

## IRAQ

# A BRIEF ON DISCRIMINATION IN WORK AND EMPLOYMENT, CHILD MARRIAGE, MATERNITY AND PATERNITY LEAVE, AND DISCRIMINATION AND SEXUAL HARASSMENT IN EDUCATION (CEDAW ARTICLES 2, 5, 10, 11, 16 AND GENERAL RECOMMENDATION 36)

*Information for the Committee on the Elimination of Discrimination Against Women  
92<sup>nd</sup> Pre-Sessional Working Group, February 2025*

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## INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,500 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 92<sup>nd</sup> Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following areas:

1. Discrimination in Work and Employment (Article 11)
2. Paid Maternity and Paternity Leave (Articles 11, 5)
3. Child Marriage (Articles 16, 2)
4. Discrimination and Sexual Harassment in Education (Article 10, General Recommendation 36)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects available information on the current constitutional and legal landscape of a country.

In this report we first provide a summary of our legislative findings, as well as suggested questions for the Committee to ask Iraq and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed legislative excerpts documenting our findings. We hope the Committee will recommend that Iraq address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Iraq for having provisions in place, we hope the Committee will recommend that Iraq work with stakeholders to overcome any obstacles in implementing these provisions.



**SUMMARY OF FINDINGS AND RECOMMENDATIONS**

**1. Discrimination in Work and Employment (Article 11)**

Iraq’s labor legislation broadly guarantees equal opportunities, and prohibits discrimination on the basis of gender. It also mandates equal pay for work of equal value for men and women. However, there are no explicit protections against discrimination or guarantees of equal opportunities explicitly on the basis of family status, marital status, or pregnancy. A summary of these protections is provided in Table 1.

*Table 1. Guaranteed legal provisions of non-discrimination in Iraq across key areas of employment*

	Sex	Marital Status	Family Status	Pregnancy
Hiring	✓			
Promotions/demotions	✓			
Vocational training	✓			
Remuneration	✓			
Terminations	✓			
Equal pay for work of equal value	✓			



**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

**We hope the Committee will:**

- In its list of issues, ask Iraq: Does Iraq have concrete, near-term plans to pass legislation that prohibits discrimination on the basis of family status, marital status, and pregnancy in hiring, promotions and demotions, vocational training, remuneration and terminations?
  - If there are no concrete, near-term plans, recommend in its concluding observations that Iraq pass and implement legislation specifically prohibiting workplace discrimination on the basis of marital status, family status, and pregnancy in hiring, promotions and demotions, vocational training, remuneration and terminations. This could be added to article 1.25 of the labor code, which already protects against discrimination on multiple other grounds and statuses.

## 2. Paid Maternity and Paternity Leave (Articles 11, 5)

While Iraq provides 14 weeks of fully paid leave to new mothers, we did not identify any statutory provisions on paternity leave.

**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

**We hope the Committee will:**

- In its list of issues, ask Iraq: Can Iraq describe any concrete, near-term plans to pass a statutory entitlement to paternity leave?
  - If Iraq does not have any concrete, near-term plans to pass this legislation, recommend in its concluding observations that Iraq pass and implement legislation that provides paternity leave to new fathers that is sufficient in duration and wage replacement rate to support gender equality in care.

## 3. Child Marriage (Articles 16, 2)

Iraq's Personal Status Law sets the minimum age of marriage for boys and girls at 18. **However, a judge can approve the marriage of a child aged 15 or over** and can overrule a guardian's objection to the marriage. Moreover, Article 2 of the Personal Status Law states that some Iraqis may be exempt from the Law's provisions "by virtue of a special law," but does not specify which laws provide exemptions. Iraq's most recent data (2018) show high rates of child marriage in the country: 18% of girls aged 15-19



were currently married; 28% of women aged 20-24 were married before the age of 18; and 7% of women aged 20-24 were married before the age of 15.<sup>1</sup>

**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

**We hope the Committee will:**

- In its list of issues, ask Iraq: Can Iraq outline any concrete, near-term plans to pass legislation that sets the minimum age of marriage to 18 years old without exceptions?
  - If not, recommend in its concluding observations that Iraq pass and implement legislation that protects children under the age of 18 from early marriage without exceptions.
- In its list of issues, ask Iraq: Which “special laws” provide exemptions from the provisions of the Personal Status Law? In particular, does Article 2 of the Personal Status Law permit some laws to apply a lower minimum age of marriage than what is specified in the Personal Status Law?
  - If Article 2 of the Personal Status Law permits some laws to apply a lower minimum age of marriage than what is specified in the Personal Status Law, recommend in its concluding observations that Iraq revise or repeal Article 2 to remove any exemptions from a minimum age of marriage of 18.

#### 4. Discrimination and Sexual Harassment in Education (Article 10, General Recommendation 36)

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We did not identify any legislation that prohibits either sex-based discrimination or sexual harassment specifically in education.

