



Mandaean Human Rights Group
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Submission on behalf of the Mandaean Human Rights Group to the Human Rights Committee's Periodic Review of Iraq in October 2015

Background

1. The Mandaean Human Rights Group (MHRG) represents the Sabian Mandaean community, an ethno-religious, linguistic minority and an indigenous people from Iraq and Iran, numbering approximately 60–70 thousand individuals with our own independent 2,000-year-old religion and our own language, a dialect of Aramaic. The Mandaean homeland is primarily in Iraq with a population of 50,000 in 2003,¹ and a smaller community of 5,000 in Iran.
2. The situation for the Mandaean people is extremely grave at this time with a very real threat that Mandaean cultural heritage and identity will be entirely eliminated within a generation.
3. The threat to the Mandaean people originates in extreme persecution within Iraq. However, the responsibility for protecting the Mandaean culture is now a matter for States around the world, and the international community as a whole, particularly as manifested in the UNHCR.
4. The biggest conceptual legal challenge is to assert the rights of the Mandaeans as an indigenous people in the international arena. These rights must be vindicated by all States with a Mandaean population and by UN agencies. The alternative is to allow the intentions of certain elements within Iraq who wish to eliminate the Mandaean people to be realised, enabled by the inaction of the international community.

Persecution and Refugees

5. Since 2003 the Mandaean people in Iraq suffered persecution from religious fundamentalists, ethnic supremacists and from criminals.²
6. Only 6,000 remain in Iraq meaning that 90% of Mandaeans are now refugees.³ The Mandaean community has therefore suffered more displacement than other groups in Iraqi society.

1 MHRG, *Mandaean Human Rights Annual Report* (2011), p. 4.

2 This persecution has been detailed in the MHRG submission to the Universal Periodic Review of Iraq, available at <http://www.upr-info.org/en/review/Iraq/Session-20---October-2014/Civil-society-and-other-submissions>, and is referenced in the *Summary prepared by the Office of the United Nations High Commissioner for Human Rights: UPR of Iraq* (2014) UN Doc. A/HRC/WG.6/20/IRQ/3 para. 67. Extreme persecution of this very small community is continuing and further developments are documented in the MHRG submission to the Human Rights Committee's periodic review of Iraq, 2015.

3 These figures come from contact with the Mandaean Associations' Union.

7. The number of Mandaeans around the world has been calculated as follows by the Mandaean Associations' Union:

Country	Mandaean Population ⁴	Mandaean Priests ³
Iraq	6000	12 priests
Iran	2,500 or higher	5 priests
Syria	1,000	1 priest
Jordan	400	None
Australia	8,000	10 priests
USA	7,000	2 priests
Canada	1,000	None
Sweden	9,000	9 priests
Netherlands	3,600	2 priests
Germany	2,200	1 priest
Denmark	1,200	1 priest
Elsewhere in Europe ⁵	1,300	None
Elsewhere in the World ⁶	100	None

8. This means that 20,000 or 40% of Iraqi Mandaeans from 2003 are unaccounted for, indicating the grave threat to the Mandaean people's existence and identity.
9. At least 2,500 Mandaeans live in a state with no Mandaean priests. Many thousands of others live in regions within states where there are no Mandaean priests. For example, the Mandaean community in USA is dispersed between California, Idaho, Illinois, Massachusetts, Michigan and Texas. The priesthood is very important in the practice of the Mandaean religion, and those without access to a priest cannot practise their religion or bring their children up in their religion.
10. The Mandaic language has been classified by UNESCO as "critically endangered".⁷ Its use is primarily through ritual, and therefore the decline of religious practice is further endangering the language.
11. The dispersal of Mandaeans is also preventing them from carrying out social rituals, traditions and customs, and thus from maintaining their integrity as a distinct people, their cultural values and ethnic identity, protected under the Declaration on Indigenous Rights.
12. The dispersal of Mandaeans has meant that they are no longer able to educate their children with their history, traditions and religion.

Rights of the Mandaean People

13. As an indigenous people, the Mandaean People have both binding rights under ratified international law, and declared rights under the UN Declaration on the Rights of Indigenous Peoples.
14. The Mandaean People have a right not to be forcibly moved from their territories under the ILO Tribal Populations Convention, art. 12.⁸
15. The ILO Indigenous and Tribal Peoples Convention,⁹ contains numerous rights pertinent to the Mandaean people. Under art. 6, the Mandaean people are entitled to be consulted about "legislative and administrative measures taken which may affect them directly". Under art. 4, special measures to safeguard persons should not "be contrary to the freely-expressed wishes of the peoples concerned". Under art. 5 States must consider "the social, cultural, religious and spiritual values and practices" of the Mandaean people, when applying the Convention. Under art. 8 they are entitled to "retain their own customs and institutions."

⁴ Data from the MHRG. and the Mandaean Associations' Union.

⁵ Principally Finland, France, Italy, Norway and the United Kingdom.

⁶ Including Indonesia, Malaysia and Turkey.

⁷ UNESCO, Atlas of Endangered Languages (<http://www.unesco.org/culture/languages-atlas/en/atlasmap.html>).

⁸ (adopted 26 June 1957; entered into force 2 June 1959) ILO C107.

⁹ (adopted 27 June 1989; entered into force 5 Sept 1991) ILO C169.

