elections, which had seen groups of Assyrian Christians displaced in large numbers. The situation of the Fayli Kurds was worrying: despite having the right to regain their citizenship *de jure*, *de facto* that right was not being respected owing to the destruction of civil records during situations of conflict.

40. With regard to religious discrimination, he asked what was being done to rectify the situation whereby Muslim women were prohibited from marrying non-Muslim men, while Muslim men could marry women of any religion. That situation had resulted in issues for Assyrian Christian women, who had been forced to convert to Islam under previous regimes and therefore no longer had the right to marry Assyrian Christian men. He was concerned that religious conversion from Islam to another religion was prohibited under Iraqi law. Furthermore, the draft law on discrimination, which stated that any person who sought legal redress for discrimination but lost the case could be subject to punishment, including imprisonment, was particularly worrying and would, if it entered into force, violate the requirement, under the Convention, for an effective remedy to discrimination.

41. **Mr. Lindgren Alves** expressed the Committee's appreciation for the Iraqi delegation's efforts to attend the current meeting given the very difficult circumstances prevailing in the State party. He requested the delegation's opinions on the proposed content for the statement to be issued on behalf of the Committee on the conflict and humanitarian crisis in Iraq.

42. With regard to the federal system, he recalled that while the federal state of Kurdistan had adopted legislation on human rights, the State party's responsibility for implementation of the Convention remained with Iraq as a whole. He therefore wondered whether the Iraqi members of the delegation would be answering the Committee's questions on behalf of the whole federation. He welcomed the statement in paragraph 70 of the State party's report that marriages between members of ethnic minorities and religious communities were commonplace in Iraq, which gave hope for a unified society.

43. **Ms. Dah** commended the delegation's courage for upholding its obligations before the Committee even in the most challenging times. The situation in Iraq had already been taken up by the United Nations Security Council, and at Iraq's request a special session of the United Nations Human Rights Council was also likely to take place. The Committee was aware of its own mandate to act, and was committed to doing its utmost in that regard. She asked whether there was any specific assistance that the State party required from the Committee. She particularly wished to hear the delegation's views on the events that were taking place, particularly with regard to the treatment of ethnic minorities, and to know whether the delegation considered that there was a risk of genocide, the worst possible form of racial discrimination. The Committee was deeply concerned that the situation in Iraq must improve for the good of the whole world: if the cradle of civilization was suffering, civilization as a whole would suffer.

44. **Ms. Hohoueto** said that although the State party had a refugee policy, it was not party to the Convention relating to the Status of Refugees (Geneva, 1951) or the additional Protocol (1967). Given the situation of conflict in the State party and the ensuing migration flows, the State party should consider ratification of those instruments, in order to ensure better protection for refugees.

45. **The Chairperson** said that since provisions were in place in domestic law to prohibit incitement to hatred, and to allow persons who considered themselves victims of racial discrimination to file petitions before the courts, he wondered whether the State party intended to make a declaration under article 14 of the Convention, on the competence of the Committee to receive individual communications. He also wondered whether it might consider ratifying the amendments to article 8 of the Convention.

46. **Mr. Al-Janabi** (Iraq) thanked the members of the Committee for their expressions of support.

The meeting rose at 5.50 p.m.