

THE PRINCIPLE OF PROHIBITING SUSTAINABLE DISCRIMINATION AND ITS APPLICATION IN IRAQI LAW

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Abstract

This paper examines the principle of non-discrimination and its applicability within the Republic of Iraq, highlighting its status as a universal principle not confined to any specific location or group. Although we address constitutional provisions that uphold the principle of equality, it becomes evident that the existence of constitutional guarantees alone is insufficient to uphold this principle. This is due to existing gaps in certain laws and legislative deficiencies that allow for discrimination and fail to criminalize it within the criminal justice system, which is essential for deterring unlawful behavior in any nation. Moreover, the principle of non-discrimination lacks a distinct definition in legal texts. The constitutional provisions that prohibit discrimination, appear to hinder the effective application of this principle, reducing it to a mere rhetorical commitment rather than a practical reality. Consequently, by associating the prohibition of discrimination with the Sustainable Development Goals endorsed by the United Nations, we aim to establish it as a long-term, sustainable principle. This objective is pursued through the eradication of all discriminatory practices against victims and providing them with compensation for the injustices they have endured, which are violations of their rights as enshrined in the Constitution and protected by international conventions

Keywords: Constitutional basis, Judicial procedures, Prohibition of discrimination, Sustainable.

Introduction

The principle of prohibiting sustained discrimination extends beyond mere equality among individuals, irrespective of their color, gender, origin, race, or socio-economic status. It constitutes a core and essential aspect of legitimate human rights, imposing obligations on others to mitigate discrimination, segregation, or exclusion, particularly affecting women, workers, minorities, and other marginalized communities, necessitating the adoption of targeted strategies. As a universal benchmark and a fundamental framework for human rights, the provisions outlined in the United Nations Charter on Human Rights and the Universal Declaration of Human Rights of 1948 serve as broad texts. These documents embody comprehensive and inclusive principles that demand specific, actionable provisions, transitioning from general concepts to detailed applications. This necessitates that states incorporate these principles into their legal frameworks and ensure their enforcement within their constitutions. Breaching this principle incurs criminal, civil, administrative, and international liabilities, with penalties and measures imposed on individuals who engage in discriminatory acts, in accordance with established legal procedures, or by mitigating the influences of discrimination as stipulated. Some nations are proactively implementing measures, such as establishing quotas in education, employment, and other sectors, to enforce the prohibition of ongoing discrimination and to support marginalized groups. Upholding the principle of non-discrimination fosters equality and advances criminal justice by

identifying and monitoring all forms of discrimination, addressing them through the provision of necessary procedures and measures to attain gender equality without bias.

The concept of prohibiting sustainable discrimination

The prohibition of discrimination is almost inseparable from freedom and rights, and one cannot exist without the other. There is no prohibition of discrimination without freedom, and there is no freedom without rights and equal treatment of people, without discrimination, exclusion, marginalization or discrimination based on sex, color, race, language or origin. It is therefore inevitable to say that the principle of non-discrimination forms the basis of these rights and freedoms. Equality or the prohibition of discrimination is defined as the elimination of barriers of difference in all aspects. Everyone is equal regardless of religion, law or nationality, as well as in religious and secular matters. Equality is "the rule aimed at eliminating all forms of discrimination based on racial, religious, linguistic or cultural differences" (Madi & Elhady, 2020). Discrimination is also defined as "unfair or biased treatment of individuals and groups on the basis of certain characteristics". Some define it as "an event or social situation characterized by the arbitrary classification of individuals, groups or categories based on race, color or sex, with the existence of exceptions, restrictions or advantages", or language, religion, political or other beliefs, national or social origin, economic status, birth or other circumstances or natural or social characteristics that are not related to personal abilities, qualities or specific human behavior, and when individuals or groups face disadvantages (Hren et al., 2022). Prohibition of discrimination means giving equal treatment to all people, regardless of gender, consistent with the goals pursued by the law. This is a right that is closely linked to human dignity and human rights. This principle can only be achieved within a certain framework, by achieving equality and dignity in all aspects. Discrimination can occur in the workplace. This requires equality between men and women and the recognition of the common responsibility of both sexes by empowering women in social and economic development and improving discrimination standards. This helps to ensure equal treatment, fight marginalization, and achieve equality and dignity in all areas of life (Laci et al., 2017). Moreover, there is discrimination in law, in which case it is legal discrimination. It is not enough for the state to simply enforce the law, because even in a police state, the law can lead to discrimination. This is indeed the case (Olwan, 2014).

