



Alliance for Rights “Houqoq” for the Universal Periodic Review

Presented to the Office of the United Nations High Commissioner for Human Rights (OHCHR)

Second Universal Periodic Review for the Republic of Iraq

Alliance for Rights

Driven by the responsibility to present a real picture of the status of human rights in Iraq from the perspective of stakeholders, the Alliance for Rights “**Houqoq**” was established at the end of 2013 by a number of Iraqi organizations to present the situation of human rights to the UN Human Rights Council (UNHRC) via the Universal Periodic Review report (UPR) which will be studied and discussed by the UNHRC in November 2014.

This alliance involved several prominent organizations, some of which have been active for decades and have expanded their activities and established branches in a number of Iraqi governorates. The member organizations in the Alliance for Rights include:

Tammuz Organization for Social Development (TOSD), Iraqi Council for Peace and Solidarity (ICPS), Information Center for Research and Development, National Union for Iraqi Journalists (NUIJ), Press Freedom Advocacy Association in Iraq, Ufouq Organization for Human Development, the Association of the Engineering Profession, and the Organization of Iraqi Women for Peace and Democracy.

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1. Civil and Political Rights

1.1 The Political Parties Law

Iraq still lacks a political party's law despite the fact that the first law of political societies (parties) in Iraq was endorsed in 1922. It was the first law that aimed at regulating the work of political parties. Other laws and instructions that have regulated partisan life after 2003 include the Coalition Provisional Authority Order no 97 for 2004. It defines a political entity as an organization, such as political parties, that has eligible voters who voluntarily cooperate based on common ideas and interests to express their interest. Such an organization has the ability to influence and to empower their representative to run for election provided that this organization obtains credibility (the number of registration from The Independent High Electoral Commission (IHEC)).

The Iraqi government drafted the bill for the Political Parties Law in early 2011 and sent it to the parliament to ratify and enact it. Yet the discussion did not go beyond the first reading of the bill. Observers with knowledge of law argue that it was as if the bill was only for the forces represented in the parliament whereas the objective of the law is to regulate the partisan and political life in Iraq today and in the future. Needless to say, the executive authority should not be the body that licenses political parties. This mission should be given to a neutral and independent body in order to keep the government out of this domain. Also, the law is supposed to allow for the practice of easy and smooth partisan life without administrative or political obstacles and deliberate complexities. The law should be clear about funding, political capital, militias, use of the institutions of state and its symbols, resources, and external relations. The laws should also secure the independence of the political parties and prevent meddling in their internal affairs except when they conduct their internal affairs in contradiction with democracy. On the other hand, political parties can be funding from the government's budget in a manner that is fair and just.

1.1. Recommendations

1. Enact a political party's law in a way that secures transparency and equality, reinforces the rules of peaceful competition, and enhances the democratic practice. It should clearly—without ambiguity or imperfection—guarantee the course of political life in Iraq on the basis of democracy and political participation.
2. It is important to secure the public participation in the discussion of the law and publish it widely in the media.
3. Reduce the age of those who want to found or join political parties to 18 years.
4. Secure the participation of women in the structures of political parties and reinforce their contribution in the partisan life through clear legal text.
5. Enact a political parties law that defines clearly the sources of funding.

Universal Suffrage

1.3 The Legal Legislation

The Parliamentary Elections Law is based on the then balance of power within the Iraqi parliament when it was drafted. The law has suffered from some flaws such as the theft of votes when the law grants those lists which reach the electoral threshold the right to claim the votes of the lists which failed to reach the electoral threshold. This legislation has generated frustration and for this reason a number of political forces and parties filed a complaint in the Iraqi courts to rule whether this is in contradiction with the articles of the constitution which say that people are free to elect whomever they see fit to represent them. NGOs also launched a successful campaign on this issue. The federal court ruled in favor of forcing the parliament to enact a law to secure the rights and freedom of citizens. As a result, the law was amended, including the article that deals with allotment of seats. The Sainte-Leguë Method was adopted for provincial and council elections in 2013. It was amended to the modified Sainte-Leguë Method, which takes the version of 1.6 in the parliamentary elections scheduled in April 2014.

