

Iraqi Trade Union Rights Update: June 2008

Introduction

Over five years since the fall of the Hussein regime, there is still no permanent labor law in Iraq and no law governing the industrial relations system. Until the government of Iraq replaces the labor code in effect since 1987, the status of industrial relations and workplace democracy remains ambiguous in Iraq -- leaving the 1987 labor code de facto law of the land. The deeply flawed labor code of 1987, which restricts or prohibits the exercise of the most basic labor freedoms, does not come close to meeting the basic international labor standards protected and promoted by the International Labor Organization's Declaration on the Fundamental Principles and Rights at Work and the basic ILO conventions.

1. The 1987 Law

In 1987, the Iraqi government effectively outlawed independent labor unions under the Trade Union Organization Law. The right to collectively bargain and the right to strike were abolished, as was the minimum wage. All public sector workers (the majority of formal sector workers in Iraq at the time) were reclassified as "civil-service" and prohibited from unionization. Workers' committees could be formed in the private sector, but only in worksites employing more than 50 workers, which represented only about 8% of the workforce in Iraq at the time. By law, these workers committees were required to affiliate with the state-controlled federation of workers, an arm of the Ba'ath security apparatus.

For more than two decades, U.S. Department of State Country Reports on Human Rights Practices noted horrific human rights abuses in Iraq, including egregious violations of workers' rights.

As to collective bargaining, the State Department stated:

The right to bargain collectively is not recognized. Salaries for public workers, the majority of the employed, are set by the government. Wages in the much smaller private sector are set by employers and negotiated individually with workers. The labor code does not protect workers from antiunion discrimination, a failure that has been criticized repeatedly by The International Labor Organization's (ILO) Committee of Experts.¹

Similarly, the 1987 labor code was determined to deny Iraqi workers the right to create and join organizations of their own choosing:

There were no trade unions independent of regime control, and workers rights were highly restricted. The Trade Union Organization Law of 1987 established

¹ See, State Department, Country Reports on Human Rights Practices (2002): Iraq, available online at <http://www.state.gov/g/drl/rls/hrrpt/2002/18277.htm>.

the Iraqi General Federation of Trade Unions (IGFTU), a regime-controlled trade union structure, as the sole legal trade federation. The IGFTU is linked to the Ba'ath Party, which used it to promote party principles and policies among union members.²

The ILO and Labor Law Reform

In the spring of 2004, the Iraq Minister of Labor and the ILO signed a cooperative agreement under which the ILO agreed to assist the Ministry in drafting a new labor law that would bring the law into conformity with international labor standards. A new law was drafted by the end of the year; however, to date this draft has not been adopted, nor have any amendments been made to the 1987 law. The status of labor law in Iraq remains ambiguous.³

Trade unionists have reported hearing that the draft labor law has undergone some revisions. Of concern, an Iraqi government official is reported to have said that the labor law is being revised with "the specific Iraqi context in mind." To date, the process has not been transparent, nor has there been sufficient consultation of the social partners, especially trade unions and employers, in the process of labor law reform.

2. Labor Law in Practice

Since the fall of the former regime, workers have begun to organize themselves in worksites across the country.⁴ This trend continues despite persistent attacks on workers rights and the generalized violence in the country, which makes workplace organization very difficult.

The 1987 law continues in effect. In addition, new repressive actions taken on the part of the Iraqi government also do not bode well for workers rights in Iraq. Examples include:

² Country Reports on Human Rights Practices: Iraq 2002, <http://www.state.gov/g/drl/rls/hrrpt/2002/18277.htm>

³ Country Reports on Human Rights Practices: Iraq 2006, <http://www.state.gov/g/drl/rls/hrrpt/2006/78853.htm>

⁴ Trade unions in Kurdish Northern Iraq have operated essentially freely since the 1991 Gulf War, when the Coalition forces (US and UK) began to enforce a no-fly zone there, which created space for Kurdish institutions to develop independently. Since 2003, multiple national trade union centers with dozens of sector affiliates throughout the rest of Iraq have emerged across the country, representing workers in dozens of workplaces.

