



ADF INTERNATIONAL

ECOSOC Special Consultative Status (2010)

UNIVERSAL PERIODIC REVIEW – FOURTH CYCLE

**Submission to the 48th Session of the Human Rights Council's
Universal Periodic Review Working Group**

July 2024

Geneva, Switzerland

IRAQ

Submission by:

ADF International
Rue Pré-de-la-Bichette 1
1202 Geneva, Switzerland

Web: www.ADFinternational.org
Email: UN@ADFinternational.org

Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report addresses the situation of religious minorities in Iraq, including particularly the impact of laws criminalizing religious offenses, as well as discriminatory legislation on legal identity and personal status on their enjoyment of freedom of religion or belief and freedom of expression. The report also highlights the continued displacement of many Christians and Yazidis as well as acts of targeted violence perpetrated by militias and other armed groups.

(a) Freedom of Religion or Belief and Freedom of Expression

Background

3. Iraq has an estimated population of over 46 million people, of which 95-98% are Muslim, roughly two-thirds Shia and one-third Sunni, 1% are Christians, and 1-4% comprise other minority religious groups including Yazidis.¹
4. From 2014 until 2017, ISIS carried out a systematic attack on religious minorities in Iraq. ISIS spread radical Islamic ideology and forced religious minorities to convert to Islam, leave the country, pay a “protection tax” or face death.² As a result, the number of Christians and Yazidis in Iraq was devastated and has not recovered, while also leaving many internally displaced.
5. Kurdistan, the northernmost region of Iraq is largely governed by the autonomous administrative entity Kurdistan Regional Government (the “KRG”). This region faced a significant amount of the fighting against ISIS.

Constitutional Framework

6. Article 2 of the Iraqi Constitution establishes that “Islam is the official religion of the state and a foundational source of legislation”. To this effect, “no law may be enacted contradicting the established provisions of Islam”.³
7. While guaranteeing “the Islamic identity of the majority of the Iraq people”, Article 2 also recognizes “the full religious rights to freedom of religious belief and practice of all individuals, such as Christians, Yazidis and Mandeans”.⁴ This is expanded upon in Articles 41-43, which respectively guarantee freedom of religious personal status, of thought, conscience and belief, as well as freedom of worship and the protection of places of worship.⁵
8. Article 14 guarantees equality before the law without discrimination on the basis of, inter alia, religion, belief or opinion.⁶

¹ Index Mundi ‘Iraq Religions’ (2021) <https://www.indexmundi.com/Iraq/religions.html>.

² E. Ochab ‘Never Again: Legal Responses to a Broken Promise in the Middle East’ (2016) *Kairos Publications*, 104.

³ Iraq Constitution (2005), art. 2(1), https://www.constituteproject.org/constitution/Iraq_2005.

⁴ *Id.*, art. 2(2).

⁵ *Id.*, arts. 41-43.

⁶ *Id.*, art. 14.

9. Article 23 protects the right to private property, and establishes that “expropriation is not permissible except for the purposes of public benefit in return for just compensation, and this shall be regulated by law”.⁷
10. Article 38 commits the State to “guarantee in a way that does not violate public order and morality” freedom of expression, of press, and of assembly and peaceful demonstration, regulated by law.⁸

Blasphemy and other Offenses Against Religion

11. Article 372 of the Iraqi Penal Code criminalizes, with a punishment of up to three years imprisonment and a fine, a number of offenses against religion, including “publicly assaulting the beliefs of one of the religious sects or despising its rituals”, printing or publishing religious literature in a manner which distorts or disparages the text or teachings, publicly insulting a religious symbol or holy person, or publicly imitating a member of clergy or a religious ceremony with mocking intent.⁹
12. The following cases mark a trend of using blasphemy accusations to silence criticism of religion, particularly by members of religious minorities as well as non-religious.¹⁰
13. In November 2022, Jagarkhuin Abdulrahman Ismael, a Christian convert from Islam residing in the Kurdistan region, was accused of insulting the Prophet of Islam on social media. In March 2023, he was formally convicted under a regional defamation law.¹¹
14. Also in March 2023, bishop Bahzad Mziri, also a convert, faced legal action for a comment he posted on Facebook comparing Jesus to the Prophet. The post had allegedly been made in response to a debate with a Muslim leader. The comments were later republished by a Muslim group, resulting in a public outcry which ultimately forced the bishop and his family to leave the country for fear of violence.¹²
15. In May 2023, the Iraqi Parliament held its second reading of a draft “Law on Freedom of Expression and Peaceful Assembly”, introduced by the government. This draft law has been heavily criticized by human rights groups for its threat to the exercise of the right to freedom of expression, including in online spaces. Notably, the current draft includes a provision criminalizing “defamation of religions, sects, and religious communities” and “public insult to symbols or people revered, glorified, or venerated by a religious community”, with up to 10 years’ imprisonment.¹³

⁷ Id., art. 23.