2.3 The Independent High Electoral Commission (IHEC)

The Iraqi Parliament selected the council of the commissioners according to a formula of allocations among blocs and lists. This generated a council of commissioners that is not neutral and lacks independence. The decision of the IHEC to use ration card data provided by the Ministry of Trade—which is inaccurate—to define voter registration led to the disenfranchisement of many eligible voters who did not find their names in the voter lists.

1.2. The Role of NGOs

NGOs play a significant role in monitoring elections and guaranteeing their fairness. These organizations were vigilant to keep an equal distance from all political parties and blocs. They observe and monitor all stages of the elections rather than only the day of voting. On the whole these efforts are voluntary. NGOs have spotted a number of violations, some of which took place before voters cast their votes. An example of these violations is spending on promotion and advertising especially when the IHEC did not activate deterrent measures. Besides, there is no accountability or monitoring of the source of funds for election campaigns. The reported violations on the day of election took the shape of "collective voting" especially when elements from the security apparatus and the remote areas cast their vote. Also political advertising continued even on Election Day inside polling places, which is against the law. Other violations that took place in other elections were also recorded.

1.3. Recommendations

1. Conduct a census in Iraq to generate accurate data about citizens and voters and can guarantee the valid voter registration.

2. Enact a law for political parties to compel them to reveal sources and size of funding as this can help monitor electoral spending.
3. The IHEC should issue preventive penalties to eliminate electoral violations and the exploitation of public activity. It can also help secure media silence even if this entails depriving the political party from taking part in elections.
4. The state should provide appropriate funding and full support to the network of NGO observers.
5. Adopt smart cards and electronic voting to secure the fairness of elections.
6. Increase the number of ballots and set up electoral centers close to where voters live, especially in remote and provincial areas.

Freedom of Speech and Expression

1.4 Freedom of Expression and Peaceful Demonstration

Freedom of speech in Iraq—whether of individuals or journalists—is yet to be complete. In fact, the legislative environment and the constraining procedures for freedom of expression are obvious. In addition to that, those who seek to express peacefully a particular issue are still often scared to do so. They fear that they may be targeted by political parties, politicians, or a group with different ideas.

The right of demonstration—which is safeguarded by the constitution—has been constrained. Demonstrators must get a license rather than just inform the authorities of their intention to demonstrate. On top of that, the government resorts to violence to block and disperse demonstrators. The arrests of activists while repressing demonstrations since February 2011 is clear proof that a majority of demonstrations never obtained official approval for the demonstration. Hence, the government dealt harshly with these demonstrators.

Journalists in Iraq with no Rights nor Safety

The regime has succeeded neither in providing a safe environment for journalists nor in empowering journalists by guaranteeing their rights, particularly the right to access information or the right to freely publish information. It also failed to create a suitable professional environment for journalism.

In this context of limited freedom of expression, al-Maliki's second government enacted the "Journalist's Rights Law," which in effect limits the freedom that newspapers and other mass media had enjoyed since 2003. The new law imposed constraints on the right to have and access information and the right to publish information. The law gives journalists the right to publish information "provided that this must not contradict with the law, public order, and public manners." The government also pushed for legislation on the IT crime and another on the freedom of expressions and demonstration. The drafts of the two bills were extremely bad to the extent that many journalists, members of professional media organizations, and

activists organized a counter campaign. This campaign convinced the parliament to withdraw the two drafts from consideration.

Iraqi Journalistic Freedoms Observatory (JFO) listed 293 violations of the press freedom in 12 months from May 2012 and May of 2013. These violations include 68 cases of detention and arrest, 95 cases of harassment, 68 cases of attacks, 7 cases of armed attacks, 51 other violations, and 13 closures and suspensions of work permits. According to the International Committee to Protect Journalists, murderers of journalists got away and the government failed to arrest them. Over the course of ten years, some 270 journalists were killed in their offices or in the field or even in their homes. It is presumed that armed organizations, criminal gangs, and some governmental bodies are behind the killing.

In this context, Iraqi journalists lack the laws that secure their professional rights such as work contracts, yearly vacation, social security, and pension. This turns Iraq into a country where journalists lack the requirement and conditions of legal, security, environmental, and professional safety conducive for journalistic work.