A. Continued Implementation of the 1987 Labor Law

- In March 2008, the Ministry of Civil Society wrote a memo to the Ministry of Transportation informing Ministry officials that people employed by the Ministry are not considered eligible to form or join unions because they are considered public sector civil servants barred by law from the right to form trade unions. Officials in Iraq's southern ports immediately forwarded the Ministry's memo throughout the ports administration.
- In January 2008, the Iraqi government announced its intent to unilaterally impose a union election process in the country. The government cited Governing Council Decree No. 3 of 2004 as a basis for its order.⁵ In May 2008, the Council of Ministers formed a committee to oversee union elections countrywide. This committee includes eight members: government representatives from the Ministries of Labor and Social Affairs, Justice, Interior, Civil Society Affairs and Governorates; the Independent High Electoral Commission; and the Chamber of Industries. No trade unions are represented on the committee. The proposed elections exclude all union organizations with the exception of a single federation named in Decree No. 3 of 2004. This implies that all union elections undertaken by any other federation or unions will be illegal. The decree also only permits the private, mixed and cooperative sectors to organize unions, excluding the majority of the Iraqi workforce working in the vast public sector from exercising the right of freedom of association. Finally, the government-controlled process isolates specific sectors in which workers are allowed to form only one union each, and explicitly stipulates where in the country (cities, governorates, etc) the unions "must" hold elections and form branches. The entire process is a flagrant violation of the fundamental rights of freedom of association and the right to organize and bargain collectively.
- In July 2007, the Ministry of Oil issued a directive to all companies and directorates under its purview in the oil sector ordering "the prohibition of cooperation with any member of any union in any of the committees organized under the name of the union as these unions do not enjoy any legal status to work inside the government sector." The directive further prohibited managers within the entities operated by the Ministry of Oil from dealing with the union in any way or allowing the union to use the offices or other materials or equipment owned by these companies.
- Plant managers in the public sector have argued that they do not have the authority to sign contracts with workers committees because of the 1987 law.
- In April 2006, the Iraqi government used the 1987 law to interfere with union rights when the port of Khor al Zubair in Basra refused to negotiate with a union of port workers, and instead threatened them for asserting this right claiming the union was illegal. The company proceeded to transfer a number of port worker union officers to Samawa (250 km from Basra) and Diwanyya (300 km from Basra).

⁵ Decree No. 3 attempted to dissolve newly-forming trade union federations in Iraq, and placed the process of establishing new legally sanctioned unions under the auspices of the Iraqi government. The decree also excludes anyone who was a Ba'th Party member of a certain rank covered by the Deba'thification Commission from leading a union.

B. Additional Violations of Freedom of Association and the Right to Organize and Bargain Collectively

- May 11, 2008, the Ministry of Oil transferred eight Ministry workers, all senior union leaders from the Iraqi Federation of Oil Unions (IFOU) in Basra, to new jobs in the Baghdad Al - Dora refinery. After interrogation in Baghdad by security advisors for the Ministry of Oil, during which the workers were questioned about their union activism and relationships with regional and international union organizations, the eight unionists were deemed “troublemakers” by their new Al Dora employers and transferred to again Sanmawa – 300km away from Basra where their families live.
- A strike of oil workers began on Monday, June 4, 2007. On Tuesday, these workers were surrounded and threatened by Iraqi armed forces while attempting to exercise their legitimate right to strike. These pipeline workers belong to the 26,000-member IFOU. The strike was called after months of discussions between the union and the government over wages, health and safety, the use of temporary workers and the future of Iraq’s oil industry failed to produce a negotiated settlement.
- In February 2007, there were two armed raids by American and Iraqi soldiers on the headquarters of the General Federation of Iraqi Workers (GFIW) and the Iraqi Journalists Syndicate. No explanation was ever given for these raids or the confiscation of union materials and property during those raids.
- In May 2006, the municipality of Baghdad issued a decision against six union activists who organized a demonstration calling for worker rights in the sector. These unionists were punished and their salaries have been frozen since that time. In addition, they have received written threats demanding that they give up their union work.
- In February 2006, the General Federation of Iraqi Workers (GFIW) sent an official complaint to International Labor Organization Director General Juan Somavia and ITUC General Secretary Guy Ryder charging that, in December 2005, the Minister of Reconstruction and Housing, the Minister for National Security, and the Minister for Civil Society Affairs interfered in trade union organizing in Iraq. The ministers had tried to “select” the leadership of the engineers union and appoint persons to control and supervise elections to ensure the desired outcome.