⁸ Id., art. 38.

⁹ Law No.111 (Iraqi Penal Code) (1969, last amended October 2023), art. 372, <https://www.iraqilaws.com/2023/10/111-1969.html>.

¹⁰ Open Doors ‘Iraq: Bishop faces legal action for comments on social media’ (27 March 2023) <https://www.opendoors.org/en-US/research-reports/articles/stories/Iraq-Bishop-faces-legal-action-for-comments-on-social-media/>.

¹¹ Middle East Concern ‘Iraq: Court of Appeal confirms Christian’s conviction’ (19 April 2023) <https://www.meconcern.org/2023/04/19/iraq-court-of-appeal-confirms-christians-conviction/>.

¹² Middle East Concern ‘Iraq: Church leader faces blasphemy charges and threats’ (21 March 2023), <https://www.meconcern.org/2023/03/21/iraq-church-leader-faces-blasphemy-charges-and-threats/>.

¹³ Amnesty International ‘Iraq: Draft laws threaten rights to freedom of expression and peaceful assembly’ (18 July 2023) <https://www.amnesty.org/en/latest/news/2023/07/iraq-draft-laws-threaten-rights-to-freedom-of-expression-and-peaceful-assembly/>.

16. Relatedly, in November 2022, the government also reintroduced a draft law on cybercrimes. This proposed law would criminalize online content that is interpreted as “inflaming sectarian tensions or strife” with a penalty of up to life imprisonment.¹⁴

Discriminatory Laws on Legal Identity and Personal Status

17. Article 17 of Iraq’s Personal Status Law prohibits Muslim women from marrying non-Muslim men, while Muslim men may only marry women belonging to “religions of the book”, meaning Islam, Christianity or Judaism.¹⁵ Beyond this, Article 2 mandates courts to adjudicate all matters not explicitly covered in the law in accordance to Sharia principles.¹⁶
18. Article 26 of the 2016 National Identity Card Law only permits non-Muslims to change their legal religious affiliation, effectively prohibiting conversions away from Islam. It further specifies that children who have at least one Muslim parent, or have a parent who converts to Islam, are automatically classified as Muslim.¹⁷
19. Since 2016, identity cards no longer state the bearer’s religion, but the data chip on the card does still contain the religion of the person in question. An identity card is required to enroll one’s children in public school, apply for a passport, as well as access vital from some public services.¹⁸
20. Despite numerous attempts to repeal it, the 1970 Law Prohibiting Baha’i Activities continues to effectively outlaw the minority faith, shutting down all Baha’i associations in the country and prohibiting the faith’s promotion and the possession or circulation of its literature.¹⁹ Consequently, persons belonging to the Baha’i faith continue to be denied accurate legal identification with many being unregistered and therefore lacking access to public services or even property rights, as well as being unable to register their marriages or children. Others instead opt to be considered as Muslim on their identity cards, placing them under the jurisdiction of Islamic courts regarding personal status matters.²⁰
21. These laws also pose serious challenges for religious minority women affected by the Islamic State, including Yazidi women, who “were captured and raped by extremist militants, as even if the child was born as a result of rape, they must be registered as members of the faith of their Islamic parent”.²¹ Obtaining any government documentation for the children of such atrocities continues to be extremely difficult.²²

¹⁴ Id.

¹⁵ Law No.188 (Personal Status Law) (1959), art. 17,

https://www.peacewomen.org/sites/default/files/lawref_iraqpersonalstatuslaw1959_aba_0.pdf.

¹⁶ Id., art. 2.

¹⁷ Law No.3 (National Card Law) (2016), art. 26,

<https://www.refworld.org/legal/legislation/natlegbod/2016/en/124167>.

¹⁸ Save the Children ‘Yazidi children still living in fear 8 years after genocide’ (22 September 2022)

<https://www.savethechildren.net/news/yazidi-children-still-living-fear-8-years-after-genocide>.