3.2. The Legal Environment for the Freedom of Press and Expression

Interestingly, rather than abolishing the legislation inherited from the former regime and rather than enacting new legislation to secure public liberties and rights that strengthen the democratic experience, Iraqi authorities retained the existing legislation. Furthermore, the authorities presented bills that contradict the essence of democracy, the spirit of the constitution, and the international agreements to which Iraq has ratified.

As far as the freedom of press is concerned, the Law of Journalists' Rights—which was endorsed by the parliament in August 2011—represents a serious challenge to freedom of the press in particular and for the freedom of expression in general. The law includes some articles that legitimize the activation of laws inherited from the previous era such as the Iraqi Penal Law number 111 of 1969, the Press and Publication Law number 206 of 1968, the Law of the Ministry of Information of 2001, the Law on Censorship of Classified Material and Cinema number 64 of 1973, and the Press Association Law of 1969.

In addition, CPA order number 14 (2003), which deals with banned media activity, gives the prime minister the prerogative to close any media means, confiscate its money and equipment, and jail its workers. The bill concerning "IT crimes" includes 31 articles and tens of paragraphs outlining penalties that range from life imprisonment to large fines. This makes the bill one of the most severe since 2003. Needless to say, it contradicts the text of the constitution.

That being said, the only dimension that represents some hope in protecting and reinforcing the freedom of expression is the announcement by the Media and Culture Committee of the Iraqi parliament in October 2013 that it was presenting a bill on "the

right of access to information" for the first reading. The proposal was in line with the international criteria for freedom of expression. Yet, hopes were soon dashed when the government withdrew the bill and forced the parliament to discuss a different draft prepared by the State Shura Council. The draft is designed to block access to information under various pretexts and does not allow journalists or citizens to have an access to important data and information.

1.4 Recommendations

1. Modify the Journalists' Rights Law to provide a safe environment for journalists to work in while securing the free flow of information without conditions or constraints.
2. Modify the Journalists' Rights Law so that it is consistent with letter of the constitution and the international conventions. The law should secure the rights of journalists in their own institutions and enable them to have suitable income even during holidays or when they reach the pension age.
3. Withdraw the entire bill on IT crimes and therefore nullify the need to activate it by the judicial authority.

4. The Right to Organize Professional Associations

Eight decades have passed since the General Federation of Trade Unions in Iraq was established. And yet, professional associations and unions still face significant challenges. Chief among these obstacles are decisions numbers 3 and 4 (2004). Furthermore, maintaining the decision of the Revolutionary Command Council number 150 (1978), which turned all workers into employees and forced all medical and engineering specialists to join the General Federation of Trade Unions in Iraq is a serious problem. Worse, the trade union and professional associations are dealt with on the basis of ethnic, political, and sectarian allocations. A number of governmental decisions that were issued in 2003 do not recognize professional associations and the trade unions. As a result, the government set up ministerial committees, which attempt to control the movable and immovable funds of professional associations and oversee their elections.

4.2. Recommendations

1. Endorse a law to regulate the work of the professional associations in accordance with the text of Article 22 of the Iraqi Constitution.
2. Ratify the Freedom of Association and Protection of the Right to Organize Convention No. 87

Part Two: Economic, Social, and Cultural Rights

5. The Right to Social Security

The Human Development Report of 2005 states that although the right to life and security is among the most basic human rights, they are the most violated. In Iraq, Article 30, Clause One of the constitution states that "The State shall guarantee to the

individual and the family – especially children and women – social and health security, the basic requirements for living a free and decent life, and shall secure for them suitable income and appropriate housing." The second clause of the same article states that "The State shall guarantee social and health security to Iraqis in cases of old age, sickness, employment disability, homelessness, orphanhood, or unemployment, shall work to protect them from ignorance, fear and poverty, and shall provide them housing and special programs of care and rehabilitation, and this shall be regulated by law."

These two clauses establish that social security—in addition to health security and the rights to housing and education—is guaranteed by the constitution. Nevertheless, the state has not succeeded in enforcing a law pertaining to this article of the constitution. This article that is so vital for the ending poverty and deprivation suffered by the more than six million Iraqis (21% of the total population) who, according to a UN survey published on 18 October 2013, live under the poverty line. As a human rights issue, the regulation of this article of the constitution as law could decrease the class differences and secure the basic needs of Iraqi citizens in a country with huge financial resources.

