

# IRAQ

## CESCR E/1995/22

125. The Committee considered the second periodic report of Iraq on articles 13-15 of the Covenant (E/1990/7/Add.15) at its 11<sup>th</sup> and 14<sup>th</sup> meetings on 9 and 10 May and, at its 26<sup>th</sup> and 27<sup>th</sup> meetings on 19 and 20 May 1994, adopted the following concluding observations.

### Introduction

126. The Committee takes note that despite the serious situation in the country the Government has been able to present its report and send a delegation to engage in a dialogue with the Committee. At the same time the Committee regrets that the information provided in the report was insufficient and that the representatives of the State party were unable to provide answers to a number of concerns raised. The Committee takes note of the delegation's willingness to provide it with written information on those issues.

127. The Committee also recognizes that the situation in Iraq is being closely followed by various United Nations bodies, including the Commission on Human Rights, the General Assembly and the Security Council and the Committee takes note of the reports emanating from and resolutions adopted by such bodies. In this regard, it notes that although the Law for the Autonomous Region (in the North) exists, its implementation has been suspended since 1974. Similarly, the Committee takes due note of the request contained in, *inter alia*, Commission on Human Rights resolution 1993/74 that a human rights monitoring team should be accepted by the State party and suggests that the mandate of such a team include monitoring the implementation of the rights provided for under the present Covenant, including its articles 13 to 15.

### Positive aspects

128. The Committee takes note of the State party's policy to provide education at all levels free of charge and to enhance the provision of education in remote areas, through the awarding of additional allowances to teachers serving in those areas.

### Factors and difficulties impeding the implementation of the Covenant

129. The Committee is aware that problems caused by long periods of war and their aftermath have hampered the implementation of the Covenant in the State party.

### Principal subjects of concern

130. The Committee is deeply concerned that the measures being taken by the State party are not sufficient to avoid continued suffering and even greater deprivation of the economic, social and cultural rights of the Iraqi people. The Committee is of the opinion that whatever the difficulties caused by the economic embargo, the State party should none the less do everything possible to

promote the realization of the Covenant to the maximum of its available resources.

131. In addition, the Committee considers that sufficient attention has not been given to the implementation of article 2 of the Covenant, as it relates to non-discrimination, in respect of the policies and measures adopted to promote and protect the economic, social and cultural rights provided for under articles 13 to 15 of the Covenant of all persons within the jurisdiction of the State, including, in particular, women and persons belonging to various cultural groups.

132. The Committee notes the lack of information on the implementation of the provisions of article 13, paragraph 1, specifically in respect to human rights education.

133. In connection with the implementation of article 13 of the Covenant, the Committee wishes to emphasize the fundamental importance of according equal priority to the education of women, including with regard to the eradication of illiteracy.

134. The Committee expresses its dissatisfaction at the lack of available statistical and other data which would assist in determining the extent of equality of educational opportunity existing within the country for various sectors of the Iraqi population.

135. The Committee is seriously concerned about reports it has received of infringements of academic freedom within the State party.

136. The Committee is alarmed by information brought to its attention about the destruction of the cultural heritage of religious communities and minorities.

137. Equally, the Committee is concerned that clarification remains to be given by the State party as to the compatibility of the steps taken by the Government in its exercise of control over the choice and broadcasting of minority language radio programmes with the implementation of the provisions of the Covenant, including its article 15, paragraph 2.

138. Moreover, the Committee is concerned about the reports brought to its attention of the adverse impact of recent drainage programmes in areas inhabited by "Marsh Arabs" on the community's ability to conserve its culture and traditional lifestyle and to exercise its right to education.

#### Suggestions and recommendations

139. The Committee is of the view that further measures are required to ensure the effective monitoring and implementation of the rights provided for under articles 13 to 15 of the Covenant. In this regard attention is drawn to the contents of General Comment No. 3 (1990) of the Committee and to the obligation of States parties to take the necessary steps to the maximum extent of resources for the implementation of the rights provided for under the Covenant.

140. The Committee requests the State party to provide full information in its next report on the measures taken to implement article 13, paragraph 1 of the Covenant, in particular in relation to human rights education.

141. The Committee also recommends that the State party should adopt the necessary measures to accord greater priority to the education of women, including the eradication of female illiteracy.

142. The Committee would appreciate receiving statistical data and other information relating to the admission and graduation of students, particularly of those belonging to religious and ethnic minorities and communities, in different higher educational establishments over the past three years.

143. The Committee would also appreciate receiving written information regarding the situation of the "Marsh Arabs", the closure of a Shiah college of jurisprudence and other concerns raised during the dialogue with the State party which remained unanswered. In this regard, the State party should refer to the present concluding observations and the summary records of the dialogue with the Committee. <sup>3/</sup> Finally, the Committee requests that this information should be submitted to it by 30 September 1994.