Given the enormous importance of the prohibition of discrimination, it is self-evident that all national and international laws should protect this principle. However, it is worth noting that most laws do not provide a unified definition of discrimination or establish it as a separate principle, and only a few countries have criminalized discrimination, such as France, which mentions discrimination in its French Criminal Code.

Article 225 of the French Penal Code (and Ukraine, central to the Ukrainian Anti-Discrimination Law (1), describes discrimination as a behavior demonstrated by an individual or group based on their race, skin color, political or religious beliefs, other convictions, gender, age, disability, ethnic or social origin, property status, language, family, or other traits that impose limitations on the rights and freedoms during their exercise (Katerynychuk & Kolomoiets, 2023). The Croatian Anti-Discrimination Law also characterizes discrimination as "any type of putting an individual or person at a disadvantage in comparison to others" (Ušić, 2022).

Regarding Arab nations like Algeria and the UAE, Article (1) of Federal Decree-Law No. 2 of 2015 on Combating Discrimination and Hatred characterizes discrimination as any differentiation, limitation, exclusion, or favoritism between individuals or groups, based on religion, belief, doctrine, creed, sect, race, color, or ethnic origin, through the principle of non-discrimination. This includes individuals concerning color, gender, religion, language, creed, or social and political status and distinctions. Al-Hammadi (Al-Hammadi, 2022) advocates against discriminating between people based on color, gender, religion, language, creed, status, or social and political disparities. Thus, when countries have committed to the principle of banning discrimination generally among all citizens, they have also introduced a call to combat discrimination (beyond having introduced national legal frameworks toward achieving gender equality without discrimination and securing and promoting women's rights). That has caused the emphasis on the realization of the principle of nondiscrimination to be a key element which is common to all countries. This task should be addressed across the board in a continuous manner as part of engagement, empowerment, creation of rights, and contribution to decision-making and realization of social justice which are similarly desired of all countries based on their action, praxis, and legislation in support of sustainability and the ability to endure over time.

From that perspective, the principle of non-discrimination held a very high profile and generated much discussion at the international level, because it was an international principle and because it was reflected in international instruments. Human rights Article 2 of the Universal Declaration of Human Rights reads as follows: "Everyone is entitled to the rights and freedoms set forth in this Declaration without distinction of any kind such as sex". However, it also states "no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty."⁽¹⁾ For reasons of race, color, sex, language, or religion, discrimination is a humiliating form of ill-treatment and a violation of human dignity and human rights. From this perspective, the principle of prohibiting discrimination has occupied a prominent place and wide interest at the level of the international scope, as it is an international principle referred to in international instruments, as the Universal Declaration of Human Rights, in Article 2, states as follows: "Everyone has the right to enjoy all the rights and freedoms mentioned in the Declaration without discrimination of any kind, especially discrimination on the basis of race, color, sex, language or religion," as discrimination is an insulting treatment to human dignity and self and a violation of his rights. The International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights of 1966 referred to equality since discrimination leads to depriving people of the exercise of the right of the prohibition of discrimination, including the prohibition of discrimination against women, being one of the marginalized groups that have been subjected to the most severe types of marginalization and exclusion, and confirming the principle of prohibiting discrimination and its pivotal role, although the Universal Declaration of Human Rights of 1948 and the two international covenants did not define discrimination and the Universal Declaration of Human Rights indicated that "all people are born free and equal in dignity and rights" (Сердюк, 2022).

⁽¹⁾ The French legislator defined it in the French Penal Code: "Discrimination is considered any act based on discrimination between persons because of origin, gender, family social status, physical condition, disability, morals, political opinions, trade union activity, origin, nation, ancestry or religion."

