

Republic of Iraq

Submission by CSW to the Universal Periodic Review 34th session

Introduction

- 1 CSW (Christian Solidarity Worldwide) is a human rights organisation specialising in the right to freedom of religion or belief (FoRB).**
- 2 This submission draws attention to particular FoRB and human rights concerns in the Republic of Iraq. It considers Iraq's current commitments and the legal framework relating to FoRB, countering terrorism and insecurity, and women's rights.**
- 3 During the reporting period, CSW conducted several fact-finding visits to Iraq's Kurdish region, Sinjar and the Nineveh Plains, and repeatedly noted high levels of mistrust between religious and ethnic communities in the country. Many of the individuals that CSW encountered during these visits expressed particular concerns regarding security, even in the aftermath of the liberation of multiple regions from the Islamic State of Iraq and the Levant (ISIL) terrorist organisation.**

Commitments relating to freedom of religion or belief (FoRB)

- 4 During the second cycle of the Universal Periodic Review (UPR), Iraq accepted 13 recommendations directly related to FoRB and noted one.¹**
- 5 Accepted recommendations included calls to conduct effective investigations into crimes against religious minorities (Australia, Denmark, Slovakia), to combat discrimination and persecution against religious minorities (France, Poland), and to strengthen protection for religious minorities (Canada, Czechia, Slovakia). While they did not contain specific references to religious minorities, two further recommendations were accepted which**

called for the protection of all minorities (Ireland, Italy).

- 6 Iraq did not accept a recommendation to amend and adapt its laws to ensure equal treatment for all citizens, including religious and ethnic minorities and women (Israel).**
- 7 Iraq is party to the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to FoRB under article 18.**

Iraq's Constitution

- 8 Article 2.2 of the Iraqi constitution guarantees full rights to freedom of religious belief and practice to all individuals, including Christians, Yazidis and Mandaean Sabaeans. Article 14 adds that all citizens are equal before the law without discrimination on the basis of religion or other status.²**
- 9 Furthermore, the constitution guarantees 'freedom of thought, conscience, and belief' under article 42, and states that the followers of all religions are free to practice religious rites (43.1), and to worship (43.2). Article 37.2 asserts that the state will protect individuals from religious coercion. Article 10 establishes the state's commitment to assuring and maintaining the sanctity of holy shrines and religious sites, and guaranteeing the free practice of rituals therein.**
- 10 However, the constitution focuses heavily on Iraq's Islamic identity. Article 2 recognises Islam as the country's official religion and mandates it as a source of legislation, stating that no law can be enacted that contradicts it. Thus, the Iraqi constitution contains two competing principles: equal rights for everyone, including the right to FoRB, and a system of Islamic law in which rights**

¹ UPR Info's Database of Recommendations for Iraq <https://www.upr-info.org/database/>

² Iraqi Constitution of 2005, https://www.constituteproject.org/constitution/Iraq_2005.pdf?lang=en

vary based on whether one is male or female, Muslim or non-Muslim.

- 11** Discrimination against non-Muslims is also evident in the prohibition of the Baha'i faith under a law dating back to 1970, and a 2006 law that prohibits Jews who have emigrated from regaining Iraqi citizenship. These laws remained in place during the reporting period.

Recommendations

- 12 Amend the constitution to ensure that all Iraqis enjoy the same rights regardless of their religion or belief by removing stipulations mandating Islam as a source of legislation.**
- 13 Repeal all laws that restrict freedom of religion or belief, including those prohibiting the Baha'i faith.**

Terrorism and insecurity

- 14** During the last UPR cycle, Iraq accepted five recommendations that called for the continued combatting of terrorism (Bangladesh, China, Kuwait, Russian Federation, Tajikistan), and also accepted four recommendations regarding improving security in the country (Bahrain, Ireland, Mexico, Venezuela). The accepted a recommendation from Ireland which notably urged Iraq to protect the security of persons belonging to minorities.
- 15** Despite this, terrorism and insecurity continued to affect the country negatively during the reporting period. In 2014 ISIL captured the Mosul and Nineveh Plains. Thousands of non-Sunni men, women and children were either killed or enslaved, and tens of thousands of Iraqi Christians emigrated to neighbouring countries over the following years. One study estimates that 3,100 Yazidis were killed in a matter of days following the 2014 attack.³

- 16** In July 2017 the Mosul and Nineveh Plains were liberated, however terrorist attacks have continued. At least 16 people were killed on 12 April 2018 when ISIL terrorists bombed a funeral procession for Iraqi fighters in Salahuddin.⁴

- 17** Many members of religious minority communities remain unwilling to return to liberated regions due to continued security concerns. For example, less than 20 Christians returned to Mosul after its liberation. The city was once home to nearly 100,000 Christians.⁵

- 18** Similarly, in February 2019 the Associated Press reported that less than one third of the 3,800 Christian families previously in Bartella had returned to the city in the two years since its liberation from ISIL.⁶

- 19** Attempts to combat terrorism and provide adequate security for religious minorities have been slowed down by sectarian narratives and policies that continue to prevail in the country.