¹⁹ Law No. 105 (Law Prohibiting Baha’i Activities) (1970), <https://wiki.dorar-aliraq.net/iraqilaws/law/5080.html>.

²⁰ Minority Rights Group ‘Bahai in Iraq’ (November 2017) <https://minorityrights.org/communities/bahai-2/>.

²¹ O. Jackson; R. Watson ‘IRAQ: Compound structural vulnerabilities facing Christian women under pressure for their faith’ (November 2018) <https://www.worldwatchmonitor.org/wp-content/uploads/2018/11/IRAQ-Compound-structural-vulnerabilities-facing-Christian-women-2>, *World Watch Monitor*, 6.

²² Save the Children ‘Yazidi children still living in fear 8 years after genocide’ (22 September 2022)

<https://www.savethechildren.net/news/yazidi-children-still-living-fear-8-years-after-genocide>.

22. In June 2024, an Iraqi court ordered a Christian woman and her children to convert to Islam, on the basis that when she was 15, her mother had converted to Islam after divorcing her father and marrying a Muslim man. According to Article 26 outlined above, this meant that she, having been a minor at the time, also had to convert. Since conversion away from Islam is not permitted by the law, this in turn meant that both she and her children must be legally considered Muslim.²³

Displacement and Land Issues

23. Christians and Yazidis in Iraq continue to suffer from the violence, destruction and systematic mass murders and displacements committed by ISIS between 2014 and 2017. During this time, ISIS killed and kidnapped thousands of Yazidis in what is regarded by much of the international community as constituting a campaign of genocide.²⁴ ISIS carried out many of these attacks in the Sinjar district in northwestern Iraq, which is the Yazidi traditional homeland.

24. In 2020, the Sinjar Agreement was initiated which sought to stabilize the district so that the Yazidi population could return to their homes. However, thousands of Yazidis are still displaced and unable to return to their homes.²⁵ Furthermore, government reconstruction efforts have been slow and subject to criticism for inadequate funding and ineffective “symbolic” projects.²⁶

25. The widespread targeting of Iraqi Christians forced many of them to abandon their homes. Kurdish sources estimate that as many as 80% of Christians, almost two million people, have fled the country or become internally displaced since 2003.²⁷ Subsequently, the properties of these Christians were stolen and fraudulently sold, effectively rendering them homeless upon return.²⁸ In Baghdad, an estimated 70% of properties belonging to Christians fleeing the country have been illegally seized by organized criminal groups.²⁹ These incidents are part of a wider trend of marginalization of Christians in Baghdad, exacerbated by the violence of the last decade. Lawyers working on these cases have been threatened for helping to defend the rights of these who have lost their homes.³⁰

RUDAW 'Iraqi court tells Christian woman to convert to Islam' (1 June 2024)

<https://www.rudaw.net/english/kurdistan/01062024>.

²⁴ See, inter alia, UN News 'ISIL/Da'esh Committed Genocide of Yazidi, War Crimes against Unarmed Cadets, Military Personnel in Iraq, Investigative Team Head Tells Security Council' (10 May 2021)

<https://press.un.org/en/2021/sc14514.doc.htm>.

²⁵ H. Fitzwilliam 'Preserving an ancient culture under threat from genocide' (2 December 2022) Chatham House, <https://www.chathamhouse.org/publications/the-world-today/2022-12/preserving-ancient-culture-under-threat-genocide>.

²⁶ Free Yezidi Foundation 'Demand for \$1.5 Billion Sinjar Reconstruction Fund by 3 August 2024' (27 July 2023) <https://freeyezidi.org/news-updates/fyf-statements/demand-for-1-5-billion-sinjar-reconstruction-fund-by-3-august-2024/>.

²⁷ A. J. Abdoka 'Why Christians in Iraq are in profound danger?' (30 August 2023)

<https://www.rudaw.net/english/opinion/30082023>.

²⁸ Agenzia Fides 'Fake documents to those who illegally sold Christian homes: two officials from Baghdad arrested' (17 May 2017) <http://www.fides.org/en/news/62299->

[ASIA IRAQ Fake documents to those who illegally sold Christian homes two officials from Baghdad arrested](https://www.fides.org/en/news/62299-ASIA IRAQ Fake documents to those who illegally sold Christian homes two officials from Baghdad arrested).