However, international agreements have defined discrimination on the basis of the purpose of the convention, so that for the first time there is an expression of discrimination against women in reference to what was set out in the Convention on the Elimination of All Forms of Discrimination against Women of 1979, which provided that discrimination against women includes, as regards women, any distinction, exclusion or restriction on the basis of sex which has the effect or purpose of affecting or invalidating the recognition, enjoyment or exercise by women of human rights and fundamental freedoms in the political, economic, social, cultural, civil or other field, regardless of their marital status. Hafidha Chekir (Chékir, 2014) draws the following conclusions from the definition of discrimination based on equality between men and women: discrimination and gender-based marginalization, as well as a violation of the equality principle, constitute its basis; exclusion, restriction, and discrimination constitute its forms; and the weakening and frustration of the recognition and exercise of women's rights in all areas constitutes its effects (Riadh, 2015). Therefore, in order to prevent them from being empty rhetoric, nations have been eager to guarantee that women enjoy all of their rights without hindrance, to end all forms of discrimination against them, and to provide them with legal protection and empowerment. The United Nations General Assembly issued a declaration on the elimination of all forms of racial discrimination in order to uphold the principle of equality and guarantee that every individual receives their rights. The Assembly deemed racial discrimination to be an affront to the Charter's principles and human dignity, as it is the most pernicious form of discrimination and a violation of both the principle of equality and international law. Among all international documents, the 1965 International Convention on the Elimination of All Forms of Racial Discrimination was the first to directly address racial discrimination (Miftah, 2018). In its preamble, it said that discrimination on the basis of race, ethnic origin, or color disrupts global peace. It also referred to the policy of segregation or separation and the abolition of all types of racial discrimination.

"The term racial discrimination means any distinction, exclusion, restriction, or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life," specifies Article (1), paragraph 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (Aguilar-Idáñez, 2014). Since discrimination is a foundational international concept for the enjoyment of all protected rights and the basis for these rights, it is anticipated that any international agreement pertaining to human rights contains a unique clause that forbids discrimination. Nonetheless, it is seen that international covenants and accords concentrate on A differentiation, exclusion, preference, or restriction based on an objective or unjustified basis that violates the equality principle and human dignity is considered discrimination.

Discrimination may occur directly or indirectly, when practices appear neutral but involve discrimination in its application or effects (Daugareilh, 2011). Given that victims experience numerous forms of marginalization, it can constitute compound discrimination, such as discrimination based on gender or disability. The United Nations' 2015–2030 Sustainable Development Plan included indicators, such as the fifth goal: achieving equality between men and women and empowering girls and women, in recognition of the seriousness of discrimination and its effects, which endanger global peace and stability. Since sustainable development is essential to establishing the ban on discrimination as a long-term, sustainable norm, this seeks to complete the relationship between the two. Discrimination is not restricted to a certain time period, nation,

or group over another. Sustainability refers to the idea "that humanity has the capacity to achieve sustainable development to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs." Discussing sustainability entails discussing a continuous, long-term endeavor that involves everyone in reaching its objectives (Marshall, 2023). Therefore, by incorporating this essential objective into their laws and legislation, all nations aim to realize the idea of the sustainable prohibition of discrimination. Women must be empowered as stakeholders in all development goals in order to view the concerns of equality and nondiscrimination as distinct from other issues. The 2030 Agenda cannot be achieved without progress on gender equality and the prohibition of discrimination in all financial, administrative, economic, industrial, and entrepreneurship policies. This can be achieved through four main axes:

- Governance and participation in public life
- Combating violence against women and girls
- Women, peace and security, disaster reduction, and humanitarian action
- Empowering women and girls (UN Women, 2025)

Regarding Iraq's stance on international agreements that mention the equality principle and the ban on discrimination, it is guaranteed because Iraq has mentioned these agreements in its constitution and it upholds its international commitments (Article 8 of the Iraqi Constitution of 2005). Iraq is obligated to abide by these accords since it ratified them. The Convention on the Elimination of All Forms of Discrimination Against Women was ratified by Iraq Law of 1986 (Committee on the Elimination of Discrimination against Women, 1986).

Iraq also joined the Convention on the Elimination of All Forms of Racial Discrimination in 1970 and the International Covenant on Civil and Political Rights of 1966, which Iraq ratified in 1971. Iraq ratified the International Covenant on Economic, Social and Cultural Rights in 1971. Iraq also ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on July 7, 2011 (Ministry of Foreign Affairs, 2025). Iraq also joined the International Convention for the Protection of All Persons from Enforced Disappearance on 2010/11/23 (Aljazeera, 2010). Iraq strives to submit periodic reports to the treaty organizations enforcing the Convention in accordance with its text and obtain their suggestions.

