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# International Covenant on civil and political rights: Highlighting the implications for Iraq

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## Abstract

*This article addressed the violations of the civil and political rights of the Iraqi population based on covenants of the International Covenant on Civil and Political Rights (ICCPR). There have been increased reports of enforced torture and disappearances, war crimes, death penalties, and violations of freedom of assembly and expression, as indicated by the review of the United Nations High Commissioner for Refugees (UNHCR) and evaluation conducted in this article. The statistics and reports show that the country is not complying with the International Covenant on civil and political rights. The local legislature has manufactured amendments in the covenants of the ICCPR, which have increased the dissonance in Iraq's mandates. Iraq's future success will depend on whether Iraqi officials uphold human rights and allow free expression. If*

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*these things are not implemented, Iraq will not be prosperous in becoming a civilized society. Protecting women, children, and other groups from abuse within a reliable criminal justice system is essential for a successful future for Iraq.*

## **Introduction**

In the sixty years since the United Nations (UN) agreement was ratified, the substance of the International Health Regulations (IHR) legislation has expanded significantly. The increased degree of official approval of these global treaties points to significant advancements in the direction of rules about human rights being generally accepted. The effect of the accords on practical human rights conduct still needs to be discovered. A believer would anticipate that a government's agreement or accession to these pacts would signify the nation's readiness for following the clauses outlined in formulated statements. An idealist would expect that the surveillance regulations of these agreements would encourage incorporating these rights into government legislation. In reality, several academics have questioned the efficiency of these devices, stressing that the surveillance systems are inherently feeble and that the devices' primary purposes are educational or social (Keith, 1999).

The agreement by the UN, known as ICCPR for human rights, was designed to guarantee that the rights of people as a citizen of a country and their rights related to politics are maintained. The assembly members agreed on the covenant on the 19<sup>th</sup> of December in 1966. Afterward ten years later, on the 23<sup>rd</sup> of March, 1976, it went into the execution phase.

The International Bill of Rights comprises the Universal Declaration of Human Rights (UDHR), the ICCPR, and other additional Guidelines. The ICCPR validate the intrinsic value of each human individual and is dedicated to improving the surroundings and situations required for maintaining their rights as a citizen and regarding politics inside the range of each country. As stated in the agreement, each government that has signed it is required "to safeguard and secure fundamental rights of every human" and, as a result, obligated to initiate bureaucratic, legal, as well as regulatory actions to preserve the rights embodied in the agreement and to provide an appropriate solution." The ICCPR presently has 168 parties and 74 signatures. The agreements contain provisions relating to just hearing rights, freedom of opinion, belief, and expression, security, home and personal life, equity, and non-discrimination. They also cover independence from brutality and other harsh, inhumane, or humiliating behavior or penalty (CCLA, 2015).

Despite such extensive initiatives and treaties, the reports on compliance and implementation are not satisfactory. Iraq's yearly information for the current year was reviewed by the UN Committee regarding the rights of humans on March 6 and 7, 2022, to determine the State of human rights in the nation. The ICCPR, which Iraq signed in 1971, is under evaluation by the Committee. The UN experts addressed several issues in their Final Report, which was embraced after the assessment of Iraq, including forced disappearances and abuse, attempts to hold ISIL accountable for its criminal acts, the application of the death sentence, and violations of the freedoms of expression and arrangement. Figures place the number of forced disappearances in Iraq as the greatest in the world, with averages ranging from 250,000 to one million people vanishing. Officials often have been unable to stop this conduct, solve incidents

of disappearances, or offer compensation to the harmed parties. The Government member has not yet added the offense of forced disappearance to its internal legislation as an independent crime, as stipulated in clause 2 of ICPPED, demonstrating an absence related to political resolve to stop the activity. The Council of Ministers is now deliberating a proposal concerning protecting people against forced disappearances (MENA Rights Group, 2022). The statistics and reports highlight the poor compliance of the country towards the ICCPR. Current laws and the implementation of the ICCPR agreement into the legislation signify the possibility of loopholes in the agreement or manipulation of the perceived meaning of articles in the contract. However, poor implementation is the most described and evident reason. Nevertheless, analyzing and examining the implications of the ICCPR in Iraq is essential to gain a perspective of the actual situation. If the agreement has some loopholes that the officials can exploit, it can be identified through contract analysis.

