

IRAQ

CERD 26th No. 18 (A/8418) (1971)

28. From its 56th to its 58th meetings, the Committee proceeded to determine formally its view as a Committee (as distinct from the views expressed at previous meetings, which were those of the individual members) as to which reports were “satisfactory”, in the sense that they furnished all or most of the required information, and which reports were “unsatisfactory” or “incomplete” and therefore needed to be supplemented by further information. The initial report (and supplementary report, if any) of each State Party was put before the Committee separately by the Chairman. Where there was no consensus, the question whether a State Party’s report (or reports) was “satisfactory” or whether, failing that, the Committee wished to request additional information from that State Party, was decided by vote.

...

35. [At its fourth session] The Committee decided that further information was needed from the following six States Parties, whose initial reports were considered “incomplete” or “unsatisfactory”:
... Iraq ...

CERD 29th No.18 (A/9618) (1974)

104. The second periodic report submitted by Iraq was welcomed by the Committee for the comprehensiveness of the information it contained, which related to virtually all the provisions of part I of the Convention. The information in the report was not confined to constitutional and other legislative provisions, but dealt with administrative and other measures as well; the absence of information on judicial matters was attributed to the fact, stated in the report, that the courts had not had to deal with cases involving racial discrimination. The material in the report was organized in accordance with the guidelines laid down by the Committee. Ample information was provided in response to the Committee's general recommendation III.

CERD A/31/18 + Corr.1 (1976)

69. The Committee noted with satisfaction that the third periodic report of Iraq and the statement made by the representative of the Government of Iraq, which brought the information contained in that report up to date, supplied information not only on constitutional and legislative provisions, but also on judicial, administrative and other measures as well as on the subject-matter of general recommendations III and IV. It was noted also that, as requested by the Committee, the texts of relevant constitutional and legislative provisions cited in the successive reports of Iraq were supplied. Where official translations into one of the working languages of the Committee were not available, texts were furnished either in unofficial translations or in the original Arabic language.

70. Members of the Committee noted with satisfaction the amendment to the Constitution and other enactments relating to the status and rights of the Kurds. Some members wondered whether the Government of Iraq contemplated further steps to integrate the Kurds into Iraqi society (as envisaged in the final sentence of article 2, para. 2, of the Convention) or was taking steps in accordance with the provisions of article 2, paragraph 1 (e), of the Convention. Other members, however, were of the view that the recognition of a distinct Kurdish nationality and the establishment of autonomy in areas where the majority of the population were Kurds were fully in accord with the will of the Kurds themselves as well as the principles of the Convention.

71. The decision of the Revolutionary Command Council, dated 26 November 1975, permitting the return of Iraqi Jews who had left the country since 1948 was welcomed by most of the members of the Committee who participated in the consideration of the report. One member, however, expressed the view that that measure affected a religious group rather than a group which fell within the framework of the Convention. Another member inquired whether that decision meant that the right to return was generally recognized in Iraq, but that an exception had previously been made in the case of Iraqi Jews, and also whether Iraqi Jews who did return would be entitled to recover or to receive compensation for their property.

72. Recalling that Iraqi society was multinational and that education was of the utmost importance in overcoming or forestalling racial prejudice, one member inquired about the measures which the Iraqi Government was taking to give effect to article 7 of the Convention. Another member, noting that article 200 of the Iraqi Criminal Code penalized racial propaganda, inquired whether there were other legal texts which made other acts of racial discrimination punishable. A third member observed that, among the various headings under which the population of Iraq was classified, there appeared the heading "other", under which the relatively large figure of 28,406 was given. He suggested that that figure might be usefully broken down in Iraq's next periodic report.

73. The representative of the Government of Iraq confirmed that the distinct status recognized for the Kurds was in accord with their own will. He also confirmed that the right of return was generally recognized in Iraq. The recent decision regarding Iraqi Jews had been made necessary by the fact that legislation enacted in the early 1950s had empowered the Government to deprive of his Iraqi nationality any Iraqi Jew who chose to leave the country permanently. Under the recent decision of the Revolutionary Command Council, Iraqi Jews who returned to their country would enjoy all rights the law guaranteed to other Iraqi citizens, without discrimination. The representative

of the Government of Iraq supplied the Committee with additional information on the implementation of article 7 of the Convention, as far as relations between the Kurds and other population groups were concerned. He stated that he would seek further information from his Government regarding the ethnic composition of the population.

CERD A/35/18 (1980)

74. The fourth and fifth periodic reports of Iraq, submitted in one document (CERD/C/50/Add.1), were considered together with the introductory statement made by the representative of the reporting State.

75. Members of the Committee commended the report for its comprehensive information especially with regard to the question of ethnic minorities, and noted with interest the considerable efforts made by the Government of Iraq to establish a system in which all people had equal rights and duties in respect of national unity.

76. Particular attention was drawn by the Committee to the question of ethnic minorities. Members of the Committee referred to article 5 of the Interim Constitution of 1970 in which it was stated that “the Iraqi people consist of two main nationalities, namely, the Arabs and the Kurds”. In this connection they wished to know what the status of other ethnic groups referred to in the report. Furthermore, reference was made in the report to the granting of autonomy to the area of country in which majority of the population were Kurds. Members of the Committee wished to know how the criterion of the majority could be applied in view of the fact that in other parts of the report it was stated that there were at present no separate statistical data available on the demographic distribution of the minority population in Iraq and that Iraqi laws neither define nor specify who belongs to a specific minority. It was also asked whether the figure of 12 million given in the report included only Iraqis or also foreigners and, in this connection, whether a clarification could be provided on the use of the terms “individuals” and “citizens” which appeared in the legislative texts referred to in the report and what provisions governed the status and rights of foreigners.