Deba’athification Commission Actions

In a March 8, 2006 letter to the General Federation of Iraqi Workers, the Supreme National Commission for Debaathification named five GFIW leaders who it claimed “have no right to occupy any leadership position in any federation, society, association or union in Iraq” and directed the GFIW to “take proper action and inform (the committee) accordingly.” The letter seemed to instruct the trade union federation to hold new union elections and submit newly elected names (presumably not former Baa’th Party members). This action violates the principle of freedom of association in two key ways: first, it is an example of direct government interference in the internal procedures of the unions in Iraq and in the internal union election

process. Second, the government is questioning the right to be elected or appointed to certain union positions based on current or former political party affiliation. No action has been taken to date to repeal this unlawful “decree” from the Supreme National Commission for Deba’athification.

Decree 8750

On August 7, 2005, the Government of Iraq (through a committee of several ministers) passed Decree 8750. The decree directs the freezing of assets and “controls all the monies” of all trade union organizations in Iraq. The decree also announced the Cabinet General Secretary’s intention to “propose a new paper on how trade unions should operate, organize and function.” Decree 8750 not only affects the contested assets of the General Federation of Trade Unions (the Saddam era official union), but also, by implication, bank accounts operated by any new trade union. Thus, unions are not opening any new bank accounts and they believe that their meager resources are not secure from government interference or seizure. The Iraqi government has rebuffed union attempts to discuss Decree 8750, and it remains in force. In April 2006, the government froze the bank account of the General Union of Oil Employees (now known as the Iraqi Federation of Oil Unions, IFOU). No action has been taken to date to repeal this unlawful decree.

Human trafficking

The abuse of foreign workers in Iraq, some of whom were brought to Iraq under false pretenses, has been widely reported, including allegations of trafficking as reported by the U.S. Trafficking in Person Report,⁶ IraqSlogger,⁷ and the Chicago Tribune.⁸ These sources report that Iraq has become a source country in the region for the trafficking of men, women and young boys and girls for sexual exploitation. According to the 2007 Trafficking in Person Report, “Iraq is also a destination country for men and women trafficked from South and Southeast Asia for involuntary servitude as construction workers, cleaners, and domestic servants.” In addition, reports show that contractors supporting the construction of the U.S. embassy in Iraq have employed thousands of foreign workers who had arrived in Iraq as victims of trafficking, or who have worked in exploitative conditions akin to forced labor. Common employment practices have included substandard living and working conditions and confiscation of passports -- conditions akin to forced labor. Abuse of foreign workers’ rights has not abated over the last four years. In August 2004, 12 Nepalese workers recruited for jobs they were told would be in Jordan were kidnapped and killed in Iraq by insurgents, underscoring the danger trafficking victims face in Iraq.⁹

⁶ U.S. State Dept, United States Trafficking in Person Report 2007 (June 12, 2007), available online at <http://www.state.gov/g/tip/rls/tiprpt/2007/86204.htm>.

⁷ David Phinney, *Forced Labor Building Baghdad Embassy*, IraqSlogger (May 31, 2007), available online at www.iraqslogger.com/index.php/post/3014/Forced_Labor_Building_Baghdad_Embassy

⁸ Cam Simpson, *Iraq war contractors ordered to end abuses*, Chicago Tribune, Apr. 23, 2006, available online at www.chicagotribune.com/news/nationworld/chi-060423pipeline-story_0,3545071.story.

⁹ See David Phinney, *Blood, Sweat and Tears: Asia’s Poor Build U.S. Bases in Iraq*, Oct. 3, 2005, available online at www.corpwatch.org/article.php?id=12675.

C. Murders, Attacks and Kidnappings of Trade Union Leaders in Iraq Continue With Impunity

In the last few years, several trade union leaders and activists have been kidnapped, tortured and murdered. Although it is not possible to ascertain the motive for these acts in all cases, some of them were undertaken in response to the individual's trade union activity. Below are some examples. In no case has anyone been arrested or prosecuted for the crimes.