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<sup>1</sup> UNICEF data – Child Marriage. Retrieved November 7, 2024 from <https://data.unicef.org/topic/child-protection/child-marriage/>



**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

**We hope the Committee will:**

- In its list of issues, ask Iraq: can Iraq demonstrate if legislation exists that prohibits sex-based discrimination in education?
  - If explicit protections against sex-based discrimination in education do not exist, recommend in its concluding observations that Iraq pass and implement legislation that explicitly prohibits sex-based discrimination in education.
- In its list of issues, ask Iraq: can Iraq outline any concrete, near-term plans to pass legislation that explicitly prohibits sexual harassment in education?
  - If concrete, near-term plans are not in place, recommend that Iraq pass and implement legal provisions that prohibit sexual harassment in educational settings.
    - Further recommend that Iraq include in these provisions the most relevant elements of sexual harassment:
      - a definition of sexual harassment that includes both quid pro quo interactions and the creation of a hostile school environment; and
      - protections for students from harassment by fellow students, teachers, and other actors in education.



## DETAIL OF CONSTITUTIONAL AND LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

### 1. [Discrimination in Work and Employment \(Article 11\)](#)

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Article 11 of the Convention outlines specific measures States Parties shall undertake in order to eliminate discrimination in the field of employment.

We systematically reviewed national labor codes, gender equality acts, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation prohibited gender discrimination in employment. We examined legal protections across five areas covered by CEDAW:

- employment opportunities or hiring
- equal pay for work of equal value
- training
- promotions or demotions
- job security or terminations

We assessed whether women were explicitly protected from discrimination at work in each of these areas and whether the definition of discrimination included both direct and indirect discrimination.

We also examined whether there were explicit protections from discrimination in terminations on the grounds of pregnancy and marital status, in line with Article 11.2.a) of the Convention, which prohibits “dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status”. We further examined whether explicit protections from terminations on the basis of family status were in place. Given the disproportionate role of women in caregiving, discrimination based on family status will have a greater impact on women.

Finally, although the Convention focuses only on protecting from dismissal on these grounds, we nevertheless further examined whether discrimination on the grounds of pregnancy, marital status, or family status was prohibited in other stages of employment because of the centrality of these protections from preventing sex discrimination at work, which the convention protects against more broadly.





*IRAQ'S LEGISLATIVE PROVISIONS: COMPREHENSIVE PROTECTION AGAINST GENDER DISCRIMINATION IN THE WORKPLACE, BUT NOT ON THE BASIS OF PREGNANCY, FAMILY STATUS OR MARITAL STATUS*

Iraq's labor legislation broadly guarantees equal opportunities, and prohibits gender discrimination. It also mandates equal pay for work of equal value for men and women. However, there are no explicit protections against discrimination or guarantees of equal opportunities explicitly on the basis of family status, marital status, or pregnancy.

*Labor Law of 2015*

*Article 1- For the purposes of this law, the following terms and expressions shall have the meaning ascribed to them below:*

*(...)*

*25 – Direct Discrimination: any distinction, exclusion or preference based on race, color, sex, religion, religious community, opinion or political belief, origin or nationality.*

*Article 8 – 1- This law prohibits any violation of the principle of equal opportunities and equal treatment for whatever reason, in particular discrimination between workers, whether it is a direct or indirect discrimination, in all matters relating to vocational training, recruitment, or the terms and conditions of employment.*

*Article 41-1 – The employer has the following duties:*

*(...)*

*2n- To ensure equal treatment of all employees of the same profession and the same working conditions, whether in terms of wages, benefits, bonuses, allowances, vocational training or career advancement opportunities.*

*Article 42*

*1 – The worker has the following rights:*

*c- To have equal opportunities and be recruited and work under equal conditions, without any discrimination.*

*Article 48 – 1 – The employment contract shall not be terminated in one of the following cases:*

*(...)*

*e- In case of direct or indirect discrimination in terms of recruitment or profession.*

*Article 53*

*(...)*



*Fifth: There must be equality between the remuneration of women and men for work of equal value.*

## 2. Paid Maternity and Paternity Leave (Articles 11, 5)

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Article 11.2 of the Convention states that:

*In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:*

*(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;*

*(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;*

Further, Article 5(b) of the Convention emphasizes the importance of including men in the upbringing of children:

*To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.*

Research evidence indicates that paid paternity leave can increase gender equality in caregiving responsibilities and gender equality in employment; it is therefore important to ensure fathers have access to adequate paid paternity leave.

We systematically reviewed national labor codes and social security laws to assess the availability of paid maternity and paternity leave. We relied primarily on legislation downloaded through the International Labour Organization's NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.

### *IRAQ'S LEGISLATIVE PROVISIONS: 14 WEEKS OF FULLY PAID LEAVE FOR MOTHERS; NO LEAVE FOR NEW FATHERS*

Iraq's Labour Law provides for 14 weeks of maternity leave at full pay, plus an additional year of unpaid leave for new mothers. Our research found no provisions at all on paternity leave.