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<sup>3/</sup> E/1994/SR.11 and 14.

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245. The Committee considered the third periodic report of Iraq on articles 1 to 15 of the Covenant (E/1994/104/Add.9) at its 33<sup>rd</sup> to 35<sup>th</sup> meetings on 20 and 21 November 1997 and, at its 52<sup>nd</sup> meeting on 4 December 1997, adopted the following concluding observations.

### Introduction

246. The Committee welcomes the opportunity to resume its dialogue with Iraq through the consideration of the State party's third periodic report. The Committee expresses its appreciation to Iraq for the submission of written replies to its list of issues, and it takes note that, despite the difficult situation faced by Iraq, a delegation was sent from the capital to present the report and answer questions raised by members of the Committee. In this respect, the willingness of the State party to conduct a constructive dialogue with the Committee is noted with appreciation.

247. However, the Committee regrets that the report submitted by the State party did not incorporate information on articles 13 to 15 of the Covenant, although it recognizes that such information was, to a certain extent, provided by the delegation in the course of the discussion.

### Positive aspects

248. The Committee notes with satisfaction that, according to the legal system of Iraq, the Covenant forms an integral part of national legislation and may be directly invoked before the courts, although it regrets the lack of information on any cases in which the Covenant was actually referred to by the courts or invoked directly before them.

249. The Committee notes that a Human Rights Commission was recently established within the National Assembly, although it regrets the lack of information on its functions, powers and activities to date.

250. With respect to gender equality, the Committee notes with appreciation the existence of laws to promote women's participation in national development, providing them with equal opportunities in education, health, employment and land ownership, and protecting them from exploitation and sexual harassment in the workplace. Moreover, it notes that women have the right to six months' maternity leave with full salary, plus six months with half their salary, and can retire at 55 years of age.

### Factors and difficulties impeding the implementation of the Covenant

251. The Committee recognizes that eight years of war with the Islamic Republic of Iran and the conflict following Iraq's invasion of Kuwait caused the destruction of part of the country's infrastructure and considerable human suffering, and produced a very difficult economic and social situation in Iraq. The Committee also notes that the living standard of large sections of the Iraqi population has been reduced to subsistence level since the imposition of the embargo, which led to a decrease in the country's oil revenue from approximately \$20 billion to \$2 billion a year, and that

this situation is further aggravated by the sharp rise in consumer prices.

252. In this respect, the Committee endorses resolution 1997/35 of 28 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on adverse consequences of economic sanctions on the enjoyment of human rights, and puts particular emphasis on the fact that “such measures most seriously affect the innocent population, in particular the weak and the poor, especially women and children” and “have a tendency to aggravate the imbalances in income distribution already present in the countries concerned” (fifth and sixth preambular paragraphs).

253. However, the Committee, while noting that the effect of sanctions and blockades hampers the full implementation of certain rights under the Covenant, underlines that the State party remains responsible for implementing its obligations under the Covenant “to the maximum of its available resources”, in accordance with article 2, paragraph 1, of the Covenant.

#### Principal subjects of concern

254. The Committee notes with concern the continuing deterioration of economic, social and cultural rights in Iraq since the beginning of the hostilities with the Islamic Republic of Iran and, further, since the Gulf war and the adoption of sanctions. In this respect, the Committee, reiterating the concern it expressed in its previous concluding observations (E/1995/22, para. 130), notes that sufficient measures have not been taken to date by the authorities to alleviate the extremely difficult living conditions of the Iraqi population and the deprivation of most of their basic economic, social and cultural rights.

255. The Committee regrets the lack of statistical information on the economic, social and cultural situation in Iraq in the State party's report and in the dialogue with the delegation.

256. The Committee notes with concern the lack of information on any measures taken by the State party to spread awareness of human rights, and especially economic, social and cultural rights, among the population.

257. The Committee expresses concern about reports of discrimination against members of certain minorities, especially Kurds, Marsh people, Assyrians, Shiite Muslims and Turkomans, with respect to their enjoyment of rights under the Covenant. Furthermore, the Committee notes with deep concern reports stating that the effect of the embargo is harsher on members of racial, ethnic or religious minorities, and that there exists discrimination in the allocation by the authorities of the limited resources available between rural and urban areas, and against the southern region with respect to the Marsh people.

258. With respect to article 3 of the Covenant, the Committee expresses concern about discrimination against women, in law and in practice, in the areas of inheritance rights, freedom of movement, family law, equal remuneration for equal work, and access to employment. With regard to the latter, the Committee notes with concern that the unemployment rate is higher among women than among men.