The 2003 war in Iraq is only one example of the many battles fought in the name of democracy. But by sacrificing several rights related to humans, encompassing freedom of expression and accessibility to information, the propaganda employed to support such wars frequently compromises democratic values. Article 20 of the UN's (ICCPR), adopted by more than 150 nations, forbids spreading propaganda for war. Additionally, war propaganda is decried in numerous UN declarations and resolutions. However, it is uncommon for the media, politicians, and even proponents of human rights to admit that war propaganda is prohibited by international human rights law. Political remarks are labeled as "propaganda," yet the term is never examined, talked about, or used in a legal situation (Harrop, 2004). By discussing the articles of agreement, national and international parties can create awareness about the contract breach.

Moreover, it can assist the government and regulatory authorities in understanding and implementing the concepts more effectively. It can assist the law community in understanding the legislation of Iran that can help them get a broader view of the rights regulations in the frame of reference. The study will analyze the ICCPR and its implications in Iraq; however, it will not include the ICESCR as the application of that agreement is general worldwide.

## **Literature Review**

The rights of each person are the fundamental rights that each individual, whether he belongs to any nationality, gender, group, ethnicity, country, or any other qualities they may have, is entitled to have. These rights encompass the entitlement to living and autonomy, freedom from torture and oppression, the entitlement to speak freely and have your own opinions, education and employment, and many others essential to a good life. These rights are inherent to individuals and cannot be taken away; however, sometimes, they might become limited. Fundamental rights are necessary because they protect us as individuals. They help to ensure that we are treated fairly, with respect and dignity. We all are entitled to be treated equally, without discrimination. Moreover, we are qualified and have the right to be respected as individuals with unique identities. International and national charters and governance bodies ensure that everyone's fundamental rights are upheld (Pranka, 2021; United Nations, n.d.).

The UN Charter is the foundation for the modern history of the growth of rights related to each individual. Despite criticism that it lacks a bill of rights and merely discusses the rights, the agreement, however, does specify "endorsing as well as supporting high regard for human rights and basic independence for everyone with the absence of any difference related to ethnicity, gender, linguistic, or faith" as one of the organization's aims. Most of its sections dealing with human rights are informational or thematic, and its allusions to them are generally sparse and hazy. There were rapid attempts to address the issue due to the lack of precision. One consequence of the attempts is the Universal Declaration of Human Rights utilized by the assembly for rights in 1948. It includes a variety of concepts, such as societal, cultural, economic, and political rights. The International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights, which were both opened for signature in 1966 and came into effect in 1976, were both based on this treaty. Much of the comparable entitlements listed in the Universal Declaration are contained in and expanded upon in the Civil and Political Rights Covenant. While it excludes the rights to land ownership and refuge, it does encompass other rights like the right to autonomy and specific cultural rights for minorities of a particular ethnic, religious, or language background (Alston & Mégret, 2013; Forsythe, 1990; Ugur, 1993).

The agreement developed a committee for Human rights. For this purpose, eighteen experts were elected who were to evaluate the reports of each country and their initiatives to ensure the maintenance of rights encompassed in the agreement. The agreement committee was also assigned the authority to examine and give suggestions regarding the accusations of one country about the violations of articles committed against them by other countries. However, it can only be claimed when both parties have signed the agreement. The economic, societal, and cultural rights only ask the involved countries to take the initiative to maintain the rights encompassed in the contract. By 1998, almost 140 countries signed the treaty of ICCPR, and 92 of them also committed to the optional articles of the agreement. As time passed, most countries acknowledged the extensive range of human rights lawfully and stated that they would take the required initiatives to fulfill the requests (Keith, 1999).