77. With reference to article 2, paragraph 1, of the Convention, one member expressed the view that the question of respect for “decency”, mentioned in the Constitution and other legislative texts as a prerequisite for freedom of religious beliefs and rites, appeared to mean religious decency since Islam was the State religion. In this connection, he wished to know whether that notion corresponded to the “aims of the people” of Iraq as defined in the Constitution and, since article 36 of the Constitution prohibited activities contrary to the aims of the people, whether that prohibition was backed up by any penal provisions. Another member wished to know what procedure was followed by the religious courts in trying a case. Members of the Committee were also interested in receiving additional information on the social, economic and cultural measures taken by the Government of Iraq for the implementation of article 2, paragraph 2, of the Convention, with particular reference to the people living in the region of Kurdistan. It was asked whether there was a system of long-term production planning for that region, and if the Iraqi Government was taking economic measures to develop other regions in the same way as Kurdistan; whether the taxes and duties levied in Kurdistan, which according to the report was financially independent, reverted to the region for its own use or whether such an arrangement would be incompatible with “the financial unity of the State”. With reference to the information that the Kurdish Academy of Sciences had recently been incorporated into the Iraqi Academy of Sciences, it was asked what form that merger had taken and whether the two Academies were fully integrated. Clarification was also asked about the “regional languages” which were taught in primary schools of different areas of the country.

78. In connection with article 4 of the Convention, some members of the Committee noted that the provisions of the Iraqi Penal Code mentioned in the report did not expressly prohibit racial discrimination and wished to know whether there were other provisions of the Penal Code which met the requirements of article 4 of the Convention.

79. With reference to article 5 of the Convention, members of the Committee were of the view that it would be helpful to know what specific measures had been taken to ensure the effective application of that article and, in particular, its subparagraphs (c), (d) and (e). It was noted in this connection that under article 30(B) of the Constitution, equality of opportunity in public service was safeguarded by the law and it was asked whether an act had been promulgated to ensure the application of article 30 (B) and whether the provisions concerning access to public service contained in resolution 288 of the Revolutionary Council meant a preference for Kurds over other ethnic groups under certain circumstances.

80. In connection with article 6 of the Convention, further information was requested on the recourse procedures available to a citizen who had been a victim of an act of racial discrimination.

81. With reference to article 7 of the Convention, information was requested on measures taken by the Iraqi Government for the implementation of that article with particular reference to the teaching of non-Arab cultures and the education of ethnic minorities.

82. Replying to the questions raised by members of the Committee, the representative of Iraq provided further information concerning measures taken by his Government to guarantee the recognition of the rights of the Kurdish population and its autonomy within the context of national unity. He stated, in particular, that, even if no separate statistical data were available on the demographic distribution of minorities, it was a historical fact that the three northern departments of Iraq had a Kurdish minority. With regard to other ethnic minorities not specified in the Constitution, their legitimate rights were also guaranteed by means of other of other legislative and administrative instruments. He also stated that at least 1 million non-Iraqi Arabs, the majority of whom were Egyptians, lived in Iraq and enjoyed the same rights as Iraqis. In this connection he clarified that where the Constitution referred to “citizens”, the reference was to all Iraqis, and where that specific term was not used, the provision covered any individual.

83. Referring to the questions raised in connection with article 2, paragraph 1, of the Convention, he stated that more than 94 per cent of the Iraqi population was Muslim and that both Iraqi legislation and the general conduct of the people were based on Islam and its concept of morality. Articles 393 to 404 of the Penal Code laid down penalties for offences against public morality. With regard to religious courts, he pointed out that civil status was governed by religious laws and religious courts were necessary in order to guarantee respect for the rules governing each religion. With reference to the questions raised in connection with article 2, paragraph 2, of the Convention, the representative of Iraq provided information on the national economic planning and the role of trade unions and professional organizations. As regards the financial autonomy of Kurdistan, he explained that the region had its own budget within the State’s general budget and that its financial resources were specified in article 8 of Act 33 of 1974. He also stated that the Kurdish Academy of Sciences had been incorporated into the Iraqi Academy of Sciences by an Act of 1978 in order to ensure the best possible co-ordination of activities. The term “regional languages”, he suggested,

should be replaced by the term “local languages”; such languages were taught in regions in which they were spoken by the majority of the population and not in classes where a possible majority of pupils spoke a particular local language.

84. In connection with article 4 of the Convention, the representative pointed out that article 200 of the Penal Code prescribed various penalties for violation of article 19 of the Constitution which dealt with racial discrimination and that subsequent articles of the Penal Code complemented its provisions with regard to all forms of discrimination.

85. The representative provided the Committee with some details on the implementation of article 30 of the Constitution dealing with equality of access to public service and on the question of remedies available to a citizen who was a victim of discrimination by a person holding public office. He also stated that the literacy programme established in his country was given priority over the teaching of cultures and civilizations of other peoples.

CERD (A/38/18) (1983)

372. The sixth periodic report of Iraq (CERD/C/76/Add.5) was considered by the Committee together with the introductory statement made by the representative of the reporting State who referred, in particular, to the provisions of the Iraqi Constitution and stated that his country had worked sincerely to guarantee the cultural rights of ethnic and religious groups and would continue its efforts to combat racism in all its forms, both at home and abroad.

373. Members of the Committee expressed their appreciation of the Iraqi report which had been prepared with great care and provided a wealth of information giving a clear picture of the legal situation in the country. Some members observed, however, that a situation which seemed perfect in law was not necessarily reflected in real life. Since the report stated that the Convention was an integral part of Iraqi domestic legislation, the Government was requested to furnish more details regarding the mechanics of the implementation of the Convention, for instance, how did a victim of racial discrimination plead application of the letter of the Convention before an Iraqi court and what steps were being taken, in particular, to draw up a permanent constitution.

