

The Reality of Freedoms of labor Union & Social Securities And the Rights of Foreign Labors in Iraq

A Presented Report within the Stakeholders' Reports
Universal Periodic Review – Iraq – 2019

Prepared in accordance to the Paragraph 15 (A) in the Resolution Annex 5/1 of
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This report is prepared by Rights and Freedoms Alliance (RFA) with the support of the following organizations:

1	Peace and Freedom Organization
2	Union's Federation of Petroleum and Petrochemicals in Iraq
3	Union's Federation of Independent Occupation and Labor in Iraq
4	General Federation of Labors' Unions in Iraq
5	Iraqi Federation of Labor Unions
6	General Federation of Labors and Employees Unions of Iraq
7	Syndicate of Technical Engineering Professions

1. Lack of Freedom of Unions Establishment

1.1: The Problem

5 Labor Union Federations submitted a request to the Ministry of Labor and Social Affairs to establish labor union federations, but their registration was rejected due to the existence of Law 52 for 1987 which rejects pluralism and freedom of association; Although, the Iraqi constitution which issued in 2005 affirms freedom of association and Iraq ratifies the Convention on Freedom of Association No. 87 for 1948, issued by the International Labor Organization at the end of 2017. There are labor unions that operate without a clear legal basis and are discriminated in dealing with them¹.

A number of union leaders were arrested, threatened and their homes were broken, including (**Faiq Hussain**), member of the Executive Office of the Labor Union Federation, who was arrested and referred to the court in April 2015 for his participation in a labor sit-in (<https://www.almubadarairaq.org/?p=2055>). As well as the case of the Chief of the Labor Union Federation in Basra (**Abdul-Karim Abdul-Sada**) in August 2016, where the security forces breaking into his home and threatening him for his work with the syndicate in Basra.

<https://www.almubadarairaq.org/?p=3339>

1.2: Recommendations

- 1.2.1 : Abolition of the law 52 for 1987 that hinders the freedom of association in Iraq and in Kurdistan Region - Iraq.
- 1.2.2: The enactment of a contemporary law for unions' freedoms in accordance with the spirit of the Iraqi Constitution and the international obligations of Iraq in this field.
- 1.2.3: End discrimination against unions' federations and dealing with them equally by the Iraqi government and Kurdistan Regional Government of Iraq.

2. Prevent the Work of Unions in the Public Sector

2.1: The Problem:

Workers in the public sector are prohibited from joining the labor unions because, in accordance to the Resolution 150 for 1987, they were turned into employees, so as to prevent them from joining labor unions. This has resulted in the violation of the rights of thousands of Iraqi workers to join

¹ Peace and Freedom Organization conducted an analytical study on this issue in 2016, where it showed the depth of the problem and the study was shared with the relative authorities in the Iraqi state and Kurdistan Regional Government "the content of the study is within Annex 1".

labor unions besides restricting the work of labor unions in the private sector only.

2.2: Recommendations

2.2.1: Abolish of Resolution 150 for 1987 in Iraq and Kurdistan Region.

2.2.2: Guarantee the union freedom in all labor sectors as well as guarantee the freedom of labors joining the syndicates.

3.Prevent Foreign Workers to Join the Unions

3.1: The Problem

Thousands of foreign workers from neighboring countries to Iraq, especially Syria, Iran and Turkey, along with thousands of workers from Southeast Asian countries, are working in Iraq in the most difficult circumstances and their rights are violated on a daily basis. Iraq is still not ratified the International Convention on the Protection of the Rights of All Migrant Workers and their family members and there is no representation of foreign workers in labor unions.

3.2: Recommendations

3.2.1: Iraq has to ratify the International Convention on the Rights of Migrant Workers and their family members.

3.2.2: Foreign and migrant workers should be allowed to form their own unions and to ensure the right to establish labor unions by migrant workers

Second: The Right to Social Security and Occupational Safety

4.Lack of True Social Security in Iraq

4.1: The Problem

The Iraqi government has discussed for several years a draft law for social securities in Iraq. The draft is inconsistent with the international obligations of Iraq in the field of social security, especially the Convention 102 for International Labor Organization. Besides that, although Kurdistan Region - Iraq has issued the Law No. 4 of 2012 for social security², it hasn't issued any instructions to apply that law. There are thousands of workers who have not been secured and there are thousands of unemployed without any securities. Besides, the employers evade the registration of their workers in social security and the weakness of the state in monitoring the workplaces because of the lack of inspectors of the Ministry of Labor where the number of inspectors throughout Iraq are 109.