Constitutional basis for the prohibition of persistent discrimination in the Iraqi constitution

Since the constitution is the cornerstone and defender of rights and liberties, it is undeniable that it is the document that establishes the broad guidelines for any nation. It establishes the rights and obligations of individuals as well as the ideology and form of administration of the state. In the context of constitutional law, equality is primarily defined as the fair and equal treatment of all people before the law, taking into consideration the principle of non-interference with the freedom of others. When equality is seen as one of the gates of constitutional law, it signifies the neutrality and consistency of this constitution and is the core and basis of freedom (Amirkahni & Tabghi, 2016).

Thus, the following query emerges: How was the 2005 Iraqi Constitution's ban on persistent discrimination addressed? And how were the provisions of the constitution put into practice? Although the constitution was decided by popular referendum following the basic Document of Rights and Freedoms, this topic can be addressed. However, there was relatively little involvement from minorities, and the emphasis was on religious or ethnic blocs. Conflict over minority rights

or the fundamental liberties of marginalized communities results from this to some extent. As a result, the constitution might not contain enough policies or processes to carry out the ban on long-term discrimination (Sherwani et al., 2021).

Accordingly, the following passages in the Iraqi constitution establish the ban on discrimination there: The constitution's Article 14 declares that "Iraqis are equal before the law without discrimination based on gender, race, nationality, origin, color, religion, sect, belief, opinion, economic or social status" (Khidir & Salih, 2014). This text highlights how Sharia law has created a unique foundation for every citizen and it alludes to the idea of universal equality. individuals since the legislature did not establish a concept of discrimination in the constitution and there is no fundamental foundation that is unique to minorities .we had hoped that the lawmaker would make do the way the French lawmaker did , or should translate the constitutional text by issuing anti-discrimination legislation, similar to what Ukraine did, as a guarantee of the principle of equality, so as not to lead to the spread of corruption and the loss of rights.

Alternatively, the lawmaker ought to embrace the prohibition of discrimination found in Article (12) of the Iraqi State Administration Law for the Transitional Period of 2004. Regardless of gender, nationality, creed, sect, background, or opinion, all Iraqis have the same rights. It is illegal to discriminate against Iraqi citizens on the grounds of their gender, nationality, religion, or place of origin, and they are all equal before the law (Al-Jabouri & Ibrahim 2023). The following texts served as the foundation for the constituent authority's development of the 2005 Constitution, which established the rights of minorities and contained the principle of outlawing discrimination in multiple places: The Constitution's Article (2) declares that "Islam is the official religion of the state and is a fundamental source of legislation." Additionally, as stated in the article itself, "No law may be enacted that contradicts the established provisions of Islam." Whether the text of Article 2 contradicts the text of Article 2 is the question that emerges. Regardless of religion or belief, Iraqis are equal, according to Article (14) of the Constitution. The Constitution does not discriminate on the basis of religion or belief and forbids discrimination against any Iraqi. The answer to the question is that Islam is the official religion. This does not imply that the state disregards other religions and only defends Islam, persecutes, and excludes non-Muslim minorities. Instead, this language states that the great majority are Muslims and that it respects people's chosen religions and all of their beliefs. Minorities' rights are guaranteed by the Constitution in many provisions, despite the fact that they have been targeted in their homes and in various situations, and they have been the focus of numerous infractions by terrorist organizations and banned armed groups. This is indicated in Article (2) in its second paragraph. This Constitution guarantees the preservation of the Islamic identity of the majority of the Iraqi people, and it also guarantees the full religious rights of all individuals in the fight against religious belief and practice, such as Christians, Yazidis, and Mandaeans.

Iraq is a nation of many different nations, faiths, and sects, according to Article (3) of the Constitution. This text serves as a safeguard for national and religious minorities and affirms that there is no discrimination based on religion or belief. According to Article (4) of the Constitution, Arabic and Kurdish are the official languages; other languages may be used as an additional language in areas with a high population density. The official language is used everywhere, including on passports, banknotes, official documents, formal newspapers, and other materials.

In addition to providing linguistic minorities with constitutional protection, the legislator has equalized individuals with respect to the official language and given any region or governorate the authority to adopt an additional official language through a general referendum with the consent

of the majority of the populace. This means that every Iraqi man and woman has the right to take part in the referendum. According to Article 125 of the 2005 Constitution, which strengthens the ban on sustainable discrimination, it guarantees the administrative, political, cultural, and educational rights of various ethnic groups, including Turkmen, Chaldeans, and Assyrians, among all other components, and this is governed by law (Bowring, 2012).