The activation of this article of the constitution will provide the unemployed, widows, orphans, divorced women, and the elderly with a decent life free from the exploitation and humiliation that is common among the deprived classes. This is an internationally recognized human rights issue according to Article 22 of the Universal Declaration of Human Rights.

5.1. Recommendations

1. Implement the suspended Article 30 of the Iraqi constitution as it contains comprehensive guarantees for the Iraqi individual.
2. Set up a social security fund in proportion with the huge financial revenue of the state. The state should deposit funds gained from the commercial and oil contracts in this fund rather than giving it to political leaders and partisan entities.
3. Endorse a civil work law to support the private sector and support employment security.
4. Endorse the social security law in order to secure a decent life for all citizens and to ensure social justice.
5. Ratify International Labor Organization convention number 102 (1952) pertaining the minimum criteria for social security.
6. Ratify the International Labor Organization convention number 128 (1967) pertaining to assistance for old and disabled persons and their heirs.

6. The Right to Health Insurance and Health Care

Iraq ratified the International Covenant on Economic, Social and Cultural Rights in 1971. Article 12 of the ICESCR states that " The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health". Despite Iraq's ratification of the ICESCR and despite the rights outlined in the Iraqi constitution, the reality in Iraq is that the state has yet to fulfill its commitments under the constitution and international agreements, especially when Iraq's financial capabilities permit it to do so.

6.1. Health Insurance

Iraq has not yet enacted a law to regulate health insurance and to give citizens the right to access funds to address their health needs in time of sickness, elderly, or

inability to work, unemployment, orphanhood, or homelessness. This is the case despite the existence of article 30 of the Iraqi constitution that outlines the imperative to regulate this matter as law. The only attempt to do so was the preparation of bill on social insurance, which also covers health insurance. And yet, this bill was shelved by the government despite that fact that the State Shura Council scrutinized it.

6.2. Medical Care

Article 31, Clause One of the Iraqi constitution states that "Every citizen has the right to health care. The State shall maintain public health and provide the means of prevention and treatment by building different types of hospitals and health institutions." Evidence suggests that Iraq has not fulfilled these commitments.

6.3. Recommendations

1. Increase the percentage of budgets allocated to the fund for health finance to 10 percent.
2. Establish more healthcare centers and hospitals by increasing funding for these institutions.
3. Endorse the health insurance law that guarantees financial coverage and the protection against sickness for all strata of society.
4. Ratify the International Labor Organization convention number 130 (1969) pertaining to the Medical Care and Sickness Benefits Convention.

7. Right to Housing

Undoubtedly, housing is a serious problem in Iraq, particularly in big cities. This should surprise no one given the demographic growth, internal migration from the countryside to the city, and forced migration due to the deteriorating security situation. Added to that is the failure of the previous and current housing programs.

7.1. Unplanned Housing and the Housing Crisis

Tens of thousands of unplanned housing structures with little access services are spread randomly across the country. This kind of unplanned housing increased with the deteriorating security conditions, forcing many to leave their original neighborhoods and homes. Migration from rural areas to the cities is one of the reasons for the expansion of the unplanned housing and settlements. The poverty rate is about 19 percent, according to Central Organization for Statistics, a reality that pushed many to live in unplanned housing.

7.2. The Constitution and the Right to Housing

Iraq's constitution of 2005 secures the right to housing for all citizens. Article 30, Clause Two of the constitution establishes this right in addition to other human rights. Unfortunately, this right has yet to be regulated as law to benefit a wide cross-section of the society. Reasons for this lack of regulation as law include the continuation of the political problems, which influenced legislative priorities. Indeed, this political infighting is one of the most important reasons why the constitutional text was not translated into a law. In 2011 parliament enacted the Housing Fund Law number 32, which grants individuals loans and installments for building houses. This fund presented limited opportunities, allowing some 58,910 people to construct houses.

7.3. The National Policy for Housing

The Iraqi Ministry of Construction and Housing put forward the National Policy for Housing in 2010. It outlined the challenges that Iraq will face in implementing the a policy:

1. The balance between supply and demand among other obstacles made it difficult to provide enough housing to meet the demands of the increasing numbers of the population.
2. The system of administering land does not allow for repurposing land to be used for housing purposes. As a result, there is an acute shortage of land suitable for construction in urban areas.