<http://iraqlid.hjc.iq:8080/LoadArticle.aspx?SC=091220126526377> ²

As per the Second Paragraph of Article 30 of the Iraqi Constitution, the State guarantees the social and health security for the unemployed by legislating a law. However, the number of unemployed people increases day by day, in accordance to the Central Statistics Organization (<http://cosit.gov.iq/en/2013-01-31-08-48-55>) the rate of unemployment increases to 20.4% and the unemployment among females reaches 38%, especially among the age group (15-24) years. Below is the unemployment rate according to the Iraqi governorates:

Unemployment Rate of Youth between (15-24 years) for the years 2014 – 2016		
Governorate	2014	2016
	Unemployment	Unemployment
Dohuk	15.0	28.1
Naynava	12.8	000
Sulaimanyiah	12.3	19.4
Kirkuk	5.2	28.7
Erbil	11.2	22.2
Diyala	17.9	12.0
Anbar	33.3	000
Baghdad	19.0	18.6
Babil	21.3	11.0
Karbala	12.2	12.1
Wasit	12.5	20.2
Salahaddin	15.3	16.3
Najaf	10.6	16.4
Qadisiyah	21.0	21.0
Muthanna	12.0	26.0
Dhiqar	31.0	34.8
Misan	28.7	29.2
Basra	22.7	25.5
Total	17.6	20.4

As well as according to the statement of the Minister of Planning in Kurdistan Regional Government - Iraq, the unemployment rate in 2018 in the region reached to 20%, where it was not exceeding 8% before the year 2014³.

4.2: Recommendations

4.2.1: Should the draft law of the social security be withdrawn by the Iraqi government.

<http://ar.jamekurdi.com/%D8%A7%D8%B1%D8%AA%D9%81%D8%A7%D8%B9-%D9%86%D8%B3%D8%A8%D8%A9-%D8%A7%D9%84%D8%A8%D8%B7%D8%A7%D9%84%D8%A9-%D9%81%D9%8A-%D8%A5%D9%82%D9%84%D9%8A%D9%85-%D9%83%D9%88%D8%B1%D8%AF%D8%B3%D8%AA%D8%A7%D9%86/>³

- 4.2.2: Amendment of Law 39/1971 what is especially related to the social security and retirement of workers in accordance with the spirit of the Iraqi constitution and the international obligations of the Iraqi State.
- 4.2.3: Issuing instructions by the Ministry of Labor and Social Affairs in Kurdistan Region - Iraq to implement the amended Social Security Act.
- 4.2.4: Unifying the registration of unemployed persons with the government.
- 4.2.5: Train and build the capacity of the unemployed to prepare for their integration into employment opportunities.
- 4.2.6: Develop and design the employment policy for the unemployed and clear economic policy with the participation of Labor Unions' representatives.
- 4.2.7: Provide of social and health security to the unemployed.
- 4.2.8: Increase the number of inspectors of the Ministry of Labor to enhance the role of government monitoring.
- 4.2.9: Training the inspectors of the Ministry of Labor on Social Security Act and building their capacity in the monitoring process as well as develop strict mechanisms for their work.

5. Hundreds of workers die ... work without safety

5.1: The Problem

As per the statistics of the Government Union for Construction Workers, only in Baghdad, between the years 2015-2017, 34 workers lost their lives while working in a brick-making factory. As per the official data from the Ministry of Labor and Social Affairs, in Kurdistan Region between the years 2015-2017, confirmed by the Monitoring Team of Peace and Freedom Organization, 123 workers lost their live while working in the workplace and there are hundreds who were injured and disabled during the work. Although in chapter 12 of the Iraqi Labor Code No. 37 for 2015⁴ has clarified the subject of occupational health and safety, but that code has not been applied so far as required.