374. Much of the discussion revolved around the policy and practical measures taken by the Iraqi Government for the implementation of article 1, paragraph 4, and article 2, paragraph 2, of the Convention and, in particular, the relevant provisions of the Constitution, the Declaration of 11 March 1970 and other acts concerning autonomy for the region of Kurdistan. In that connection it was asked what opportunities the Kurdish minority had to engage in legislative functions; how the Legislative Council of the Region of Kurdistan operated and what specific powers it had; whether its members had been elected or appointed; how authority was divided between the central and autonomous Governments; what legislative measures had been promulgated by the autonomous legislature since its establishments; and what influence Kurds had at the national level, especially in the formulation of the internal and external policy of the country. Information was also requested concerning opportunities that the Kurdish minority had to participate in the decision-making process at the central levels; what representation the Kurdish population had in the central parliamentary and governmental structure and whether there were any special bodies in the Parliament and the Government to deal with the question of minorities. In connection with the economic, social and cultural measures taken in Iraq with a view to the development of autonomy in Kurdistan, the Government was asked to clarify whether a population growth rate of 4.27 per cent for the period 1968-1980 reflected the growth of the Kurdish minority alone or if it referred to overall population growth in the Autonomous Region, and whether the increased number of doctors mentioned under health services were all Kurdish or if some were Iraqi or recruited from abroad. More detailed information on the functioning of the Directorate of Kurdish Culture was also requested.

375. With regard to equal treatment before the courts, the Government was requested to indicate in its next periodic report which courts could be applied to in Iraq in cases of discrimination and whether such cases also fell within the jurisdiction of the Kurdish traditional courts and of the sharia, or Islamic religious law.

376. With regard to right to education and training in conformity with article 2 paragraph 2, and article 5 (e) (v) of the Convention, explanation was requested on how much Arab pupils knew about

the history and culture of the Kurds in Iraq; in how many secondary schools it was possible to receive instruction in Kurdish and how many pupils had been enrolled in such schools in recent years; what percentage of Kurdish students attended the University of Arbil; what scholarships and grants they received from the Iraqi Government; and whether measures had been taken to train teachers for the schools that gave instruction in Kurdish.

377. With regard to the information media, a member of the committee expressed concern as to the statement in the report that only one weekly newspaper and one monthly magazine were published in the Kurdish language for a population of 2 million.

378. With reference to article 3 of the Convention, it was noted that the information provided by the report fell far short of what Iraq had been doing to combat apartheid and the racist régime in South Africa. More information was requested in the next periodic report in that regard.

379. In connection with article 4 of the Convention, a member of the Committee noted that Iraqi legal provisions seemed to cover article 4 (a) and (c) but did not meet adequately the requirements of article 4 (b) of the Convention.

380. As regards the implementation of article 6 of the Convention, more information was requested on the system of legal redress in connection with article 5 (b) of the Convention, in particular, on how the compensation described in the report could actually be obtained in the case of racial discrimination; what was the scope of the provision under which the civil courts could award compensation without being bound by the rules of criminal liability or by any judgement delivered by a criminal court; whether there were any specific laws providing redress against action of a government official and, if not, whether such an official could be sued directly as could any private citizen. Some members wished to know, for instance, what procedures a Kurd could follow to obtain satisfaction if he considered himself injured by non-compliance with the provisions of decision 288 of the Revolutionary Command Council or of Act No. 33 of 19 74.

381. Replying to some questions raised by the members of the Committee, the representative of Iraq stated that the population of Kurdistan had grown because the level of living had risen and health and economic conditions had improved and because many Kurds living in other parts of the country had moved to the northern region on account of its political stability. The frontiers of the Autonomous Region had been determined on the basis of the actual population. He assured the Committee that doctors of Kurdish origin, once qualified, could exercise their profession wherever they wished and many in fact went to the northern region. Concerning the right to education, he said that the university in the Autonomous Region of Kurdistan had been transferred to Arbil and that there was no discrimination against Kurdish students; education was provided free of charge. In reply to another question, the representative explained that, although the budget of the Autonomous Region formed part of the regular budget of Iraq, the region enjoyed financial independence.

382. With reference to questions concerning the electoral system, he stated that members of the Legislative Council of the Autonomous Region of Kurdistan would be chosen in free elections and they in turn elected a President, a Vice-President and a Secretary-General. The electoral centres for the legislative Council were situated in the northern region, and every citizen had the right to vote and to stand for election.

383. Replying to other questions, he stated that since Iraq had acceded to the Convention, recourse to the Iraqi courts under the articles of the Convention was effective within the framework of internal juridical procedures. The means of redress available to persons who claimed to be victims of racial discrimination were governed by articles 32 and 412 of the Code of Criminal Procedure.

384. The representative finally assured the Committee that he would provide at a later stage specific data and figures in response to other questions raised by the members of the Committee.

CERD A/39/18 (1984)

421. The seventh periodic report of Iraq (CERD/C/107/Add.2 and Add.6) was considered by the Committee together with the introductory statement made by the representative of the reporting State. He referred to his Government's policy against racial discrimination and focused on recent Iraqi legislation and measures adopted to deal with racist ideas and attitudes in his country.

422. Members of the Committee expressed general appreciation of the report, which was in conformity with the Committee's guidelines, and congratulated the Iraqi Government on its impeccable record of opposition to apartheid and on its policy for promoting equal rights for women.

423. Much of the discussion revolved around the Government's policy and practical measures on the implementation of article 1, paragraph 4, article 2, paragraph 2, and article 5, concerning the ethnic groups. In this connection, additional information was requested regarding the ethnic, linguistic and religious minorities, including, for each group, the percentage of resources allocated to education, housing and social security in respect of the various groups as well as whether there were any marked social differences between those groups.

424. Further clarification was requested regarding opportunities for Kurds to participate in government and central decision-making processes and the relationship between the autonomous institutions and the departments of the central authority. It was asked whether there had been a special reason for changing the number of members of the Legislative Council of Kurdistan from 80 to "not less than 50", what happened if the member appointed by the President of the Republic did not meet with the confidence of the Kurdish Legislative Council and whether elections to the Council had been held at the intervals established. The Committee also asked whether the Kurdish language was taught in regions outside Kurdistan where there were Kurds in substantial numbers and how the dissolution of the Kurdish university at Sulaymaniyad had influenced the number of young Kurds who had the opportunity to attend university.

425. With regard to the right to own property in Kurdistan, information was requested on the ceiling provided for agricultural landholdings; whether provision was made for compensation in respect of the acquisition of excess land; whether land reforms had been carried out in Kurdistan; and if the relevant laws applicable in that region were in any way different from those in other parts of the country. Furthermore, information was sought on the extent to which the legal framework for autonomy had been applied in practice.