²⁹ Open Doors 'World Watch List 2024: Iraq' (2024) https://www.opendoors.org/persecution/reports/Iraq-Media_Advocacy_Dossier-ODI-2024.pdf, 4.

³⁰ A. Zalzal 'Organized Expropriation of Christian Real Estate in Iraq' (18 December 2021) Daraj, <https://daraj.media/en/84426/>.

26. In the Kurdistan region, Open Doors reports that around 250 hectares of agricultural land owned by farmers was seized by the KRG in 2021 and that 55 cases of property seizure were registered in Dohuk alone.³¹ In May 2022, the Christian mayor of Dardesh village along with another local Christian were arrested by Kurdish police after disputing the attempted confiscation of their property.³²
27. Compared to the large number of properties of Christians that have been seized, only a nominal amount has been returned or compensated for.³³ While there have been some recent successes in attaining justice for the victims of property crimes in Baghdad, progress is very slow.³⁴
28. Christians in displacement camps also continue to suffer from instability and insecurity. In 2023, Christians in a displacement camp in the Zayouna district of Baghdad were given eviction notices and faced homelessness. Over several years, the compound had hosted 120 families, or approximately 400 individuals.³⁵

Ongoing Violence and Disappearances

29. According to an IOM, as of February 2023, an estimated 2,700 Yazidis, primarily women, girls, and children, remained unaccounted for.³⁶ In June 2023, six Yazidi women were rescued from captivity in Syria and returned to the KRG.³⁷ In February 2024, a Yazidi woman and her two children were similarly rescued from ISIS captivity.³⁸
30. Many Christians have not returned to their place of origin because they fear that they will face violence from militias and other armed groups still active in the region.³⁹ In addition to remaining ISIS forces, armed militias such as the Population Mobilization Forces have also prevented Christians from returning to their homelands.⁴⁰ Originally government-sponsored as a network of improvised defense forces, many of these groups have not been integrated into the Iraqi military and instead operate largely autonomously, with several being accused of rights violations against civilians.⁴¹ Such

³¹ Open Doors 'Profile of Religious Freedom for Christians, Iraq' (2022) <https://www.opendoors.org/en-US/research-reports/advocacy-resources/Iraq-Media-Advocacy-Dossier-ODI-2021.pdf>.

³² Christian Solidarity Worldwide 'Assyrian Christians arrested after attempted land grab' (12 May 2022) <https://www.csw.org.uk/2022/05/12/press/5699/article.htm>.

³³ Open Doors 'World Watch List 2024: Iraq' (2024) <https://www.opendoors.org/persecution/reports/Iraq-Media-Advocacy-Dossier-ODI-2024.pdf>, 7.

³⁴ Syriac Press 'Seven men found guilty of illegally selling Christian property in Karrada district of Baghdad' (8 February 2021) <https://syriacpress.com/blog/2021/02/08/seven-men-found-guilty-of-illegally-selling-christian-property-in-karrada-district-of-baghdad/>.

³⁵ C. Evans 'Eviction from 'Virgin Mary Compound': Iraqi Christians Face Uncertain Future in Baghdad' (19 October 2022) <https://www.ncregister.com/cna/eviction-from-virgin-mary-compound-iraqi-christians-face-uncertain-future-in-baghdad>, National Catholic Register.

³⁶ International Organization for Migration 'Nadia's Initiative and IOM Iraq Break Ground on Cemetery and Memorial for Yazidi Genocide Victims' (13 February 2023) <https://www.iom.int/news/nadias-initiative-and-iom-iraq-break-ground-cemetery-and-memorial-yazidi-genocide-victims>.

³⁷ Christian Solidarity Worldwide 'Six Yazidi women rescued from Islamic State captivity' (6 June 2023) <https://www.csw.org.uk/2023/06/06/press/6010/article.htm>.

³⁸ Christian Solidarity Worldwide 'Yazidi woman rescued from Islamic State captivity' (7 February 2024) <https://www.csw.org.uk/2024/02/07/press/6161/article.htm>.

³⁹ La Croix International 'Iraq: Mainly Christian city of Qaraqosh sees return to violence' (13 March 2024) <https://international.la-croix.com/news/world/iraq-mainly-christian-city-of-qaraqosh-sees-return-to-violence/17481>.

⁴⁰ Religious Freedom Institute 'Country Overview: Iraq' (March 2023) <https://religiousfreedominstitute.org/wp-content/uploads/2023/03/RFI-Iraq-Country-Overview-March-2023.pdf>, 4..