5.2: Recommendations

- 5.2.1: Activate the role of the National Center for Occupational Health and Safety in Ministry of Labor and Social Affairs.
- 5.2.2: Kurdistan Regional Government is committed to establishing a structure within the Ministry of Labor and Social Affairs for Occupational Health and Safety.
- 5.2.3 Pre-employment medical test and periodic medical test of workers.
- 5.2.4 Increase the number of inspectors of the Ministry of Labor commensurate with the volume of work to ensure the health and safety in the workplace.
- 5.2.5: Training workers and awareness campaigns on occupational health and safety.

<http://www.gfitu.org/2016/09/37-2015.html> ⁴

Third: Rights of the Foreign Labors in Iraq

6. New slavery in Iraq

6.1: The Problem

Although in the previous comprehensive periodic review recommendations in 2014, Iraq agreed to ratify the International Convention on the Protection of the Rights of Foreign Workers and Members of Their Families, submitted by the State of Sierra Leone within the recommendation 127-21 and agreed by Iraq, in fact, Iraq has not done anything to implement that recommendation.

In Iraq, there are more than 200 thousand foreign workers and up to 50 thousand foreign workers in Kurdistan region of Iraq live in the worst living conditions and violate their rights and part of them is subject to human trafficking to the existence of an old law back to 1963, to regulate their work does not meet the international standards. Iraq has not ratified the International Convention on the Rights of Migrant Workers. They are subjected to the violations in their employment contracts and do not understand what they sign and hold their passports. Worst of all, their work is organized according to instructions and not a law in Kurdistan Region – Iraq which led by private sector companies⁵. They have no labor syndicate and they have no representation in the national unions. Foreign workers are paid very little wages, that the question of determining the minimum wage is a problem in itself, especially for foreign workers, where in addition to many hours of work are paid very little.

6.2: Recommendations

- 6.2.1: Iraq needs to join the International Convention on Migrant Workers and their family members.
- 6.2.2: To legislate a national law to regulate the work of foreign workers and protect their rights.
- 6.2.3: Their contracts must be in a language they can understand so that they can sign their contracts.
- 6.2.4: Provide the translator during their representation in the courts.
- 6.2.5: Ensure the right of foreign workers to establish their own unions or to join the national unions.
- 6.2.6: Foreign workers to be included with the minimum wages and set clear and explicit instructions in this area.

Fourth: Establishment of Social and Economic Council

7. Lack of Economic and Social Council in Iraq

7.1: The Problem

⁵ The Peace and Freedom Organization has a specific study on foreign workers in Kurdistan Region which was conducted at the end of 2018, referring to a number of violations and recommendations. (See Annex 2).

In the comprehensive periodic review of 2014 and in the recommendations 127-176, Iraq accepted that the economic and social reality shall be improved. However, in reality, in the years 2015-2018 the economic and social situation worsened, where the unemployment and poverty rate increased in Iraq. The social problems increased and the real social and economic plans were not developed. There was no special structure to promote social and economic rights. However, the economic and social situation is discussed without taking into consideration the opinion of the labor unions' representatives and even the representatives of employers and civil society organizations. There have been major social and economic problems both in the Kurdistan Region and in the demonstrations of Baghdad or Basra in 2018 where the civil peace has been subjected to major problems as a result of those policies.

In accordance to the Central Statistics Organization of the Iraqi Ministry of Planning, the number of the large industrial facilities lessened in Iraq between 2014-2017, which the gates of 65 large industrial facilities were shut and the number of workers in this sector was reduced by more than 20 thousand workers. The table below shows the collapse of the large industrial facilities and the dismissal of their workers which is issued by the Central Statistics Organization:

<http://cosit.gov.iq/ar/2013-03-29-08-30-31>)

Indicators	2014	2015	2016	2017
Large Industrial Facilities				
Large Industrial Facilities	616	600	566	551
Number of workers in the Large Facilities	134,818	129,024	109,574	111,063

7.2: Recommendations

7.2.1: The establishment of a Socio-Economic Council in Iraq in which unions and civil society are active parties.

7.2.2: Develop viable development plans to reduce unemployment and poverty.

7.2.3 Involvement of labor unions and civil society organizations in the dialogue on laws relating to economic and social aspects before their enactment.