*Labour Law, 2015*

*Chapter 10*

*Protection of the Female Worker*

*Article 87:*



- 1) *A female worker is entitled to a maternity leave at full pay of not less than fourteen (14) weeks per year.*
- 2) *A pregnant worker may, by virtue of a medical certificate issued by the competent authority, take the above-mentioned leave, eight (8) weeks before her expected due date.*
- 3) *The pregnant worker is entitled to take the remaining days of the leave after the delivery, provided that the period of this leave after the delivery is not less than six (6) weeks.*

*Article 89: A working mother may, with the consent of her employer, take a special unpaid maternity leave for a period of not more than a year, during which she provides care to her child, provided the child has not yet completed one year of age. The employment contract shall be suspended during this period.*

### 3. Child Marriage (Articles 16, 2)

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Child marriage disproportionately affects girls, often leading to social, economic, educational, and health inequalities, which States Parties have committed to eliminating. Article 16.2 of the Convention calls on States Parties to legislate a minimum age of marriage and prohibit the marriage of children. Additionally, disparities in the legal minimum age of marriage between girls and boys contravenes Article 2(a) of the Convention, which commits States Parties to “embody the principle of the equality of men and women” in their “national constitutions or other appropriate legislation”.

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization’s NATLEX database, regional sources, and official country websites.

#### *IRAQ’S LEGISLATIVE PROVISIONS: MINIMUM AGE OF MARRIAGE 18, BUT WITH IMPORTANT EXCEPTIONS*

Iraq’s Personal Status Law sets the minimum age of marriage at 18 for boys and girls, but permits a judge to license the marriage of children as young as 15 – and to overrule a guardian’s objections to the marriage. Moreover, Article 2 of the Personal Status Law states that some Iraqis may be exempt from the Law’s provisions “by virtue of a special law,” but does not specify which laws provide exemptions.

#### *Personal Status Law 1959, as amended*

##### *Article 2*

*1- The provisions of this law apply to all Iraqis except for those who are exempted by virtue of a special law.*

*(...)*

##### *Article 7:*

*1. For a marriage to be valid, the two parties should be of sound mind and have reached the age of 18;*



(...)

Article 8:

*1. If a 15-year-old applies to marry, the judge may authorize the marriage if eligibility and physical capability are established, after obtaining the agreement of the legal guardian. If the guardian refuses to respond, the judge shall request his agreement within a specified period. If the guardian does not object or his objection is unworthy of consideration, the judge shall then authorize the marriage;*

*2. A judge may authorize the marriage of a 15-year-old if he finds that there is pressing need. The giving of such authorization is conditional upon attainment of legal puberty and physical capability.*

The last recorded child marriage rates in Iraq are accordingly high. As of 2018, 30% of women aged 20-24 at the time of survey had been married before age 18 and 7% had been married before age 15; 18% of girls aged 15-19 at the time of survey were already married.<sup>2</sup>

#### 4. Discrimination and Sexual Harassment in Education (Article 10, General Recommendation 36)

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Article 10 of the Convention calls on States Parties to “eliminate discrimination against women in order to ensure to them equal rights with men in the field of education”, and Paragraph 69(a) of General Recommendation 36 calls on countries to:

*Enact and enforce appropriate laws, policies and procedures to prohibit and tackle violence against girls and women in and around educational institutions, including verbal and emotional abuse, stalking, sexual harassment and sexual violence, physical violence and exploitation;*

We systematically reviewed education laws, penal codes, equal opportunity, and other relevant legislation for all 193 UN member states to determine whether national legislation prohibited both discrimination and sexual harassment in education. We further examined whether protections from sexual harassment at school were in line with international agreement of what constitutes key components on sexual harassment, namely do laws:

- define sexual harassment to cover quid pro quo interactions and the creation of a hostile environment;
- include sex-based harassment as well as sexual-behavior based harassment; and
- protect students from harassment by other students and by teachers, as well as by other actors in the education system;

#### *IRAQ’S LEGISLATIVE PROVISIONS: NO EXPLICIT PROHIBITIONS OF SEX-BASED DISCRIMINATION OR OF SEXUAL HARASSMENT IN EDUCATION*

Although the Constitution of Iraq prohibits sex-based discrimination, as described in paragraph 18 of the State Party Report, we found no legislation that applies this principle

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<sup>2</sup> UNICEF data – Child Marriage. Retrieved November 7, 2024 from <https://data.unicef.org/topic/child-protection/child-marriage/>



explicitly to education. We further found no evidence that sexual harassment is explicitly prohibited in education.

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*BRIEFING PREPARED BY THE WORLD POLICY ANALYSIS CENTER, UNIVERSITY OF CALIFORNIA, LOS ANGELES*