However, the covenant has some loopholes, as highlighted by scholars. The governments themselves hand in the reports required by the joiners states; hence it is difficult to hold the officials accountable for actions related to the rights mentioned in the covenant. Due to this reason, many countries overstate their initiatives, and some discuss their laws in the reports rather than stating their real ambitions. Many nations submitted the information late; some even delayed them for more than twelve years. The monitoring of the statements by committee members is also somewhat less effective. They do not directly deal with the violations or the violators. They only respond in the form of suggestions regarding initiatives the State can take. They cannot enforce anything. However, the process involves several interrogative sessions with the country representatives, which is effective. The evaluation of violators and violations of the agreement and harms to other states who joined the treaty was also compromised, as article 41, which enforced it, was held as optional later. The Committee responds with recommendations if the violations are evaluated, and the case is closed without further follow-up. It also requires the violator to get involved, which may be unlikely (Alston & Mégret, 2013; Donnelly, 2013; Henkin, 1981; Steiner, Alston, & Goodman, 2008).

## Implications for West Asian Nations

The stance of each nation concerning each person's rights should be understood and analyzed considering its frame of reference and circumstances, irrespective of the reality that Arab states in West Asia have a shared past of colonial rule, heritage, language, and faith. As a result, assessing the structure of provocation in these nations heavily depends on the judicial, governmental, ethnic, and sociological frameworks about which global human rights norms are recognized, highly regarded, and executed. Arab nations in West Asia, like other nations throughout the globe, must find a stable ground separating the right to share viewpoints and the restriction on spreading hatred. No exceptions exist to articles 18, 19, or 20 of the ICCPR by any Arab parties in West Asia. Even though several Arab nations in West Asia have not signed the ICCPR, the structure on the restriction of aggravation established by articles 19 and 20 continues to be essential for giving all nations important direction. However, it is rare to find the language of article 20 of the ICCPR enshrined in the national law of Arab states of Western Asia, a review of pertinent regulations in related nations discloses information related to their federal laws, that it contains stipulations about the ban of aggravation of regional level, ethnic, or religious hostility, either directly or indirectly. However, they have not passed the necessary laws to put articles 20 (2) of the conventions above into effect. Because these articles are expressly not self-executing, countries' politicians must enact the requisite specific laws to forbid the conduct they mention. The international structure for countering activism of regional, race-based, or religious hostility that represents provocation to unequal treatment, hatred, or abuse is of the greatest priority for those countries to abide by, given that they are described by a growing regional, race-based, and religious diversification as well as progressively intercultural communities (Eltayeb, 2012).

The ICCPR article 3, 23, and 9 protects women's rights and their involvement in various spheres, including politics, education, health care, economic rights, jobs, and family ties. As per the UN report, in its current form, Iraq's criminal legislation does not safeguard women and girls, hence breaching this article. Legislative transformation is required to civilize international crimes like genocide, human rights violations, and war atrocities by international norms. Specific examples include changing legislation about sexual assault, forced marriage, and abuse. Different types of violence against women protected by ICCPR and other laws are not included in the descriptions of these offenses. Iraq's human rights commitments will likely be breached unless these criminal laws are amended (OHCHR, n.d.). However, several years after US-led forces captured Iraq, the nation remains a long way from transitioning to a viable democracy based on the rule of legislation. Iraq's most defenseless people's rights, particularly those of women and captives, are often abused without consequence. Those who attempt to bring attention to official misconduct or violations by armed groups do so at significant personal risk. Whether Iraqi officials will effectively defend those rights and create a reliable governmental criminal justice framework that adheres to international norms concerning abuse, free expression, and brutality against women and other sensitive groups of the community will determine mainly whether Iraq will become a civilization centered on particular regard for fundamental human rights (Muscati, 2011). This issue could have been addressed by article 41 of ICCPR; however, since it is an optional protocol and the enforcement authority is not given to the Committee, human rights and articles 1, 20, 7, 15, and 6 were violated.