- On February 23, 2008, Shab Al Timimi, president of the Iraqi journalist union affiliated to the International Federation of Journalists, was assassinated in Baghdad on his way back home after a union meeting at the union office in Wazziryya.
- On January 31, 2007, Khalil Ibrahim Al-Mashhadani, VP of the GFIW and General Secretary of the Arab Federation of Building and Wood Workers, was injured in a bomb attack.
- On January 31, 2007, a car bomb targeted the building housing the GFIW's branch in the Nineveh governorate, resulting in the injury of many workers and trade unionists.
- On January 1, 2007, Dr. Adnan Al-Abed, legal counsellor to the GFIW and Professor of Law at "Al-Nahrain University" was found murdered together with two of his colleagues, three days after the professors were kidnapped by armed militants in front of the faculty of law. Doctor Al-Abed was known as one of the most prominent experts on labor matters in Iraq. He was a primary contributor to a revision of the ILO sponsored draft labor law for Iraq.
- On November 30, 2006, the GFIW reported that President of Diyala governorate labor federation (Adnan Khalifa Ahmed) was assassinated. This came less than a month after the assassination of the previous president of Diyala federation (Hikmat Zidan Ghiedan) in the beginning of November.
- In October 2006, Najem A. Jasem, the General Secretary of General Union of Mechanic Workers, an affiliate of GFIW, was found murdered after being kidnapped by militia for three days. Jasem was one of the founders of the mechanic union, established on April 9, 2003.
- On the early morning of June 19, 2006, the Federation of Workers Council and Unions in Iraq (FWCUI) reported the assassination of its union activist Radhi Majeed Ali in the A'athamyia district in Baghdad. He was one of the most active union leaders in the Amanet District of Baghdad, which witnessed several similar attacks in 2006.
- In April 2006, Hachim Jbara, Vice President of the Iraqi Agriculture Union was kidnapped.
- On April 27, 2006, terrorists kidnapped Thabet Hussein Ali, head of the General Trade Union for Health Sector Workers, as he left the union headquarters in Baghdad's Al-Mansour neighborhood. Ali's body was found the next day, riddled with gunshot wounds and showing evidence of brutal torture, including by an electric drill.

- In April 2006, unknown assailants kidnapped and tortured Hajem Kate' Jabbarah, VP of the Agriculture and Food Trade Union-Baghdad Branch. Previously, Amer Ejifan, member of the local union committee of the Concrete Factory at Abu Ghraib, Najm Muhsen Al-Maksousi, secretary of the local union committee at the Ministry of Irrigation/Agriculture, union activist in food processing sector Nathem Muhsen Aswad, and union committee head of the Construction and Wood Trade Union in Baghdad were all kidnapped. Terrorists also bombed the car of Saleh Jeyyad, the vice chairman of the union committee at Transportation Trade Union/ Federation of Basra Trade Unions where Mr. Jeyyad's car was exploded and he was seriously injured.
- In March 2006, Amir Ieefan of the Construction Workers Union was assassinated; Sabbar Mhasin and Najm Mohsin of the Agriculture and Irrigation Union and Salih Jiad of the Transport Union/Basrah are imprisoned in Abu Ghraib.
- In January 2006, Alaa Issa Khalaf, executive board member of the Baghdad regional structure of the General Federation of Iraqi Workers, was assassinated.
- In January 2005, Hadi Saleh, international affairs representative of the Iraqi Federation of Trade Unions, is gunned down in Baghdad.

Conclusion

For the first time in decades, the trade union movement in Iraq is growing independently. Yet, very significant impediments remain. The labor law reforms under discussion in 2004 between the ILO and the Iraqi Ministry of Labor, if implemented without debilitating amendments or revisions by the government of Iraq, have the potential to dramatically improve the lives of Iraqi workers. A new labor code that fully recognizes the core International Labor Organization Conventions would be a major step towards an independent, democratic Iraq. However, no movement on the law is evident. In fact, labor laws have worsened over the last few years.