

Committee on the Application of Standards

Date: 17 May 2023

Governments appearing on the preliminary list of individual cases have the opportunity, if they so wish, to supply on a purely voluntary basis, written information before 22 May 2023.

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

Iraq

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Government has provided the following written information as well as extracts from the Iraqi Constitution of 2005, specifically sections 9, 28–30.

The following represents the reply of the Government together with its social partners after the relevant parties have been duly approached to obtain their responses.

Regarding the conclusions of the Committee concerning the presence of armed groups and armed conflict in the country, in which the Committee deplores the current situation where children are being recruited and used by armed groups as combatants and in support roles, including as sexual slaves:

Section 9(i)(b) of the Constitution prohibits the formation of military militias that are outside the framework of the armed forces.

Executive Order No. 237 was issued on 1 July 2019 affirming what has been adopted in the Constitution. According to paragraph 1 of the Order: “All the Popular Mobilization Forces (PMF) operate as an integral part of the armed forces. All that applies to the armed forces applies to them”, etc. Likewise, in paragraph 6 of the Order, it is stated: “All premises bearing the name of a faction of the Popular Mobilization Forces shall be closed, whether in cities or outside them.” It is further stated in paragraph 7 that: “No armed faction operating outside the scope of these instructions, whether publicly or covertly, shall be permitted to exist. Such an entity shall be deemed an illegal one and shall be liable to prosecution pursuant to the law”.

Iraq is a signatory to the International Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the Geneva Conventions of 1949, not to mention Convention No. 182. Accordingly, Iraq is bound to take those measures that outlaw in practice the recruitment of children to regular forces or their recruitment by armed groupings and terrorist organizations.

No instances of the worst forms of child labour have been recorded with the Iraqi Ministry of the Interior. Nevertheless, isolated cases of trafficking in children have been recorded, involving the sale and purchase of newborn children and children below the age of 6. Action has been taken with regard to them under the provisions of Act No. 28 of 2012. However, there have been unverified reports of cases of children being forcibly recruited and compelled to fight by armed and other factions unlawfully claiming to be affiliated with the Popular Mobilization Forces (PMF). The only information that has been corroborated relates to terrorist groupings associated with the Islamic State in Iraq and Levant (ISIL) and their forced recruitment of children into their organizations and use of them in suicide missions and as human shields.

The Central Committee [for Combating Human Trafficking] has undertaken the combating of human trafficking in Iraq in its capacity as the party responsible for this matter and it has approached the Popular Mobilization Commission (PMC) and its Central Administration Directorate for comment on the aforementioned information. The Commission has responded by denying this information and stating: "There is no truth to reports of illegal recruitment. The Commission abides by the rules and instructions and what is mandatory for governmental departments and institutions, whether civil or military". This is consistent with its status as an Iraqi state institution under the command of the armed forces. No official statement has been made in regard of illegal recruitment.

Following the liberation of areas under Islamic State in Iraq and Levant (ISIL) control, programmes were drawn up with the collaboration of various organizations to rehabilitate children and integrate them into society. No instance of recruitment of children post liberation has been recorded.

Executive Order No. 35 of 2018 was issued ordering the formation of the High-Level Supreme [National] Committee for monitoring, reporting and following up on abuses which children are subjected to or the deprivation of their rights as a result of the armed conflict. This Committee is chaired by the Minister of Labour and Social Affairs and the Head of the Childcare Agency, with the membership of the board of the High Commission for Human Rights, the Ministry of the Interior, the Ministry of Education, the NGO Directorate, along with a representative from the Popular Mobilization Forces (PMF) and a representative from the Foreign Ministry.

Concerning sexual enslavement

What is mentioned in the report does not exist due to the fact that Iraq is compliant with the international labour Conventions and actively seeks to implement them in law and in practice. This includes the Convention, which it has implemented as follows:

- All forms of economic exploitation of children are outlawed. The State takes those measures to protect them that are stipulated in section 29(iii) of the Iraqi Constitution.
- Forced labour, slavery, or servitude, and trading of slaves are prohibited as is trafficking of women and children and sex trafficking as per section 35(iii) of the Iraqi Constitution.
- Section 6(iii) of Labour Law No. 37 of 2015 is consistent with the Convention with respect to the elimination in practice of child labour. There is a section within the Department of Labour and Vocational Training that is one of the Ministry's entities concerned with combating child labour.

Regarding the Committee urging the Government to provide an immediate and effective response for the elimination of the worst forms of child labour, given the discussions of

the matter; and regarding the taking of measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop to the forced recruitment of children into armed forces and armed groups; and the paragraph concerning the recruitment of children under 18 years of age for use in armed conflict:

There is no forced recruitment of children, given that since 2003 there has been no conscription at all. Instead, it has become voluntary and restricted to adults. Therefore, there can arguably be no forced recruitment of children since the rules on military service state that for a volunteer to be eligible, he shall not be less than 18 years of age and no more than 30 years of age in the case of volunteers for other categories. This accords with the provisions of section 30(ii) of Act No. 30 of 2010, concerning military service and retirement; hence, if any instance is detected of falsification of age by altering the year of birth in order to meet the conditions for volunteering, the accused person shall be referred to the military courts as per section 298 of Penal Code No. 11 of 1969 (amended) concerning the offence of forgery and his contract with the army shall be terminated on the grounds that he has breached the rules on appointment; for the military establishment complies fully with the provisions of the law with respect to the rules stating that only applicants who have attained the age of 18 are eligible. Hence, no one can volunteer for the Iraqi Army who has not attained the requisite legal age. Furthermore, section 66 of Iraqi Military Penal Code No. 19 of 2007 states: "Any person who contrives to submit, or submits, a false report, notification or official documents whether for the purpose of employment or service shall be liable to imprisonment".