The Iraqi government violated article six of the covenant, as almost 7900 people were death-sentenced. Some of them were French and police officers. They were sentenced for reasons not valid under the covenant, such as terrorism. The government is also accused of disappearances of people and torturing prisoners before death sentences, violating articles 37, 7, and 218. Also, the legal structure is not aligned with the covenant requirements to eliminate torture and abuse (Guyader, 2022; MENA Rights Group, 2022). Also, no national law in Iraq punishes "crimes against humanity." As a result, the systematic, extensive, or structural assaults that define Daesh's crimes are not adequately covered by the Iraqi Penal Code. This could have been addressed if the authority of the ICCPR committee was limited to enforcing anything on the governments (OHCHR, n.d.; United Nations, 2022).

### **Political and Civil Rights in Iraq Under Review by ICCPR**

The yearly review committee of the UNHCR convened in March 2022. It examined the sixth periodic report (United Nations, 2019) on Iraq's performance in maintaining the human rights covenants described by the UNHCR and ICCPR. The Committee evaluates the implementation and procedural efficiency of countries in following through with the covenants of ICCPR, ratified by Iraq in 1971. Several issues concerning political and civil rights violations were highlighted in the review, including torture, enforced disappearance, the death penalty, attacks on freedom of assembly and expression, and the accountability endeavor of ISIL. These will be discussed subsequently, as the lack of consideration of the Iraqi constitution and jurisprudence in the maintenance of fundamental human political and civil rights results in broader implications for the west Asian community, and they need to be held accountable.

### **Enforced disappearance**

Iraq is cited as the country with the highest number of reports concerning enforced disappearances globally, with the number of disappearances falling between 250000 and 1,000,000 missing individuals (Mondalawy, 2022). Local and international authorities have failed to ensure the seizure of this practice, provide assistance and relief to affected families or resolve the ongoing cases of enforced disappearance. The increasing number of disappearances and lack of legal interference or development of a political referendum to combat this practice is a testament to the lack of Iraqi concern for the disappeared lives. The country is yet to include the covenant in its domestic legislature as required by Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance (United Nations, 2010). A formal has been entered for the protection of missing persons and developed and submitted for approval to the Council of Ministers; however, it is yet to be approved (United Nations, 2010).

### **Enforced torture**

Another issue highlighted by the Committee was the continued reports of ill-treatment and torture of prisoners in different stages of criminal detention, especially during the interrogation phase. Despite Article 37 of the Iraqi Constitution (MENA

Rights Group, 2016) and Article 218 of "Code of Criminal Procedure"<sup>8</sup> explicitly stating that confessions recorded as a result of torture or under duress are inadmissible and are subject to disregard by the Court, the practice of the law enforcement remains dissimilar to the legislations. There has been no action taken by the Governance bodies to renounce these practices, as noted by the Committee. Another issue in following the UNHCR framework in this regard is the inconsistency between the Iraqi constitution and the international convention on torture (UNCAT) (United Nations, 1984), which Iraq adopted in 2011. The Committee found that an anti-torture bill was under development and had been considered by the Council of State. According to the bill,<sup>9</sup> a judge will be required to mandate a physical examination of the detainee/s citing torture within 24 hours of learning of the incident. The UNHCR requested that Iraqi officials adopt all necessary procedures for expediting the adoption of the bill to ensure the cessation of these longstanding barbaric practices.

### **Crimes committed by ISIL**

There have been accusations against the Islamic State of Iraq and the Levant (ISIL) on account of war crimes committed by the group whence areas of Iraq were occupied. The accusations include war crimes, ethnic and minority genocide, and crimes against humanity, resulting in violations of individuals' political, civil, and social rights. The Review Committee was pleased to know that the Iraqi authorities The actively investigating the war crimes and other reports against ISIL, including the investigation of slavery against the Yazidi Kurdish children and women. Moreover, Ducky authorities have established a crime investigation unit where a distinct judicial body has been set up to govern, document, and investigate the crimes in the UCD population in the governorate of Nineveh (Mondalawy, 2022).