426. With reference to article 4, it was noted that, while article 200 of the Penal Code covered "dissemination of ideas based on racial superiority" and the "incitement to racial discrimination" referred to in article 4 (a) of the Convention, it did not provide a penalty for "acts of violence or incitement to such acts" as required in paragraph (b) of that article. Further information was requested on that point.

427. With regard to implementation of article 5, some members pointed out that various rights, such as equality of opportunity, freedom of conscience and religion, security of person, freedom of movement and opinion and the right to form political parties and trade unions were enjoyed within

the limits of the law, and that unless the Committee had the text of the laws in question, it would be difficult to examine the extent to which full compliance had been given to article 5 of the Convention. The hope was expressed that in the next report the text of various laws regulating rights mentioned in that article would be provided to the Committee. Information was also requested on whether, in the organization of labour unions, there were separate unions for Kurds and for the majority or whether the Kurds collaborated within labour unions for all.

428. With reference to article 6, it was stated that ratification of the Convention did not automatically give citizens access to the courts, because the competent courts and applicable conditions still had to be specified. Detailed information concerning the recourse procedures available to citizens in civil, penal and administrative areas was therefore requested in the next periodic report.

429. In replying to questions by the Committee, the representative of Iraq stated that there was no geographical segregation in his country, in the sense that any region was considered Arab or Kurdish or the exclusive preserve of any particular ethnic minority, and that religion did not play a divisive role, since Islam recognized and respected other religions. In the economic field, there was no difference between or discrimination against any minority. In drawing up its economic plans, the central Government paid equal regard to the needs of every area of the country.

430. The representative stated that the cultural rights of minorities had been greatly developed since the 1968 revolution. Currently there were television broadcasts and newspapers in Kurdish, which was the language of instruction in schools in the region. In universities, the language of instruction varied according to the subject: both Arabic and Kurdish were used but some subjects such as engineering were taught in English. Within the framework of the overall plan for higher education, students were free to attend the university of their choice in any part of the country. Furthermore, relations between the central Government and the Kurdish regional authorities were regulated by the Act providing for the establishment of the autonomous region of Kurdistan. Iraqi Kurdistan was an autonomous region and not an independent country and it followed that the central Government necessarily had the final say over all national policy matters. The rights of the autonomous region *vis-à-vis* the central Government were protected by the institution, in every ministry, of a council of which the regional head of the department concerned was a member. Members of the regional Executive Council had the status of ministers and took part in the deliberations of the Council of Ministers at Baghdad. If any of them was not satisfied with a decision of the central Council of Ministers he could in the last resort appeal to the Supreme Court. Kurds were fully protected by an independent judiciary which applied the same rules throughout the country. Referring to the economic, social and cultural rights of minorities, the representative stated that there were no distinctions between the various ethnic groups. In particular, the autonomous region was able to collect taxes and to prepare and implement regional plans within the framework of national policy as a whole which was guided by socialist principles.

431. The problem of the implementation of article 4 would be included in the eighth periodic report.

432. In reply to questions raised in connection with article 5, he stated that the right to leave the country was fully respected in Iraq. For the past two years, however, because of the armed conflict and the country's economic circumstances, exits for tourism and leisure purposes had been

forbidden. Citizens were, nevertheless, still entitled to leave the country for medical treatment. Referring to the right to return, he said that some Iraqi citizens abroad had fallen prey to foreign propaganda and had refused to return home. They had a right to do so, but thousands had returned to take up their rightful places as free and equal citizens. The charges of persecution by some groups of exiles against the Government in Baghdad were unfounded and in most cases were simply excuses to remain abroad. Some of those refugees were students, while some Kurds belonging to the Barzani groups had fled to the Islamic Republic of Iran.

433. On the question of freedom of trade-union associations, he stated that trade unions were grouped in a central federation and legal provisions existed guaranteeing their freedom and activities irrespective of the ethnic group to which their members belonged or their political opinions. Elections by secret ballot to the governing bodies of the trade unions were held at all levels. Every worker, irrespective of his ethnic group, was free to stand as a candidate.

CERD A/42/18 (1987)

299. The eighth periodic report of Iraq (CERD/C/132/Add.2) was considered by the Committee at its 765th to 767th meetings on 13 and 14 March 1986 (CERD/C/SR. 765-SR. 767) .

300. The report was introduced by the representative of Iraq, who highlighted relevant parts of the document.

301. Members of the Committee commended the Iraqi Government for the regularity with which it met its reporting obligations, the continuation of the long-standing and sustained dialogue between Iraq and the Committee and the content of the report.

302. It was asked how the Convention was integrated into Iraqi domestic legislation.

303. Noting references in parts of the report to numerous ethnic minorities in Iraq, members of the Committee asked how, without any demographic data, the Government could assess the needs of those populations and determine what measures were required to satisfy those needs. Clarifications were sought regarding the representation on a proportional basis of Arabs and members of minority groups in the autonomous bodies. Members of the Committee sought clarification of the statement in the report regarding the distinction between two categories of non-Iraqis, namely, Arab and non-Arab workers. It was asked whether the special provision which referred specifically to Arab citizens of other countries met the requirements of article 1, paragraph 3, of the Convention and whether there were any provisions to protect the cultural rights of Arabs from other countries, because, despite a common heritage, there were cultural nuances from State to State in the Arab world.

304. Members of the Committee praised the establishment of an autonomous region for the Kurdish population in Iraq as a very positive step. It demonstrated that national unity was better achieved through an accommodation of ethnic aspirations rather than through efforts to suppress them. Iraq provided an excellent example for the developing countries to follow. Despite wartime conditions, Iraq had shown that it could maintain its unity and that autonomy had only strengthened that unity. Further information was requested about the functions that were discharged by the central Government and what specific matters were supervised by the body established by the Iraqi Court of Cassation. Clarification was sought about the statement in the report that the political aspect of the Kurdish problem was merely a result of foreign interference, aimed at prejudicing Iraq's territorial integrity. Members also inquired as to whether the members of the Legislative Council of the autonomous region numbered 70 or 80, how the Legislative Council operated in practice and how many elections had been held since 1978. They also asked whether the intermarriage of Arabs and Kurds affected their ethnic affiliation and that of their children and what criteria governed the admission of Arab and Kurdish students to Iraqi universities. Noting that, under Revolutionary Command Council decision 288, one of the vice-presidents of Iraq must be a Kurd, it was asked whether that person was also a member of that Council.