When we examine the above-mentioned challenges that face implementation of a National Policy for Housing, we conclude that the government has not had any significant achievements. Indeed, there is another issue that limits expanding the number of housing units. The management of the land fit or semi-fit for construction is rather complex. The reason for this situation is the bureaucracy and the high level of administrative and financial corruption in Iraq.

7.3. Recommendations

1. Address the problems outlined by the National Policy for Housing.
2. Simplify the bureaucratic procedures for managing and administering the land that is fit or semi-fit for housing.
3. Expand the program that grants loans to those who seek to build their own houses.

8. The Right to Education

Article 34 of the Iraqi constitution states: "First: Education is a fundamental factor for the progress of society and is a right guaranteed by the state. Primary education is mandatory and the state guarantees that it shall combat illiteracy. Second: Free education in all its stages is a right for all Iraqis." For this reason, free education should be primarily supported though the allocation of sufficient funds in the budget. During the last few years, the expenditure (out of the gross expenditure) on education has been 9.4% in 2013, 9.7% in 2012, 9.7% in 2011, and 10% in 2010. By comparison, other countries allocate some 20-25% to education.

8.1. School Construction

One of the problems that Iraq faces in the construction domain is school buildings. There is an insufficient number of school buildings given to the annually increasing numbers of the pupils. The shortage reaches some 6500 buildings. Additionally, some 40% of the schools need rehabilitation and maintenance. Also, many schools share facilities, meaning that more than one school occupies the same building. The number of pupils in each class can go up in some schools to reach 60-90 students in the same class.

8.2. Illiteracy in Iraq

Youth make up 62% of Iraqi society. But the majority of statistics about illiteracy are based on data that is more than fifteen years old. The last official census in Iraq was conducted in 1997. The most recent surveys do address the status of illiteracy although the picture they give is not as comprehensive. Therefore, there are no reliable statistics on the illiteracy rate in Iraq. The current available data indicates that the literacy rate is about 80% while the illiteracy rate is between 18-20%. Illiteracy among women is, however, is 27% compared to 12% among men.

Rural communities suffer from illiteracy more than the urban centers. It is worth noting that the percentage of illiteracy among women in both rural and urban areas is higher than those of men. Less than 50% of women between the age of 15-24 who live in rural areas can read and write, compared to 72-80% of women in urban areas close to Baghdad.

8.3. Recommendations

1. Give priority to the education sector and increase the financial allocation to education in the government's budget.
2. Activate the Law on Compulsory Schooling in the elementary stages and modify the law to make education mandatory through the primary stage as well.
3. Provide suitable school buildings taking into account the number of students and geographical coverage.
4. Institute a clear plan to reform higher education based on the principle of maintaining the sanctity of the campus and the independence of colleges and universities.

9. Administrative and Financial Corruption in Iraq after 2003

Administrative and financial corruption in Iraq has been deemed one of the most important problems that Iraq has faced post-2003 period. This widespread phenomenon is due to the weak rule of law, the modest level of monitoring of governmental institutions, and the tacit protection of corrupt people in these institutions. In 2013, the budget of Iraq was \$119 billion. But the Iraqi economy suffers from exchange rate fluctuations of the Iraqi dinar, which impacts the personal economic situation of Iraqi citizens. This is ascribed to money laundering and administrative and financial corruption – which cost the state a \$3 billion loss only in two months in 2012.

9.1. Foreign Assets

In August 2012, The Iraqi Central Bank announced that its reserves of hard currency had reached \$67 billion and government announced that the protective assets in the Development Fund for Iraq had reached \$18 billion. The reserves of the Central Bank decreased by 20% in 2011. In the course of just one year, Central Bank reserves decreased from by 39 tons of gold in 2011 to 31 tons in 2012. Skeptics allege that the management of the central bank is responsible for the disappearance of 8 tons from the gold reserve. Of course, Iraq needs this reserve to back the value of the dinar in the market and assets outside Iraq.

9.3 Recommendations

1. Develop strategies to combat unemployment and inflation that discourage all kinds of corruption.
2. Implement laws related to financial and administrative auditing. Do not exclude any official from legal accountability and develops lists describing the personal financial assets of these officials.
3. Implement the articles included in the United Nations Convention against Corruption and include them in the national legislation.