Regarding the paragraph concerning collecting and making available without delay information and statistics on investigations, prosecutions and penalties relating to the worst forms of child labour according to national enforcement mechanisms:

The competent investigative courts have set about taking all the requisite legal measures to investigate those persons accused of terrorism offences. They are doing this independently and swiftly. If there is sufficient evidence against a person, he is referred to the competent courts, where he will be punished justly. In conducting proceedings and in prosecuting and sentencing, the competent courts refer to Iraqi Penal Code No. 111 of 1969 (amended) and Anti-terrorism Act No. 13 of 2005 (amended), in accordance with the provisions of the Code of Criminal Procedure No. 22 of 1971 (amended).

Regarding the paragraph concerning the development of policies and programmes aimed at ensuring equal access to free public and compulsory education for all children by taking steps to give immediate effect to its previous commitment to introduce laws that prohibit the recruitment of children for armed conflict and dissuasively penalize those who breach this law:

As per section 34(i) of the Iraqi Constitution, education is compulsory only at the elementary stage; it is free to all Iraqis at its various stages in accordance with paragraph (ii) of the same section. As we have mentioned in the foregoing paragraphs, there is no conscription.

Regarding the paragraph on supplementing without delay the UNESCO "Teach a Child" project and other projects with such other measures as are necessary to afford access to basic education to all children of school age, particularly in rural areas and areas affected by war:

The UNESCO "Teach a child" project has been implemented in the General Directorates of Education during the 2018–19 school year in the following governorates: Baghdad; Al-Rusafa Third; Al-Karkh Third;

The “Stabilization and Peace” programmes have been implemented during the 2018–19 school year in Nineveh Governorate, with support from the Mercy Corps international organization, to bring school dropouts in the 12–18 age group back into the classrooms at the “Haqak Fi Altaalim” centres for completing elementary learning subsequent to passing the Ministry’s general examinations.

Programmes have been implemented to foster educational opportunities for young people from the governorates affected by the crises in Iraq (i.e., Baghdad; Al-Karkh First and Second; Al-Rusafa First and Second; Diyala; Kirkuk; Al-Anbar; Saladin) by opening “Haqak Fi Altaalim” centres for the 10–18 age group during the 2018–19 school year with the support of the Mercy Corps international organization.

The Life Skills Project has been implemented for the enhancement of the values of citizenship and positive education in order to curb violence and modify behaviour. This is being supported by UNICEF in 13 governorates.

Guidance has been provided to the General Directorates of Education on combating child labour.

There has been follow-up on the measures taken by the General Directorates of Education and the extent to which they have been implemented, in the governorates of Nineveh, Al-Anbar, Saladin, Kirkuk, Diyala, Baghdad and Al-Karkh Third in the post-ISIL period.

Schools have been opened for young people and accelerated learning offered in order to bring in children in the 10–18 age group in the governorates.

Procedures for the transfer and admission of pupils have been simplified among the governorates.

Schools have been checked to ensure that they register pupils and maintain the shifts for them.

With regard to technical assistance from the ILO

The Government needs to avail itself of ILO technical assistance to progress towards the full eradication of the worst forms of child labour in accordance with the Convention.

Supplementary written information sent by the Government on 22 May 2023

- Article 1 (second/1) of Mobilization Law No. 40, 2016 “it is an independent formation and a part of Iraqi armed forces and linked to the commander-in-chief of armed forces”, no forced recruitment of children under the age of (18) because after 2003 there is no compulsory recruitment and there is confirmed information that forced recruitment is found in ISIL forces only. The following laws indicate that there is no compulsory recruitment: Military Service and Retirement Act No. 3, 2010, article 30(2); Military Penal Code No. 19, 2007, article 66; Law of the Popular Mobilization Authority No. 40, 2016, article 3 (1/second); Service and retirement law for the internal security forces, article 20 (second); in addition to laws, Iraq is a member in international agreement of child rights and its optional protocol.
- The Ministry of Labour and Social Affairs (MOLSA) issued a National Policy on Child Protection and, on its basis, an implementation plan for child protection policy was issued 2022–23.
- A paper was made about “National Plan addressing the phenomena of begging and displacement” with the related authorities.

- Specialized committees in MOLSA are working on rising awareness for children and encouraging them to go back to school by registering in accelerating education and preparing educational and cultural guiding projects for children in schools where dropouts are frequent.
- Diwani Order No. 86, 2021 that provides for the formation of the national committee to “monitor and follow up violations against children in armed conflicts” consisting of the related authorities which is responsible for answering and solving allegations about child recruitments in popular mobilization in addition to the use of schools by military sectors.
- An agreement was made to put work plan between Iraq and United Nations in Iraq (UNAMI) to exclude Iraq from list of child rights.
- A work plan was signed by the Minister of Labour and Social Affairs/Head of Child Welfare Commission on 30 March 2023 with the national committee of monitor and follow-up violations against children in armed conflicts.
- What was mentioned in the report of the Committee is not correct because Iraq is committed to ILS, this is according to articles 29 (second) and 35 (third) of Iraq Constitution.