16. Most significantly for exiled Mandaeans, under art. 32, the Indigenous and Tribal Peoples Convention requires States to “take appropriate measures, including by means of international agreements, to facilitate contacts and co-operation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields.”
17. The Declaration on the Rights of Indigenous Peoples¹⁰ enumerates a number of relevant rights for the Mandaean people. Under art. 8.1, they are not to be subjected to forced assimilation or destruction of their culture and should be provided redress for:
- a) “Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;”
 - b) “Any action which has the aim or effect of dispossessing them of their lands, territories or resources;”
 - c) “Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;”
 - d) “Any form of forced assimilation or integration;”
 - e) “Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.”

While the State in which an indigenous people has its homeland is obviously has the primary obligation, a failure to acknowledge the responsibility of other States will mean that the Mandaeans’ integrity as a people will be undermined, and their forced population transfer will undermine their rights, and they will ultimately be assimilated because of persecution in Iraq.

18. The Declaration, art. 7 states that indigenous peoples “have the collective right to live in freedom, peace and security as distinct peoples.” While persecution in Iraq has undermined the Mandaean people’s peaceful existence, their ability to live as a distinct people has been further undermined through dispersal around the world.
19. The Declaration, art. 3 states that indigenous peoples have a right to self-determination under which “they freely determine their political status and freely pursue their economic, social and cultural development.” Such development is impossible for the Mandaean people because of their dispersal.
20. Under the Declaration, art. 18, the Mandaean people have the right to “participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures.” Under art. 19, States should obtain their “free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.” The Mandaean people have representative structures such as the Mandaean Associations’ Union who can represent them. Although the Union has been consulted in relation to some issues, it has not been consulted with regard to any solution to the dispersal of Mandaeans around the world.
21. The Declaration, art. 23 states that indigenous peoples “have the right to determine and develop priorities and strategies for exercising their right to development.” The Mandaean people urgently need to be able to determine strategies at this moment of extreme crisis.
22. Under arts. 11–14, indigenous peoples have the right to maintain their “cultural traditions and customs”, their “religious traditions”, and their “histories, languages, oral traditions, philosophies, writing systems and literatures” and to “establish and control their educational systems.” These rights are severely impeded by the dispersal.
23. The rights of the Mandaean people, if implemented, would permit the Mandaean people to maintain their identity and cultural heritage. However, due to the failure of the international community to recognise the seriousness of the threat to their existence, and through their lack of participation in international political and public life, they find it extremely difficult to claim these rights.

Individual Rights of Mandaeans

24. These rights of the Mandaean people are also bolstered by individual rights of Mandaeans. Mandaeans have the right to practise their religion. This right is enshrined in the International Covenant on Civil & Political Rights (ICCPR), arts. 18.1 & 27, Convention on the Rights of

¹⁰ 13 September 2007 (A/RES/61/295).

the Child (CRC), art. 4.3, and the Convention relating to the Status of Refugees (the Refugee Convention), art. 4.¹¹

25. Mandaean have the right to bring their children up according to their religious convictions. This right is similarly enshrined in the ICCPR, art. 18.4, CRC, art. 4.2.2 and the Refugee Convention, art. 4.1.
26. Individual Mandaean also have a right to participate in the cultural life of the community according to the International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 15.¹²
27. The realisation of all these rights is impeded, and for some individuals denied, through persecution in Iraq, but also through the dispersal of these communities through resettlement programmes that do not take account of their unique identity and needs.

Asserting these Rights to the International Community

28. Most commentary assumes that the rights of indigenous peoples will be claimed from the State within which their ancestral lands lie. However, the preservation of the existence of the Mandaean people is dependent on States around the world and on the international community.
29. The UNHCR registers Iraqi refugees throughout the Middle East. When States agree to accept refugees for resettlement, the UNHCR processes this offer, identifying individuals to be resettled. The sole criteria on which persons are selected for resettlement are individual vulnerability, membership of immediate families, and national origin. This results in the thin dispersal of small communities throughout the world. While the Mandaean people are extremely grateful for the support given by the UNHCR, unless supplemented by further measures, this policy, while saving many individuals, may contribute to the extinction of the Mandaean people, and the denial of the rights of Madaeans to practise their religion and to bring their children up within it.
30. Host States have very generously resettled Iraqi refugees within their borders, providing support for integration. However, the distinct identity of indigenous peoples has not been taken into account in these policies, meaning that Madaeans are widely dispersed within States, preventing the preservation of Mandaean culture and identity and providing a significant obstacle to realising their right to practise their religion and to bring their children up within it. While Madaeans are very grateful for the protection they have been offered, the methodology of their resettlement has undermined their rights as individuals and as a people.
31. The Mandaean Human Rights Group are calling on the UNHCR and host States to preserve the Mandaean people through the voluntary repatriation of isolated Madaeans to States and regions within States where they can integrate into established Mandaean communities. The Mandaean Human Rights Group and the Mandaean Associations Union, representing the Mandaean people, can assist in this process.
32. It is also important that guidelines be developed for the resettlement of refugees who belong to indigenous peoples to ensure that the UNHCR and host States take account of the preservation of their heritage and their rights as a people when implementing resettlement policies.
33. Without the recognition that the rights of indigenous peoples may be claimed not just from the States in which their homelands lie, but from other States and UN agencies, indigenous peoples' rights will be denied to those peoples who are most vulnerable, *i.e.* those who are in exile because of persecution in their home territory.

11 ICCPR, adopted 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976); CRC, adopted 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990); Convention relating to the Status of Refugees, adopted 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954), as amended by the Protocol 606 UNTS 267 (entered into force 4 October 1967).

12 ICESCR, adopted 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976).