259. The Committee expresses its concern that it is possible, under Law No. 104 of 1981 and the Penal Code, to condemn a person to compulsory labour, as part of a prison sentence, in cases of expression of political opinions or ideological opposition to the political, social or economic system, for breach of labour discipline or for participation in strikes. The Committee finds that this practice is designed to prevent or inhibit free expression in relation to policies and practices which have a direct bearing on the enjoyment of economic, social and cultural rights.

260. The Committee notes with concern that, in contravention of the provisions of article 8 of the Covenant, independent trade unions are not permitted in Iraq, since Trade Union Organization Act No. 52 of 1987 establishes a single trade-union structure, centralized within the General Federation of Trade Unions, which is in turn controlled by the ruling Baath Party. The Committee also notes that public-sector workers and workers in State-owned enterprises are not allowed to join trade unions. Furthermore, the Committee notes with concern that the 1987 Act does not recognize the right to bargain collectively and that severe restrictions, including penal sanctions, are imposed on the right to strike.

261. Taking note of the report of the ILO Committee of Experts on the Application of Conventions and Recommendations on the implementation of ILO Conventions No. 19 (Equality of Treatment (Accident Compensation) Convention, 1925) and No. 118 (Equality of Treatment (Social Security) Convention, 1962), the Committee expresses its concern that, under section 38 (b) (ii) of the Workers' Pension and Social Security Act No. 39 of 1971, the payment of benefits abroad to a citizen of another country is ensured only if he returns to his country of origin at the end of his insured period of service. The Committee notes that this precludes workers who leave Iraq before their contract period has expired or who settle in a country other than their country of origin from receiving their benefits. Furthermore, in accordance with section 38 (b) (iii) of the Act, payment of benefits is made outside Iraq only under reciprocity agreements or international labour conventions, and is subject to authorization under Instruction No. 2 of 1978 regarding the payment of social security benefits to insured persons leaving Iraq. The Committee also notes with concern the declaration by the delegation that, due to the current situation in Iraq, all such payments have been suspended.

262. With respect to article 9 of the Covenant, the Committee notes that, although Iraq's legislation makes provision for social security, the implementation of that law has been hampered by the current economic difficulties facing the country due to the severe reduction of the State party's income.

263. The Committee further expresses its concern about the increase in child labour, and regrets the lack of information on any measures taken by the authorities to address this problem. In particular, the Committee regrets the lack of information on any inspection mechanisms in place to survey the implementation of Labour Act No. 71 of 1987 regulating the protection of young persons with regard to employment and conditions of work. Moreover, the Committee notes with concern that, in accordance with article 96 of the Labour Code, children employed in family undertakings under the authority or supervision of the father, mother or brother are not protected by the specific provisions of Labour Act No. 71.

264. The Committee expresses its concern about reports of discrimination in the enjoyment of the

right to adequate housing under article 11 of the Covenant, especially in relation to forced evictions of members of certain minorities (Kurds, Turkomans and Shiite Muslims) and the situation of squatters in urban areas.

265. The Committee notes with concern that, according to a survey conducted in 1995 by government agencies with the support of UNICEF, 50 per cent of the rural population in the central/southern part of Iraq had no access to potable water supplies. This figure increases to 90 per cent in the southern governorate of Thi Qar. The Committee stresses that this situation does not conform with the provisions of article 11 of the Covenant on the right to an adequate standard of living.

266. With respect to article 12 of the Covenant, the Committee notes with concern that, with the destruction of parts of the infrastructure in Iraq, the non-availability of safe drinking water has led to widespread contaminated water and related health problems, such as waterborne and diarrhoeal diseases and cholera. The Committee also notes with concern that, due to food shortages and the resulting restrictions on its distribution, and to the non-availability of certain medicines, medical equipment and other articles of personal hygiene in Iraq, the standard of physical health of the Iraqi population is declining at a rapid pace. It notes in particular that certain diseases previously eradicated from Iraq have reappeared, such as typhoid, infantile paralysis, tetanus, viral hepatitis, Giardia, German measles, kala-azar, undulant fever, haemorrhagic fever, croup, whooping cough, rickets, scabies, hydrocysts and rabies.

267. The Committee is alarmed by the rapidly increasing rate of illiteracy in Iraq, now estimated at 54 per cent, especially among women, a situation aggravated by the current difficult situation.

268. The Committee reiterates its concerns with respect to the lack of information on the implementation of article 13 of the Covenant regarding: compulsory and free primary education; human rights education; equal educational opportunities for women; the lack of available statistical and other data with respect to the implementation of the right to education in Iraq; infringements of academic freedom by the authorities; measures that affect the cultural heritage of certain religious communities and minorities; and Government control over the choice and broadcasting of minority-language radio programmes (see E/1995/22, paras. 133 and 135-138).