The word "components" was used in the 2005 Constitution rather than "minorities." As the latter word characterizes indigenous communities or minorities as minor components alongside bigger components, may be sensitive. However, altering the Constitution's language did not address the negative connotations of the term "minority," such as vulnerability, discrimination, marginalization, and exclusion, so neither did it alter reality nor offer a concrete remedy. Modifying the language does not alter the facts (Saad Salloum, 2013). "Equal opportunity is a right guaranteed to all Iraqis, and the state shall guarantee taking the necessary measures to achieve this" as it is stated in (Article 16 of the Constitution of 2005 in force), is one of the ways the equality principle is applied. Since the idea of equal opportunity is dependent on state laws and regulations, this entails making sure that people are not the targets of discrimination or marginalization at work. This notion emerged from persistent discrimination and the fact that women are paid less than males, even in cases where the work is of comparable value, the job is identical, or people or ethnic groups are unable to continue in their professional careers. Because they were not treated properly (Stoilkovska et al., 2015).

The issue of women's rights and equality with men, as well as minorities' right to equal opportunities - one of the most crucial economic, social, and political rights to guarantee a respectable standard of living for them - are significant issues pertaining to the equality principle and the ban on discrimination. It provides material and financial security to the individual, and this right aligns with the equality principle when it comes to holding public office. According to Article (20) of the Constitution of 2005 both men and women have the right to exercise their political rights, which include the ability to vote, elect representatives, and run for office, as well as the right to engage in public affairs (Al-Kaabi, 2018). The constitutional legislator thus gave women the freedom to engage in public affairs on an equal basis with other political groups, allowing them to freely express their party ideas through candidacies and their political opinions through voting, using the same channels as men, without any limitations or coercion. Additionally, (Hamidi, 2018) state that a woman must participate in politics and be nominated to legislative and local councils; a quota was established for her. In order to achieve constitutional protection for the principle of equality and the prohibition of discrimination, the legislators set a minimum of 25% of the House of Representatives' members. This is a positive step for Iraqi women, as their representation rate of 25% surpasses the percentages established in most democratic countries if the election method is granted and adopted for them instead of appointment. The legislators also sought to guarantee the rights of the candidate and the voter, as stated in the same article, which also took into account the representation of all components (Eidan & Mahdi, 2023). The constitution affirms that it is the highest and most important law in the nation. Based on the principles of universal human rights, guarantees must be available to prevent infringement or violation of this principle. It is also illegal to enact legislation that restricts or voids the principle of equality, and that the Constitution is the supreme and highest law in the country, it is stressed that through the text of Article (46) of the current Iraqi Constitution stipulates that "the equality principle and the ban on discrimination cannot be curtailed or restricted, and that no rights or freedoms may be violated. An additional guarantee states that the fundamental values outlined in Chapter One and the liberties and rights

outlined in Chapter Two cannot be changed. Article 126 lays out the limitations and procedures for amending the constitution. After two electoral cycles, that is, eight years after the date the constitution was promulgated and entered into force, and after a general referendum with the consent of the people and one-third of the House of Representatives, no amendment may be made (Ismail, 2021).

When the Constitution of 2005 is examined, it is evident that the legislators considered the significance of the equality principle as a general principle throughout the text. The liberties and rights outlined in this constitution cannot be violated by any branch of government.

Means of preventing discrimination against minorities

1. Legislative procedures to prohibit discrimination.

Legislative actions to outlaw discrimination rely on the strategies and tactics used by Iraqi lawmakers to fight prejudice and advance equality among people without discrimination, beginning with the Constitution, the unassailable bastion of liberties and rights. The legislative power translates its requirements into laws, such as the currently enacted Labor Law No. (37) of 2015. It includes clauses that forbid discrimination, such as Article (2), which establishes equal circumstances free from prejudice on the basis of gender, language, or origin. In compliance with executive directives, it forbids the hiring of women in dangerous and taxing jobs. This rule is applicable to all workers in Iraq, with the exception of those in the Kurdistan Region. The law forbids women from working at night unless there are special circumstances, including in the fields of communications, entertainment, transportation, or health care. All citizens who are able to work are granted equal chances under the law, which also forbids discrimination. With the goal of establishing a long-lasting ban on discrimination and attaining equality in all spheres, including hiring and firing, the law raises paid maternity leave from 72 to 98% (Vilardo & Bittar, 2018). Although the law does not define discrimination, its primary objective is to reject discrimination and promote equality among workers in employment and occupation.

