

Committee on the Application of Standards

Date: 17 May 2021

Governments appearing on the list of individual cases have the opportunity, if they so wish, to supply written information before to the Committee.

► Information on the application of ratified Conventions supplied by governments on the list of individual cases

Iraq (ratification: 1959)

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

The Government has provided the following written information.

1. The Iraqi Constitution of 2005, which is “the supreme law in Iraq”, provides strong protection against discrimination and guarantees equal treatment for all Iraqis regardless of gender, race, nationality, origin, colour, religion, sector, belief, opinion, or economic or social situation. The Constitution offers strong equal rights and lays a solid foundation for the rest of Iraqi legal texts. Most notably, article 14 of the Constitution contains an equal protection clause for all.
2. Iraq has ratified many major human rights treaties, including several treaties that directly affect the status of minorities. By ratifying the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Iraq has pledged to abide by international law in protecting the civil, social, economic, political, and cultural rights of Iraqi minorities.
3. The Coalition Provisional Authority Order No. 7 issued in April 2003 regarding the Penal Code No. 111 of 1969 included in article 4 an important clause against discrimination in order to protect the rights of minorities: “All those who serve in governmental posts or work in public sector including police workers, public prosecutors and judges are to apply the law without bias in the performance of their official duties. No discrimination will be practiced against any person because of his gender, ethnicity, colour, language, religious affiliation, political opinion, nationality, ethnicity, meeting, or hometown”. The significance of this provision is that it is non-discriminatory. It was created along with article 372 of the Penal Code (which prohibits hate crimes and criminalizes acts that harm, attack, insult, disrupt, or destroy religious practices and holy sites for religious minorities in Iraq), as part of a strong set of laws that protect the interests of Iraqi minorities.
4. The Iraqi Labor Law No. 37 of 2015 that is in force was defined in accordance with article 1(25) – Direct discrimination: any distinction, exclusion or preference based on

race, colour, gender, religion, sect, political opinion or political belief, origin or nationality.

Indirect discrimination is defined in article 26: it is any exclusion or preference, discrimination based on nationality, age, health status, economic status, social status, affiliation and trade union activity, and its effect shall nullify or weaken the application of equal opportunities or equal treatment in employment and profession.

- This law aims, under article 2, to achieve sustainable development based on social justice and equality, and to secure decent work for all without any discrimination, to build the national economy and achieve human rights and fundamental freedoms.
- Article 4 stipulates: Work is a right for every citizen who is capable of it, and the State shall work to provide it on the basis of equal opportunities without any kind of discrimination.
- Article 6(4) of the Labor Law stipulates that: Freedom of work is protected, and the right to work may not be restricted or denied. The State pursues a policy of promoting full and productive work and respects the basic principles and rights in it, whether in law or application, which includes (4): Elimination of discrimination in employment and profession.
- Article 8(1): This law prohibits any violation of the principle of equal opportunities and equality of treatment whatever the reason, and in particular discrimination between workers, whether direct or indirect, in everything related to vocational training or employment or terms and conditions of work.
- With the exception of article 8(3): Not considered as discrimination, any distinction, exclusion, or preference in connection with a particular job if it is based on the qualifications required by the nature of this work.
- The worker has the right to resort to the Labour Court to file a complaint when he is exposed to any form of forced labour, discrimination or harassment in employment and profession (under article 11(1)).
- Imposes a penalty of imprisonment for a period not exceeding six months and a fine not exceeding 1 million Iraqi dinars or one of these two penalties for anyone who violates the provisions of the articles contained in this chapter relating to child labour, discrimination, forced labour and sexual harassment according to each case (under article 11(2)).
- When there is no text in this law, the provisions of the relevant Arab and international labour conventions legally ratified shall be applied (under article 14(2) of the Labour Law).
- The employment contract does not end according to article 48(1)(e): Discrimination in employment and profession, whether direct or indirect.
- Jobseekers may enrol in training programmes free of charge in accordance with article 26(4).
- The worker enjoys the following rights: To benefit from vocational training programmes in accordance with article 42(1)(f).
- Equality between the wages of women and men for work of equal value under article 53(5).

- All projects and workplaces are covered by labour inspection under the direction and supervision of the Ministry, in accordance with the provisions of article 126 of the Labour Law.
- The Inspection Department of the Directorate of Labour and Vocational Training of the Ministry of Labour and Social Affairs , according to article 127(1), undertakes many tasks (in clauses a,b,c and d of this article).
- The Directorate of Labour and Vocational Training, one of the formations of the Ministry of Labour and Social Affairs, has prepared a workers complaint form, which is available to all, and an urgent response is made upon submission by the worker.
- Inspection committees are authorized under article 128 of the Law to perform several tasks, including conducting any examination or inquiry deemed necessary to ensure that there is no violation of the provisions of this Law, especially the following:
 - (a) Investigate with the employer or the project workers separately or in the presence of witnesses any matters related to the implementation of the provisions of this Law.
 - (b) Review any books, records or other documents whose preservation is a duty according to the provisions of laws and instructions related to work to ensure their compatibility with the provisions of this Law. Copies or samples of these documents can be taken.
- Under article 129, inspection committees prepare a report after each visit that includes a summary of violations and recommendations for taking legal action against employers who violate the law.
- In the event that any case of discrimination or any violation of the Law is discovered, the recommendation is to refer the employer to the Labour Court in accordance with article 134(2). The Minister, based on the report of the inspection committee, may decide to refer the violating employer to the competent Labour Court in accordance with the provisions of this chapter, or to initiate a penal case against the violating employer based on the recommendation of the inspection committee based on the inspection visit report.
- The report of the inspection committee, together with the inspector's testimony, is evidence that the court will take when issuing its decision, unless proven otherwise (under article 134(3)).