### Suggestions and recommendations

269. The Committee urges the State party to take all appropriate measures in order to ensure, to the maximum extent of its available resources, the implementation of economic, social and cultural rights, in accordance with article 2, paragraph 1, of the Covenant. In this respect, the Committee calls the attention of the State party to its General Comment No. 3 (1990) on the nature of States parties' obligations, 10/ and especially to paragraphs 10 to 13 thereof. Moreover, the Committee

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10/ E/1991/23, annex III

suggests that close cooperation with United Nations organs and specialized agencies be initiated to

achieve the full and expeditious implementation of all the clauses of the “oil for food” agreement, with a view to promoting the realization of economic, social and cultural rights for all groups living in Iraq.

270. The Committee recommends that measures be taken to gather systematically quantitative and qualitative data, disaggregated in accordance with the criteria used by the United Nations and its specialized agencies, on all rights covered by the Covenant, with a view to assessing and evaluating progress achieved, identifying prevailing difficulties and setting priorities for future action.

271. The Committee recommends that urgent and concrete steps be taken to ensure that the provisions of the Covenant are made widely known among the population. To this end, the Committee recommends that systematic education programmes on the rights enshrined in the Covenant be set up in all schools and other educational institutions.

272. The Committee also recommends that the independence of the existing Human Rights Commission be ensured, and that it be empowered to receive and investigate complaints from individuals of violations of their human rights, including their economic, social and cultural rights.

273. The Committee recommends that, in accordance with article 2, paragraph 2, of the Covenant, measures be taken to guarantee that the rights enunciated in the Covenant are “exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”, and in this regard it makes particular reference to the situation of the Kurds, the Marsh people, Assyrians, Shiite Muslims and Turkomans.

274. With respect to discrimination against women, the Committee recommends that the Government pursue its policies designed to achieve full equality between men and women in all areas of economic, social and cultural life. In particular, it recommends that a thorough review of domestic legislation be carried out in order to eliminate any remaining discriminatory legal provisions, that specific remedies be made available to women victims of sexual discrimination, and that information and education campaigns be carried out to that end.

275. The Committee recommends that Law No. 104 of 1981 and the Penal Code, which provide for compulsory labour in cases of expression of political opinions or ideological opposition to the political, social or economic system, for breach of labour discipline or for participation in strikes, be reviewed and brought into conformity with article 6, paragraph 1, of the Covenant and ILO Convention No. 29 (Forced Labour Convention, 1930).

276. The Committee also recommends that a thorough review of legislation governing trade-union rights, the right to strike and the right to bargain collectively be undertaken as a matter of priority in order to comply with article 8 of the Covenant.

277. The Committee recommends that the social security laws in force in Iraq be applied without any discrimination. To this end, the Committee suggests that the Workers’ Pension and Social Security Act No. 39 of 1971 be reviewed.

278. The Committee urges the Government to provide, in its next periodic report, concrete and



comprehensive information on measures taken or foreseen in order to address the psychological and emotional problems affecting children after years of armed conflict and related economic and social constraints, and the problem of child labour. Moreover, the Committee stresses the need for protection of all working minors, including those employed in family undertakings, and it recommends that article 96 of the Labour Code be reviewed accordingly.

279. The Committee recommends that all appropriate measures be taken by the authorities to implement, without discrimination, the right to adequate housing under article 11 of the Covenant, and calls the attention of the State party to its General Comments Nos. 4 (1991) 7/ and 7 (1997) (see annex IV).

280. The Committee recommends that every effort be made by the Government to ensure, through the development of adequate infrastructure in all parts of the country, access to potable water by the population as a whole, and especially in the rural areas.

281. The Committee, while being aware that the embargo imposed on Iraq creates extremely difficult conditions with respect to the availability of food, medicines and medical articles, recommends that the Government take all necessary measures, to the maximum extent of its available resources, to address the needs of the population, and in particular those of the most vulnerable groups, such as children, the elderly and nursing mothers, in relation to article 12 of the Covenant.

282. With respect to articles 13 to 15 of the Covenant, the Committee reiterates the recommendations it addressed to the State party in its concluding observations adopted following its consideration of Iraq's second periodic report on those articles (E/1995/22, paras. 139-143).

283. Finally, the Committee recommends that the concerns expressed in the present concluding observations, as well as the issues raised during the discussion of the third periodic report which remained unanswered, be addressed in the State party's fourth periodic report. It urges the State party to disseminate widely the present concluding observations adopted by the Committee following its consideration of the State party's third periodic report.

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7/ E/1992/23, annex III.