305. Additional information was requested on minorities other than the Kurds and it was asked whether they were living concentrated in specific areas or scattered throughout the country. It was

pointed out that the measures taken to protect the cultural rights of the Turkoman and Syriac-speaking community, described in the report, constituted an excellent example of the way in which the Convention ought to be implemented. Members of the Committee were interested to know whether the war between Iraq and the Islamic Republic of Iran had had any effect on the human rights situation in the country, particularly with regard to the rights of minorities, and how it affected the way in which Iraq fulfilled its obligations under the Convention. The question was asked as to whether members of ethnic groups were entitled to the service of a court-appointed lawyer, regardless of whether they were plaintiffs or defendants.

306. Clarifications were sought as to why specific legislation had been enacted for the Orthodox, Armenian, Israelite and Assyrian communities and it was asked whether that legislation differed from other legislation protecting religious freedom in general. Members requested additional information about the Higher Board of Religious Communities, in particular its composition, level of representation, procedure and mandate, and whether it was an intersectarian body which dealt with all problems of an intersectarian nature. It was also asked whether religious communities and ethnic communities were considered to constitute separate categories or whether they overlapped to some extent.

307. With regard to article 3 of the Convention, members praised Iraq's remarkable record in combating apartheid and racial discrimination.

308. With reference to articles 4 and 6 of the Convention, members of the Committee wished to know whether the term "crime" in Iraqi legislation on racist propaganda and practices referred to any offence or to an offence of a particularly serious nature, whether the term "sectarian conflict" in article 204 of the Criminal Code had been interpreted to include racial discrimination, since that article would appear to be beyond the scope of the Convention if it had not, whether any cases had arisen under the Convention and whether any of the legislative provisions listed in the report had been applied in recent years. In that connection, additional information was requested about any judicial precedents that Iraq might have established for cases involving racist practices and it was asked whether an individual who had headed a racist organization had ever been punished by an Iraqi court. Further information was also requested regarding the recourse available to an individual who suffered moral or material damage as a result of racial discrimination; it was asked whether, when the public prosecutor did not initiate criminal proceedings, the victim could still file a civil suit.

309. Replying to questions asked and observations made by members of the Committee, the representative of Iraq said that the Convention was considered to be part of Iraq's domestic legislation. The race or religion of individuals was not specified in Iraq's population statistics. With the exception of Kurdistan, there was no area in the country where any one ethnic group was concentrated. There was no residential segregation of ethnic groups in large cities. Nationals of Arab countries were allowed to enter Iraq without a visa and move freely about the country, and were accorded the same treatment as Iraqi citizens. All nationals of Arab States received such treatment without distinction as to their religion or ethnic identity. Iraq's policy with regard to workers from Arab countries stemmed from agreements concluded within the framework of the Arab League. Non-Arab workers were usually employed in Iraq under agreements between the Government or an Iraqi company, on the one hand, and a foreign company, on the other. Provisions

for the protection of the rights of such workers were usually included in the relevant contracts.

310. In reply to questions relating to Kurds, he said that a special body established by the Court of Cassation supervised the legal validity of decisions taken by the autonomous administration in Kurdistan. The number of members of the autonomous region's Legislative Council was governed by Act No. 56 of March 1980, which provided that there should be one representative for every 30,000 inhabitants. The current membership stood at 80. The Vice-President of the Legislative Council was also a member of the Revolutionary Command Council. The first elections to the Legislative Council in Kurdistan had been held in 1980, when Iraq had also elected the National Council in Baghdad. The Legislative Council usually met twice a year. Elections had been held more recently in 1984 to fill vacancies in the Council. Ordinance No. 32 of 1981 provided that the protection of religious communities was an obligation of the State and a right enjoyed by those communities. A Higher Board of Religious Communities had been set up, comprising representatives of churches and synagogues. Its functions were described in the report. There was considerable intermarriage between members of the different ethnic groups and no special problems were experienced in that regard.

311. Turning to the concerns that had been expressed over the Iran-Iraq conflict, the representative of Iraq said that his country fervently hoped for an end to the tragedy and had from the outset accepted all Security Council resolutions on the subject and proposals advanced by the group of non-aligned countries and the Islamic Conference.

312. As far as legal remedies for the victims of discrimination were concerned, he said that every individual had the right to initiate legal proceedings in the courts and, if his case was successful, to be awarded compensation. Individuals could, moreover, appeal to the Ministry of Justice and even to the President of the Republic. The Ministry of Justice designated one day each week for citizens to bring to its attention any complaints they had concerning their dealings with the courts or other government officials.

CERD A/46/18 (1991)

248. The Committee considered the ninth and tenth periodic reports of Iraq (CERD/C/159/Add.2 and CERD/C/185/Add.2) at its 917th and 920th to 922nd meetings, held on 7, 8 and 9 August 1991 (see CERD/C/SR.917 and 920-922).

249. The reports were introduced by the representative of the State party, who stressed the changes in Iraqi legislation relating to the implementation of the Convention since the submission of his Government's eighth report and referred to the part of the tenth report outlining fresh developments concerning autonomy in the region of Kurdistan over the same period. He stressed that the provisions of article 5 of the Convention would apply in Iraq to all citizens who enjoyed the rights enunciated in that article without any discrimination on any grounds of origin.