### **Death Penalties**

If previous concluding observations also documented that the human HCR Committee found concerns about several offenses contained in the Iraqi law that do not meet the requirements of the stringent crimes, as enlisted in Article 6, section two of the ICCPR. The Committee also expressively noted concerns regarding the death penalty remaining mandatory for certain crimes. Before the annual review, Iraq stated that the death penalty was required due to the extraordinary terrorism within the country and is subject to only exceptional security situations. However, The UNHCR have regularly expressively expressed concerns over the death sentences pronounced under the anti-terrorism law, as they believed that the actions of the State didn't accurately depict a fair trial with express confessions collected under situations where the accused had been submitting to torture.

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<sup>8</sup> 'CRIMINAL PROCEDURE CODE 23 of 1971 as AMENDED to CRIMINAL PROCEDURE CODE 23 of 1971 (as AMENDED TO' (2010)). [https://menarights.org/sites/default/files/2016-11/Iraq\\_CodeofCriminalProcedure%201971%2C%20amended%202010\\_EN.pdf](https://menarights.org/sites/default/files/2016-11/Iraq_CodeofCriminalProcedure%201971%2C%20amended%202010_EN.pdf) accessed 19 December 2022.

<sup>9</sup> Anti-torture Act 2019.

### **Freedom of expression and peaceful assembly**

Nationwide protests erupted in 2019 (Al Jazeera, 2022) due to dissatisfaction with the governmental performance, disregard for the civil and political rights of the people, and lack of educational and professional opportunities prevalent within the country for the development of the masses (Bencks, 2019). In response to the national protests, the armed militia and security forces of Iraq have subjected the demonstrators to extreme violence resulting in several thousand tragic injuries and hundreds of individual deaths (Mondalawy, 2022). According to the ICCPR review, the State failed to provide relief to the disgruntled individuals. Also, it could not provide any information relating to the outcome of the investigation requested by the UNHCR (Mondalawy, 2022). Resultantly, the review Committee suggested the following for Iraq

*"take all necessary actions and measures required for the timely investigation and prosecution of all reported cases of violations of fundamental human rights."*

The review requested by the Committee included all cases referring to allegations of violence, torture, enforced disappearance, and arbitrary detention. The Committee also urged the Iraqi constitution to operate justifiably and hold the perpetrators accountable.

Another concern highlighted by the Committee in the review was the allegations made by media personnel subject to the attacks and intimidation perturbed by non-State and State actors, including the imposition of security forces to stop journalists from covering stories. The Council of Representatives (ECO, n.d.) amended the Law on Freedom of Assembly and Peaceful Demonstrations (Equality and Human Rights Commission, 2021) in March 2020. Even though the parliament is yet to make a judgment on the revision of the law (Peaceful Assembly Worldwide, 2021), the preliminary draft places severe restrictions on the right to protest amicably.

The statements included in the revision suggest encouraging the use of force for dispersing peaceful assemblies, which is in direct contrast to the original provisions of the law. The amendment also seeks to punish the assembly organizers with short-term imprisonment (six months to a year) if the protest was organized without notifying local authorities (Peaceful Assembly Worldwide, 2021).

Freedom of speech or expression is also under threat within Iraq as several provisions in the Iraqi constitution don't align with Article 19 of the ICCPR (United Nations, 2022). The Committee reported that as per the Iraqi constitution, several requirements actively limit or seek to limit the freedom of expression, as evidenced by article 433 (Mondalawy, 2022). Also, a draft on combatting cybercrimes was introduced in the Iraqi parliament in 2020. The draft law included vague terminologies like "affect national security," which allows the judicial parties with active discretion enabling targeting of whistle-blowers, journalists, and activists.