Thus, I disagree with Margaret Thornton's (2021) assertion that a single, established instance of discrimination may stop similar cases from happening in the future by paying close attention to and analyzing each discrimination complaint that is filed. This implies that equal opportunity cannot be determined by using this alone. In my opinion, the issue necessitates the existence of laws that criminalize discrimination in all of its manifestations, particularly that which minorities face as a marginalized group. This is because it is necessary to acknowledge their unique rights, define their identities, and provide them with protection within the framework of employment and equal opportunities in order to achieve equality among all people without discrimination. This is demonstrated by the Iraqi Penal Code No. 111 of 1969, as amended, which contains the regulations pertaining to the criminalization of acts, specifies the penalties imposed on them, and strives to achieve equality and avoid any division or discrimination. Numerous articles that ban discriminatory behavior and outline severe punishments for women have been published.

The law does contain provisions pertaining to them; for example, the legislator included a life sentence in prison for rape if the victim died as a result of the act and the perpetrator was an employee, a public servant, a religious figure, or a third-degree relative of the victim (Medan & Mahmood, 2015). Moreover, the lawmaker stipulates that anyone who willfully aborts a woman without her consent faces a maximum sentence of ten years in prison, with the penalty being increased to fifteen years if the abortion results in the victim's death. The lawmaker deemed this to be an aggravating circumstance for the punishment, and the same penalty was approved for

beatings that result in death. However, the distinction between the two cannot be disregarded, as the abortion that results in death is intended to harm the fetus, whereas death is achieved due to necessity (Ghalib, 2011). In addition to numerous texts that provide protection for women (Article 43 of the Iraqi Penal Code) and apply the principle of equality and non-discrimination that has been stipulated by the constitution, the legislator also granted women the right to legal defense and adequate protection in the event that they are approached by the perpetrator. The same is true for assault that results in death, which is punishable by the same law. The distinction between the two, however, cannot be disregarded because death is attained out of necessity, whereas abortion that results in death is meant to injure the fetus (Ghalib, 2011). Along with many other measures that protect women, the legislature also guaranteed women the right to legitimate defense and proper protection in the event that they engage in sexual activity with the offender (Article 43 of the Iraqi Penal Code). It put into practice the constitutionally guaranteed principles of equality and nondiscrimination.

With the enactment of Law No. 28 of 2012 to Combat Human Trafficking, offenders face harsher punishments, especially if the victim is a woman. If the victim passes away, the punishment could escalate to the death penalty because of the horrible nature of the offense and the fact that it is an insult and an attack on human rights. The lawmaker disregards the victims' consent to the crime of human trafficking in order to protect them. By offering the victims a place to stay and assistance in reintegrating into society, the state has taken the required steps to counteract this crime (Ardawan & Karzan, 2023). Additionally, the lawmaker made it illegal to do anything that causes animosity, civil war, hatred, or any other action that incites sectarianism or strife between sects. Minority members are frequently worried because hatred endangers society and results in attacks on people's freedom (Mohammed & Hamid, 2018).

Fighting against violence, which is the most harmful and severe kind of prejudice. Since the constitution forbids all types of violence and discrimination against women and attempts to safeguard the family, Law No. 8 of 2011 to Combat Domestic Violence was issued in the Kurdistan Region of Iraq. Every legal action must be taken in compliance with the law. In Iraq and other Arab nations, it is regarded as the first law pertaining to the fight against domestic abuse. Since female circumcision is the most serious type of domestic abuse, the lawmaker highlighted the offenders by mentioning fines and aggravating circumstances. Since female circumcision is the most serious type of domestic abuse, the lawmaker highlighted the offenders by mentioning fines and aggravating circumstances. Additionally, he mentioned the consequences for various types of aggression (Legal Agenda, 2025). Additionally, the Anti-Terrorism Law No. (13) of 2005 came into effect. The lawmaker made reference to the illegal conduct that a person, organization, or group may carry out with the intention of generating disorder and terror in order to accomplish terrorist objectives (Mohamed et al., 2020).