250. The members of the Committee observed that the reports submitted covered the period up to 1989 and were now outdated. They contained information of a theoretical or formal nature and few references to the actual situation; and nothing was said about the implementation of the Convention in Iraq, especially after the events which had occurred in the Gulf region since 2 August 1990. For those reasons, they considered that further precise information must be provided by the representative of Iraq or, if necessary, his Government in order to confirm Iraq's commitment to a constructive dialogue with the Committee. In addition, they noted that the report which Iraq had recently submitted to the Human Rights Committee (CCPR/C/64/Add.6) to a certain extent provided information supplementing the reports under consideration. They nevertheless observed that in the first part of the consideration of the report by the Human Rights Committee in 1991 most of the questions raised had gone unanswered, especially those concerning the persecution of the Kurds and Shiites; they hoped that Iraq would be in a position to modify that attitude and that its representative would be able to answer the questions asked during the discussion on the reports submitted to the Committee on the Elimination of Racial Discrimination and the questions of the Human Rights Committee during the continued consideration of the report in October 1991. The members of the Committee acknowledged that Iraq was in a difficult situation following its attempt to annex Kuwait. They nevertheless pointed out that their task was to consider the human rights situation in Iraq and, in particular, the situation of the rights embodied in the Convention, and that for that purpose it was essential to have all relevant information.

251. Referring to article 1 of the Convention, some members of the Committee requested further information on the ethnic composition of Iraq. In that connection, they observed that the general census operations had been carried out on the basis of Iraqi nationality and asked how the Government could implement the measures to enable the minorities to exercise their rights without discrimination if it did not know the groups which made up its population.

252. With regard to article 2, paragraph 1, of the Convention, some members of the Committee observed that the legal provisions, which, in Iraq, forbade the practice of all forms of racial discrimination, did not in themselves make it possible to guarantee the rights provided for in the Convention. They asked how many Kurds had fled the country during the war between Iraq and Iran and during the war of January/February 1991, and what measures had been taken by the Iraqi Government to guarantee the security of life, property and health of the Kurds. Clarification was

also sought concerning the incidents which had occurred in the Kurdistan region in 1987 and the massive use of force against the Kurdish minority. Some members of the Committee wished to know whether the Shiite Muslims in Iraq were still being bombed, whether they were being prevented from receiving food supplies, whether it was true that chemical weapons had been used against the Shiite Muslims, what the reasons had been for those acts and whether the perpetrators of those or similar acts or the persons who had ordered them would be tried and convicted. As to Iraq's responsibilities *vis-à-vis* the population of Kuwait during the Iraqi occupation, the members of the Committee considered that that question fell within the scope of the Convention. They asked whether it was true that Iraq had tried to modify the demographic composition of Kuwait by expelling or executing Kuwaitis and what measures had been taken to protect women, children and civilians in general against such acts. Explanations were also sought about the destruction of the Shiite holy places, the attempts at forcible repatriation or displacement of thousands of Kurds, Shiites and other persons, the fate of Jews in Iraq and the restrictions that had been imposed on foreigners living in the country during the Gulf conflict.

253. Referring to article 2, paragraph 2, and article 5 of the Convention, some members of the Committee requested details of the composition and representation of ethnic groups in the Iraqi National Assembly following the elections held in April 1989, the composition of the Legislative Council of the Autonomous Region of Kurdistan following the elections of 10 September 1989 and the status of the Turkmenian, Syriac and Kurdish languages in Iraq. In addition, some members of the Committee wished to know the reasons that had prompted the Iraqi authorities not to take measures to protect the rights of the population of Kuwait during the occupation, in accordance with the provisions of article 5 of the Convention, and how article 5 (b) and (d) had been implemented in practice, notably with respect to the Kurds and Shiites. Information was requested, in particular, on the negotiations between the Iraqi Government and the Kurdish representatives currently being held in Baghdad and on any changes in the status of the Autonomous Region of Kurdistan that might result from those negotiations.

254. In connection with article 4 of the Convention, the question was asked whether the Iraqi legislative provisions prohibiting racial discrimination had remained applicable during the period when martial law had been in force in Iraq. It was also asked whether amnesty decrees Nos. 103 and 109 issued by the Revolutionary Command Council had applied to acts committed against the Kurds, the Shiites or the Kuwaiti population during the occupation of Kuwait by the Iraqi armed forces.

255. In his reply, the representative of Iraq acknowledged that the two reports submitted covered a period prior to the events which had occurred since 2 August 1990, but observed that the situation of Iraq after those events was already the subject of debate within several United Nations bodies and that most of the questions asked by the members of the Committee had in fact been political in character. Nevertheless, information concerning the implementation of the Convention in Iraq during the period following the events of 2 August 1990 would be supplied in his Government's next periodic report. He outlined the difficulties being experienced by his country and pointed out that the talks that had been held between the Iraqi Government and Kurdish representatives had related to private and secret negotiations.

256. Concerning the situation of the Shiites and of the Kurds in Iraq, the representative stressed that

the intervention of the Iraqi army against the Shiites of southern Iraq was not due to conflicts or persecution based on their sect and that no racial problem or discrimination existed in Iraq with regard to the Shiites or the Kurds. Hundreds of thousands of Kurds had fled to the Islamic Republic of Iran and to Turkey with the intention of bringing pressure to bear on Iraq, and the so-called Kurdish problem originated with some elements of the Kurdish leadership supported by States attempting to destabilize Iraq. According to the United Nations High Commissioner for Refugees, nearly 480,000 Kurds had returned to Iraq, mostly to their own regions.

257. With reference to questions relating to article 2, paragraph 2, and article 5 of the Convention, the representative stated that the Legislative Council of the Autonomous Region of Kurdistan was fully independent from the National Assembly and composed of 50 elected members. The National Assembly was composed of 250 elected representatives from all regions of Iraq. The Kurdish language was an official language of the State, widely used and legally recognized, and minorities such as the Syrians, Turkomans and Assyrians also enjoyed access to publications in their own languages. The representative also stressed that opposition parties in Iraq had been recently engaged in armed opposition to the Government. However, negotiations were now under way aiming at the establishment of a multi-party system in the country. Furthermore, revolutionary courts had been abolished in May 1991, and restrictions on foreign correspondents and on freedom of movement had been lifted. Referring to legal safeguards in Iraq, the representative pointed out that no one could be arrested without observance of proper legal procedures and that a Court of Administrative Justice had been established to deal with citizens' complaints against the State or the Administration.