⁴¹ Stockholm International Peace Research Institute 'Iraq in 2023: Challenges and prospects for peace and human security' (17 March 2023) <https://www.sipri.org/commentary/topical-backgrounder/2023/iraq-2023-challenges-and-prospects-peace-and-human-security>.

groups have been reported to seize Christian homes and repurposed them into military barracks in the Ninewa Province without any compensation.⁴²

31. Ongoing bombardment and incursions by Turkish military forces have also threatened the safety of Christians in Northern Iraq, with tens of thousands forced to abandon their homes.⁴³

Freedom of Religion or Belief and Freedom of Speech in International Law

32. Article 18 of the International Covenant on Civil and Political Rights (the "ICCPR"), to which Iraq is a State Party, guarantees the right to freedom of thought, conscience, and religion for everyone. This includes "freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching".⁴⁴ Article 19 protects the right to freedom of opinion and expression, including the right to seek, receive, or impart information and ideas of "all kinds".
33. Criminalizing religious offense does not constitute an acceptable derogation from the right to freedom of religion or belief, as ICCPR Article 18.3 only allows limitations "necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others". Likewise, Article 19.3 only allows restrictions on the right to freedom of opinion and expression where they are necessary "for the respect of the rights and reputations of others" or "for the protection of national security, public order or public health or morals".
34. Furthermore, the vague wording and subjective interpretation of Iraq's blasphemy and related laws opens the door to arbitrary and discriminatory implementation, while also creating a chilling effect on the expression of ideas or beliefs.
35. Article 26 imposes an obligation upon States to "prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination", including on the basis of religion.⁴⁵ Article 27 further guarantees the rights of persons belonging to minorities "to profess and practise their own religion".⁴⁶
36. Iraq must ensure that its laws on identity and personal status are in line with its international obligations, while also ensuring effective protection to persons bringing to religious minorities, including from property theft and violence. This also entails enhancing efforts to ensure the safe return of internationally displaced persons to their land and homes.

⁴² Open Doors 'Profile of Religious Freedom for Christians, Iraq' (2022) <https://www.opendoors.org/en-US/research-reports/advocacy-resources/Iraq-Media-Advocacy-Dossier-ODI-2021.pdf>, 6.

⁴³ See inter alia:

Middle East Concern 'Iraq: Displaced Christians in need of prayer' (15 July 2020)

<https://www.meconcern.org/2020/07/15/iraq-displaced-christians-in-need-of-prayer/>.

Open Doors 'Iraq: Two Christian villages evacuated after Turkish offensive' (26 May 2021)

<https://www.opendoors.org/en-US/research-reports/articles/stories/iraq-two-christian-villages-evacuated-after-turkish-offensive/>.

International Christian Concern 'Iraqi Christian Villages Emptied by Fear of Turkish Attacks' (21 November 2021)

<https://www.persecution.org/2021/11/21/iraqi-christian-villages-emptied-fear-turkish-attacks/>.

⁴⁴ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

⁴⁵ Id., art. 26.

⁴⁶ Id., art. 27.

(b) Recommendations

37. In light of the aforementioned, ADF International suggests the following recommendations be made to Iraq:

- a. Guarantee full respect for the right to freedom of religion or belief, both in law and practice, without discrimination;
- b. Repeal or review all legal provisions that unduly restrict freedom of expression, including those criminalizing blasphemy and other offenses against religion;
- c. Revise the Personal Status Law and the Identity Card Law in line with its international obligations;
- d. Ensure the effective protection of persons belonging to religious minorities from all forms of violence and harassment, including by investigating and prosecuting acts of violence and other human rights violations directed against them;
- e. Redouble efforts to rescue and protect those who remain the captives of terrorist and other armed groups, including Yazidis and other persons belonging to religious minorities;
- f. Ensure the preservation of the property rights of religious minorities, including by ensuring the effective investigation of all cases of misappropriated land and providing justice for victims;



VIENNA

HEADQUARTERS

BRUSSELS

GENEVA

STRASBOURG

LONDON

NEW YORK

WASHINGTON, DC



ADF INTERNATIONAL

© 2024

[ADFIinternational.org](https://www.ADFinternational.org)

 facebook.com/ADFIinternational

 [@ADFIintl](https://twitter.com/ADFIintl)