The Reports show that Yazidi women and girls, along with other religious and ethnic minorities, were sexually assaulted as a result of terrorist groups' invasion on Iraq. They were given two choices: either convert to Islam or be put to death in front of their families. Under anti-terrorism laws and attempts to record serious crimes in accordance with international norms, federal and Kurdistan Regional Courts are prosecuting those who commit crimes against the minority (Gavrilovic & Schweininger, 2019).

The organization's administrative battalion abducted women, forced them into prostitution, and sold them on the slave market in order to enslave minorities, particularly women. They are forced to convert to Islam or be executed in front of their families. Legal efforts are underway to

punish perpetrators of crimes against minorities in federal and Kurdistan Regional Courts under anti-terrorism legislation, and efforts are underway to document serious crimes in line with international standards (Gavrilovic & Schweininger, 2019).

Minorities, especially women, were enslaved by the organization's administrative brigade, who kidnapped women, made them slaves, and then sold them in the slave market, as follows in Table 1.

Table 1

The price of Yazidi women who were victims of the terrorist organization ISIS (Al-Asadi, 2020).

Price in US \$	The kidnapped' s age (years)
43 \$	40-50
86 \$	20-30
130 \$	10-20
172 \$	9

Selling a woman or utilizing her as a component of a mass assault on a group is the definition of the behavior in this context. The helpless civilian populace. By selling them or engaging in unlawful activities against them, this activity amounts to an assault on the legally protected interests since it deprives them of their freedom and rights. It is significant, therefore, that the genocide they committed against minorities - particularly Yazidis in Mosul's Sinjar district - is not criminalized by the Iraqi Penal Code (Haji, 2024).

The aforementioned table refers to the discretionary practices as the terrorist ISIS group consider women as a commodity to be bought and sold based on their age. Yazidi Female Survivors Law No. (8) of 2021 was created in order to make up for the oppression, tyranny, and prejudice that victims endured, as demonstrated by UN Security Council Resolution 2021 and international responses. Following their abduction by the terrorist group ISIS and subsequent sale on the slave market, the Yazidi Female Survivors Law enforces a number of required procedures to provide them with both financial and moral making up. The lawmaker believed that the crimes against them amounted to genocide against the Turkmen Shabak Christian community, a minority group of women in Iraq. To honor the suffering of the Yazidis, the lawmaker mandated that August 3rd be declared a national holiday every year (DW, 2025).

2. Judicial procedures to prohibit discrimination.

National and international law set the essential norm for the court, which continues to be a vital tool and foundation for fighting prejudice, as a result of anti-racism efforts and equality-calling campaigns. Since the purpose of outlawing persistent discrimination is to provide opportunities for significant and underprivileged groups through legal complaints filed by these minorities, early interpretations of this principle suggested that traits enjoyed by individuals or particular groups, such as race or gender, are not optional and should not, therefore, influence how these individuals are treated before the state or its actors. Preferential treatment for this group must be justified by a valid goal, according to some courts of law. Other courts of law focus on correcting damages to social standing or public positions to promote equality (Dupont, 2016).

The vital and crucial role Iraqi courts play in enforcing criminal justice through litigation against discrimination or violations of equality rights in any setting, especially the workplace, is a representation of judicial proceedings. Within the parameters of the Labor Law, the legislature

makes it illegal to violate the right to equality (Article 11 of Labor Law No. 201537). He said that if the worker is subjected to an act that would violate the equality principle, he may submit a case with the Labor Court. The Labor Court specializes in examining lawsuits filed by individuals subject to the mandatory rules of Labor Law. The judiciary applies the rules of Labor Law and the rules of related laws, such as the Code of Civil Procedure. Civil Law (Al-Azzawi, 2021).

Judges and arbitrators frequently have preconceived notions about particular racial groups, which may affect how they evaluate the cases that are brought before them. It is important to remember that formal judicial norms cannot totally eradicate these biases, no matter how hard they try. The fact that many types of discrimination against women and minorities have drastically declined as a result of our shift to the contemporary world and arbitration procedures serves as evidence of this (Craver, 2017).