Concluding observations

258. The Committee recorded that the Government of Iraq had undertaken to enter into a dialogue with the Committee and hoped that such an attitude would prevail. The Committee acknowledged that Iraq faced economic and political problems as the consequence of the recent events and that first steps had been initiated by it with a view to improving the human rights situation in general and, in particular, the situation of Kurds and other ethnic groups in Iraq. However, the Committee had not yet received the information which would enable it assess the human rights situation in Iraq. The failure to address the treatment of ethnic groups in Iraq and, in particular, the treatment of citizens of Kuwait subsequent to 2 August 1990, since Iraq is under an obligation to respect and to ensure to all individuals under its jurisdiction or control the rights recognized in the Convention, was a matter of grave concern to the Committee. The Committee called upon the Government of Iraq to include the requested information in its eleventh report, due in 1991, and to submit the eleventh report in time for the Committee to be able to discuss it at its next session.

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255. At its 1203rd and 1204th meetings, held on 14 March 1997, the Committee considered the eleventh, twelfth and thirteenth periodic reports of Iraq (CERD/C/240/Add.3) and at its 1230th and 1231st meetings, held on 13 and 14 August 1997, adopted the following concluding observations.

A. Introduction

256. The Committee welcomes the presentation of the State party's eleventh, twelfth and thirteenth periodic reports, which had been overdue because of the difficult situation in the country since 1991, and appreciates the opportunity to continue the dialogue with the State party. The report did not fully follow the guidelines for the presentation of reports and lacked concrete information on the practical implementation of the Convention and laws bearing on issues concerning the Convention.

257. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and some of its members requested that the possibility of making the declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

258. It is recognized that the economic and social hardships in Iraq following the international embargo since the Gulf war and the continuing situation in the Northern Governorates, which precludes Iraq from exercising its jurisdiction, makes the full implementation of the Convention more difficult. In particular, it is noted that, according to reports of the World Health Organization in March 1996 and the Food and Agriculture Organization of the United Nations in 1995, the economic sanctions applied against Iraq have resulted in a significant lack of basic foods and medicine, and the population, especially children and elderly people, have suffered gravely from malnutrition and lack of medical care, with fatal consequences. In this context, it is noted with grave concern that, according to the report of the Secretary-General of 10 March 1997 (S/1997/206), Security Council resolution 986 (1995) and the memorandum of understanding, which are meant to provide for the delivery of humanitarian goods in exchange for oil, have still not been fully implemented. The Committee is of the opinion that the withholding of basic supplies of food and medicine in itself constitutes a grave violation of human rights. This, however, does not absolve the Government of Iraq from its responsibility to implement the Convention.

C. Positive aspects

259. It is noted with appreciation that, according to the legal system of Iraq, the Convention forms an integral part of the national legislation and may be directly invoked before the courts.

260. The laws and regulations providing for the autonomy of the Kurdish minority in the northern parts of Iraq and the regulations concerning the protection of the cultural identity of several minority groups in Iraq, including the protection of languages spoken by them, are noted with appreciation.

D. Principal subjects of concern

261. The human rights situation in Iraq with respect to the implementation of the Convention, according to certain reports, in particular the report of the Special Rapporteur of the Commission on Human Rights (E/CN.4/1997/57), is a matter of grave concern, as are the assessments made by the Commission of Human Rights in its resolution 1997/60. Iraq is a party to most of the major human rights agreements; however, the implementation of the obligations Iraq has accepted under those instruments, including the Convention, is open to improvement.

262. The Committee is concerned that Security Council resolutions dealing with matters relating to the elimination of all forms of racial discrimination have not been fully implemented.

263. It is noted with regret that because of the prevailing situation and restraints imposed on the exercise of the jurisdiction of Iraq, the Kurdish population living in the Northern Governorates was unable to participate in the popular referendum in accordance with Revolution Command Council Decree No. 85 of 1995.

264. Concern is expressed about the situation of the inhabitants of the southern marshes, and further information is requested about the status of the inhabitants of that area and their way of living.

265. It is noted with concern that the provisions of articles 200, 203, 204 and 208 of the Penal Code do not reflect the requirements of article 4 of the Convention.

E. Suggestions and recommendations

266. The Committee requests the State party to provide in its next report detailed information addressing the concerns expressed by the Committee.

267. The Committee recommends that Iraq review its policy concerning respect for and implementation of international human rights instruments, in particular the International Convention on the Elimination of All Forms of Racial Discrimination.

268. The Committee recommends that Iraq comply with the relevant Security Council resolutions calling for the release of all Kuwaiti nationals and nationals of other States who might still be held in detention, and to provide all available information on missing individuals of such States.

269. The Committee recommends that the State party review its legislation in order to make it comply with the requirements of article 4 of the Convention.

270. The Committee requests the State party to provide economic and social data on the situation of ethnic minorities.

271. The Committee requests the State party to substantiate its statement that the provisions of the Convention may be directly invoked in the courts.

272. The Committee recommends that the State party provide information about the political, economic and geographical structure of the country in a separate core document and that the next report of Iraq follow more closely the guidelines for reporting.

273. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

274. The Convention recommends that the State party's next periodic report be a comprehensive report, submitted so as to be dealt with by the Committee at its summer session of 1998, and that it address all the points raised in the present concluding observations as well as in Commission on Human Rights resolution 1997/60.

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337. The Committee considered the fourteenth periodic report of Iraq (CERD/C/320/Add.3) at its 1344th and 1345th meetings (see CERD/C/SR.1344 and 345), on 9 and 10 August 1999, and adopted, at its 1360th meeting (see CERD/C/SR.1360), on 19 August 1999, the following concluding observations.