This discussion and the widespread implications discussed priorly intimate that the Iraqi constitution is actively involved in blatant

### **Conclusion**

Political and civil violations, like torture, genocide, and detaining people without cause, often happen during wars or political unrest. But when these human rights violations occur during an armed conflict, it's considered a war crime. Competition



can also lead to a violation of people's right to freedom of speech and assembly. Governments are held accountable for violating individuals' civil rights as they try to maintain order and stop disobedient groups. The UN Charter is the foundation for the modern history of human rights growth. It contains a bill of rights and discusses human rights. The UN Charter does specify "endorsing and supporting respect for human rights and basic freedoms for everyone without a difference as to ethnicity, gender, language, or faith" as one of the organization's aims. Most of its sections dealing with human rights are informational or thematic, and its allusions to them are clear. Asian countries are still dealing with human rights violations for several reasons, the main one being the lack of a robust judicial system. According to researchers, this is further perpetuated by the lack of communication and collaboration among people, which makes it challenging to implement rules and regulations surrounding human rights. Freedom of expression, the right to life, civil rights like the right not to be subject to torture, and other similar rights are all fundamental human rights that should be provided to everyone. The basis for the present study was Iraq, and the findings from the study suggest that the country has progressed in some avenues in the development of solid laws for combat civil and political rights violations. Civil and political rights are protected under the ICCPR, an agreement between nations that acknowledges the inherent worth of every person. It commits to fostering the circumstances necessary for exercising civil and political rights within each country. Although many programs and treaties have been put in place, the reports on compliance and implementation have not been meeting expectations. The UN Human Rights Committee is reviewing Iraq's progress on human rights on March 6 and 7, 2022. This evaluation determines how well the nation is doing concerning the International Covenant on Civil and Political Rights (ICCPR), which they signed back in 1971. The UN experts' review of the sixth concluding remarks found several critical issues in Iraq, including forced disappearances and abuse, attempts to hold ISIL accountable for criminal acts, the application of the death sentence, and violations of the freedoms of expression and assembly.

Figures place the number of forced disappearances in Iraq as the greatest in the world, with averages ranging from 250,000 to one million people vanishing. Officials often have been unable to stop this conduct, solve incidents of disappearances, or offer compensation to the harmed parties. The Government member has not yet added the offense of forced disappearance to its internal legislation as an independent crime, as stipulated in article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance, demonstrating the absence of political resolve to stop the activity. The following are key findings from the review, which suggest that Iraq needs to develop stronger laws focusing on controlling human rights violations.

- The number of forced disappearances in Iraq is thought to be the highest in the world, with estimates ranging from 250,000 to one million people. Officials have often been unable or unwilling to stop this conduct, solve incidents of disappearances, or offer compensation to the harmed parties. The government has not yet added the offense of forced disappearance to its internal legislation as an independent crime, as stipulated in article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance. This demonstrates a lack of political resolve to stop the activity.

- Death penalty for people associated with terrorism
- Torture of people incarcerated with criminal activity
- War crimes by ISIL
- Amendments to the freedom of assembly, including imprisonment of organizers and other punishable offenses
- Amendments to freedom of speech, including the controlled narrative of journalistic reporting

These issues within Iraq indicate that the country is still struggling to break free from a cycle of violence and deterministic control, despite recent attempts to introduce bills and laws focused on the cessation of torture and other extreme human rights abuses. The UNHCR needs to address the Iraqi constitution in the following review and hold them accountable if any violations noted in this article haven't been adequately addressed. Iraq is still far from transitioning to a viable democracy based on the rule of law, several years after US-led forces captured the nation. Women, minority groups, and children remain especially vulnerable to human rights abuses in the country. The future success of Iraq depends on upholding human rights by Iraqi officials and the allowance for free expression. If these foundations are not set, Iraq will not be prosperous in becoming a civilized society. Within the context of a reliable criminal justice system, it is essential to protect women and other groups from abuse for a successful future in Iraq.

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