Defending minorities' rights and shielding them from prejudice. We must highlight the involvement of the Iraqi Criminal Court in this context. Since it is comparable to the International Criminal Court in the former Yugoslavia, which was established by UN Security Council to punish those responsible for serious violations against civilians and the crimes and atrocities they committed, based on a legal obligation, which is to maintain and restore international peace and security, the establishment of a special court is an essential component of the strategic plan to restore security and peaceful stability to the civilian population in all parts of Iraq (Newton, 2005). It was created in accordance with Law No. (10) of 2005, which specified in Article 12/First the crimes that are under the court's jurisdiction, including crimes against humanity. For the purposes of administering the Criminal Court's law, it refers to actions carried out with knowledge of a broad or systematic attack against any group of civilians, including those involving forced prostitution, rape, slavery, and sexual slavery. The lawmaker mentioned one of the types of discrimination that the court can examine, but with the passage of Law No. 35 of 2011 (Al-Abbasi, 2015), the court was disbanded and its operations came to an end. Even though the Penal Code is governed by the mandatory legal rule that "no crime or punishment except by text" and the Iraqi legislators did not address the criminalization of discrimination, its texts contain numerous deterrent penalties against those who engage in discrimination. As a result, victims who experience discrimination or marginalization are guaranteed the right to go to court and file a lawsuit or criminal complaint to demand that criminal measures be taken against the perpetrator of the act to the investigating judge, investigator or any official in the police station, if there is any act that constitutes discrimination or marginalization of the individual or a certain group, as it violates human rights, and if he suffers material damage as a result of discrimination, he has the right to claim civil rights (Articles 1 and 10 of the Iraqi Code of Criminal Procedure for the year (1971)). We see that it refers to Article (102) of the Constitution, which also referred to an important guarantee, which is the establishment of High Commission for Human Rights as an independent body that exercises its oversight over the executive authority, although the Constitution did not specify its jurisdiction and objectives, but the Commission Law clarified that (Al-Obaidi, 2009).

The goal of High Commission for Human Rights High Commission for Human Rights is to protect human rights in Iraq, as stipulated in the Constitution, and to coordinate with relevant authorities to establish joint working mechanisms and deal with civil society institutions in the field of human rights. The Commission receives complaints from all citizens and civil society organizations about human rights violations and achieves the principle of equality by initiating lawsuits and taking legal action. The criminal authority of the High Commission for Human Rights is based on Article (5) of its Law No. 53 of 2008. It sets the rules for anyone who commits

violations that constitute an assault on human dignity, discrimination or exclusion by exercising its exceptional authority granted to it by the legislator to monitor violations and receive complaints. If it is confirmed that there is discrimination or violation of the rights of individuals, it initiates a criminal lawsuit and refers the case to the Public Prosecution to complete the rest of the necessary procedures to redress the victims. Additionally, it alerts the relevant authorities to any infractions committed by inmates in jails and detention facilities (Al-Hassani, 2022). Since victims of human rights violations may be reluctant to file a complaint or go to court, the presence of an influential and effective civil society has a significant impact on the scope of human rights, as required by the principles of Paris. Civil society organizations are essential in providing human rights stakeholders with detailed information on cases of violations, as well as alerting relevant authorities to structural or legislative deficiencies and updating them of changes (Abdullah, 2022).

Conclusion

The Iraqi Constitution's ban on persistent discrimination and its legal foundation are discussed in this manuscript. There is no particular constitutional foundation for women or minorities, according to an analysis of the constitution's language. Instead, the lawmaker has established a foundation for every citizen. Even while laws are in place, they are insufficient to address violations of the equality principle because they lack the legal structure needed to bring offenders to justice and give victims of prejudice justice. Legislative failures in the execution of criminal justice processes are to blame for this. Iraqi law only makes some of these heinous transgressions illegal, not others. The absence of courts devoted to human rights or discriminatory crimes results in a loss of accountability, even if the Iraqi government has made an effort to document serious crimes through the actions of judicial organizations. A proactive, transformative approach to the legislative, executive, and civil society structures is necessary due to victims' fear of coming out about the discrimination they experience and their trust in the state. This calls for the enactment of the relevant anti-discrimination legislation, the application of criminal justice regulations, the creation of special courts to hear instances involving discrimination, the implementation of human rights-enhancing policies, and the evaluation of compensation plans. This is the best and most logical approach to putting the sustainable prohibition of discrimination into practice.

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