A. Introduction

338. The Committee welcomes the fourteenth periodic report of the State party, which submitted only two years after the submission of the previous report and contains replies to issues raised by the Committee in 1997. That shows the State party's willingness to maintain a regular dialogue with the Committee. The Committee further welcomes the supplementary information provided by the State party in the annexes to the report as well as during the oral presentation. However, it regrets the limited information provided with respect to the implementation of some articles of the Convention, despite the recommendation made in the Committee's previous concluding observations that the fourteenth report should be a comprehensive one.

B. Factors and difficulties impeding the implementation of the Convention

339. The Committee notes the difficult economic and social situation prevailing in the country as a result of the war with the Islamic Republic of Iran, the Gulf War and the economic sanctions, as well as foreign military incursions in different areas of the country, which have caused human suffering as well as the destruction of part of the country's basic infrastructure and, ultimately, have had a negative impact on the full implementation of the human rights treaties, including the Convention. The Committee recalls in this respect that other human rights treaty monitoring bodies, such as the Committee on Economic, Social and Cultural Rights (especially in its general comment No. 8 (1997)), the Committee on the Rights of the Child and the Human Rights Committee have recognized the adverse consequences of the economic sanctions on the enjoyment of human rights by the civilian population and that, in its decision 1998/114, the Subcommission on Prevention of Discrimination and Protection of Minorities appealed to the international community, and to the Security Council in particular, for the embargo provisions affecting the humanitarian situation of the population in Iraq to be lifted. The Committee also takes note of a recent report of UNICEF which describes the tragic situation of children, including the loss of many lives, as a result of the economic sanctions. Those sanctions also affect the areas inhabited by ethnic groups.

340. The Committee joins the appeals to the international community and the United Nations, in particular, the Security Council, for the lifting of those embargo provisions affecting, in particular, the humanitarian situation of the population of Iraq.

341. The fact that the State's Central Administration lacks control over the northern governorates, where large numbers of Kurds, Turkmen and Assyrians live, the infighting between Kurdish factions and foreign military incursions by foreign powers, hamper the implementation of the Convention by the State party in that region and makes it difficult for the Committee to exercise its monitoring functions.

342. Despite all the difficulties the Committee considers that the Government of Iraq maintains the competence for the implementation of its obligations under the terms of the Convention.

C. Positive aspects

343. It is noted with interest that the State party remains committed to the declaration of 1970 which recognized the ethnic, cultural and administrative rights of Kurdish citizens in the areas in which they constituted a majority, as well as to the Iraqi Kurdistan Regional Autonomy Act of 1974 by which the Autonomous Region was established as a separate administrative unit endowed with distinct personality. The laws and regulations aiming at protecting the cultural identity of the Turkoman minority and the Syriac-speaking community, dating back to the 1970s, are also commended. All those norms aiming at establishing high standards for the protection of the identity of the respective groups.

344. The Committee welcomes the measures taken by the Government of Iraq to clarify the situation of persons, including foreigners, who disappeared during the Gulf War.

345. The Committee equally welcomes the fact that an important number of refugees and other foreigners are received and live in Iraq.

346. It also welcomes the information from the Government that the internal legal order makes it possible for individuals to directly invoke the provisions of the Convention before the courts and that Iraqi legislation contains provisions prescribing penalties for acts of racial discrimination.

D. Principal subjects of concern

347. Concern is expressed as to whether, in the conditions prevailing in the northern governorates, members of minorities are able to enjoy the rights accorded to them by the legislation on autonomy and on cultural and linguistic rights.

348. Concern is also expressed over allegations that the non-Arab population living in the Kirkuk and Khanaqin areas, especially the Kurds, Turkmen and Assyrians, have been subjected by local Iraqi authorities to measures such as forced relocation, denial of equal access to employment and educational opportunities and limitations in the exercise of their rights linked to the ownership of real estate.

349. It is also noted with concern that the situation prevailing in the northern governorates has caused much suffering and the forced displacement of a large part of the population, including for members of ethnic groups living in the area.

350. Although the Penal Code contains provisions prohibiting the establishment or membership of any association, organization or body seeking to incite intercommunal conflict or provoke feelings of hatred and animosity among the population, such provisions do not fully reflect the requirements of article 4 of the Convention.

E. Suggestions and recommendations

351. The Committee recommends that the State party, in spite of the difficulties, make all efforts to abide by its obligations under the Convention, as well as the other international human rights treaties, to respect and ensure the rights of all persons within its territory.

352. While underlining that the Government of Iraq retains the competence for the implementation of the Convention in the northern region, the Committee appeals for the establishment of a climate of peace and understanding among the different Kurdish factions and between Kurds and other persons living in the region. The Committee also appeals to the different States and forces involved in the region to stop any activities leading to or encouraging ethnic conflict and intolerance, and contribute to the peace and respect of human rights of the entire population.

353. Allegations concerning discrimination against members of ethnic minorities in the Kirkuk and Khanaqin areas, as mentioned above, should be examined by the State party. The Committee requests to be informed about the result of such investigations.

354. The Committee recommends that the State party review its legislation in order to make it comply fully with the requirements of article 4 of the Convention.

355. Measures should be taken in order to ensure that law enforcement officials receive an effective training on all matters relating to all aspects of non-discrimination covered by the Convention.

356. The State party should include in its next periodic report updated data illustrating the level of enjoyment by the different ethnic groups of the economic and social rights enshrined in article 5 of the Convention. It should also provide information about the following issues: the breakdown of the demographic composition of the population; statistics reflecting the number of persons belonging to the different minorities who are employed as civil servants in the central or local administrations; decisions issued by domestic courts as a result of complaints of racial discrimination; impact of the restrictions to the acquisition of real property, taking into account the composition of the population in the governorate of Baghdad.

357. The Committee also requests the State party to provide further information about the enjoyment by members of minorities of the right to freedom of movement and residence within the country and the right to leave their own country and return to it.

358. The Committee recommends that the text of the Convention, the periodic report, and the present concluding observations be made widely available to the public at large, also in the languages of the minorities.

359. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 during the fourteenth meeting of State parties to the Convention.

360. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered.

361. The Committee recommends that the State party's next periodic report, which was due on 13

February 1999, be a comprehensive report, and that it address the matters raised in the present concluding observations.