- 20** Yazidi and Christian community leaders have expressed grave concerns regarding tension between the central government in Baghdad and the Kurdistan Regional Government in Erbil (KRG). Local community leaders and activists have reported intensified efforts by the KRG to 'Kurdify' their territories by making it difficult for individuals displaced by ISIL violence to return.

- 21** Tactics employed by the KRG have included forcibly appropriating land and property, and using intimidation and 'divide and rule' by offering financial and status privileges to selected political and religious figures within these communities. Many Yazidi activists reported increased pressure from the KRG on the Yazidi community to identify as Kurds, even when they did not wish to do so.

- 22** There have also been reports of individuals being denied access to humanitarian aid if they do not support Kurdish political parties.

³ Public Library of Science, 'Mortality and kidnapping estimates for the Yazidi population in the area of Mount Sinjar, Iraq, in August 2014: A retrospective household survey', 9 May 2017 <https://journals.plos.org/plosmedicine/%20article?id=10.1371/journal.pmed.1002297>

⁴ Shiite News, 'Bombing at funeral of Iraqi fighters kills 16 people', 13 April 2018 <http://www.shiitenews.org/index.php/iraq/item/33960-bombing-at-funeral-of-iraqi-fighters-kills-16-people>

⁵ CBS News, 'Iraq's Christians persecuted by ISIS', 22 March 2015 <https://www.cbsnews.com/news/iraq-christians-persecuted-by-isis-60-minutes/>

⁶ Associated Press, 'Iraqi Christians fear returning home, wary of Shiite militia', 13 February 2019 <https://www.apnews.com/6905fe02e58b40dd8d0caaca06fa847c>

- 23 The Iraqi political system has institutionalised sectarian divisions such as these. The system is based on a communal quota by which different ethnic groups are afforded different shares of power.
- 24 Politics in the KRG-held region are also highly sectarian. The 111-member Kurdistan parliament includes five seats each for Turkmen, Assyrians, Chaldeans and Syriacs, and one seat for Armenians, but no seats for Yazidis or Shabaks.
- 25 Sectarian narratives such as these reinforce division and create a fertile ground for terrorism and insecurity.
- 26 Sectarian politics also reinforces divisions as different groups argue that they should have access to certain resources, such as oil. This can give rise to corruption, and a sense of grievance and victimhood among groups that receive a lesser allocation, further creating potential for tension and intolerance.

Recommendations

- 27 **Continue efforts to combat terrorism and protect vulnerable communities and religious minorities, ensuring that all counter-terrorism efforts are in compliance with international law.**
- 28 **Prohibit sectarian politics and the establishment of religion-specific political parties.**
- 29 **Contain and counter sectarian narratives, and work to promote an inclusive national identity.**
- 30 **Combat corruption in Iraqi politics and ensure that any allegations of corruption are thoroughly investigated and guilty parties are held accountable.**

Rights of Women

- 31 During the second cycle of the UPR, Iraq accepted recommendations from Namibia and Italy to fully implement the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW),

however the state also noted seven other recommendations calling for Iraq to remove its reservations to the convention and ratify the optional protocol (Austria, Czechia, Germany, Greece, Paraguay, Portugal twice).

- 32 Iraq accepted recommendations from Kyrgyzstan and Sweden to take steps to end forced and child marriage during the previous UPR cycle, but somewhat contradictorily the state noted five other recommendations calling for the amendment of laws and complete abolition of the practice (Canada, Estonia, Israel, Mexico, Sierra Leone).
- 33 Article 7 of Iraq's Personal Status Law states that the minimum legal age of marriage is 18 years old, but Article 8 of the same law permits individuals as young as 15 to marry with judicial consent.⁷
- 34 In 2014 Iraq's Council of Ministers approved a draft law that would have lowered the legal age of marriage for girls to nine. This law was rejected in 2017; however, it has been reported that 24% of girls in Iraq are married before the age of 18 and 5% are married before the age of 15.⁸
- 35 This issue is again affected and shaped by sectarian narratives and politics. The rejected draft law, which would have violated both CEDAW and the Convention on the Rights of the Child (CRC) to which Iraq is also a party, was proposed by Shiite politicians who many believe were seeking to impose their religious identity on the entire country.
- 36 This highlights the fact that countering sectarianism is not only necessary to ensure Iraqis have full enjoyment of FoRB, but also that Iraqi women and girls are fully afforded the rights and freedoms laid out in the UDHR.

Recommendation

- 37 **Remove all reservations to, and ratify, the Optional Protocol to CEDAW, ensuring that all of the rights outlined in the convention are fully respected and guaranteed to all women.**

⁷ Iraq, Law No (188) of the year 1959 Personal Status Law and amendments
<https://learningpartnership.org/sites/default/files/resources/pdfs/Iraq-Personal-Status-Law-No-188-1959-Amendments-1999-English.pdf>

⁸ UN Sustainable Development Goals Knowledge Platform, 2017
<https://sustainabledevelopment.un.org/sdg5>

Conclusion

- 38** Iraq has made some positive steps towards meeting the recommendations it accepted during the last UPR cycle. However, efforts to combat terrorism and insecurity and ensure full rights for women have been slowed down by sectarian politics and narratives.
- 39** CSW remains concerned by contradictions within Iraq's constitution which claims to guarantee the right to FoRB while simultaneously proclaiming Islam as a source of legislation.