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Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: Iraq

Civil Society's Role in Stopping the Freedom of Speech Law In Iraq

| Janan AlJabiri |

BACKGROUND

The draft law on Freedom of Speech was submitted for the first time by Nouri al-Maliki's government in May 2011, and it was entitled "Freedom of Expression of Opinion, Assembly, and Peaceful Demonstration". It elicited widespread and anger reactions among both civil and political societies, calling for it to be changed or amended.

This case study seeks to know civil society's role in facing the issuance of the draft law and will analyze the reasons for its presentation based on the views of activists in this field. However, legislative bodies were not referred to or interviewed, as the proposed texts themselves express the social policy that the government envisages regarding the freedom of speech. The case study will also analyze the experience of the organizations participating in the protest and the campaign to amend and change the law, noting that they followed the methodology of descriptive research. It was based on relevant literature reviews and press reports, and they resorted to conducting field interviews with activists in this field. Three interviews, held in February 2019, were made with activists from Baghdad, Basra and London, with a journalist who had sought refuge outside Iraq. This case study will address the "Alliance 38" campaign that worked to amend the law and met one of the activists in it.

TIMELINE OF THE CASE STUDY

With the fall of the previous dictatorial regime and its tyranny in 2003, an open atmosphere in Iraq emerged for expressing an opinion, assembling, demonstrating and carrying out various political activities. Unlike other laws, it is clear that such as the Labor Law, Freedom of Association, and the Anti-Domestic

Violence Law, civil society did not demand the state to legislate the freedom of speech law, but rather the government took the initiative to issue it, which clarifies the state's need for it more than an expression of the will of civil society.

Many cultural and legal departments criticized this law. In an article entitled "Reading of the Draft Law: Freedom of Expression of Opinion, Assembly and Peaceful Demonstration," Nasser Al-Mousawi asserted that the draft law "was not well developed or have an intellectual, cultural and legal interchange to emerge harmoniously, achieving the principles of human rights and the two international covenants, especially what was mentioned in Articles (18-91) of the International Covenant on Civil and Political Rights.

As for the most prominent articles that civil society activists, including human rights defenders, protesters, media professionals and citizens rejected, it is the requirement to obtain permission to hold public meetings and grant the administrative head of unit the right to reject the request in case of a threat to national security, public order and morality, as the activists considered the project, in its current form, as equivalent to "a return to dictatorship" (interview with Jihad S.). The draft law stipulates that if a permit is requested to organize a demonstration, the organizers must adhere to conditions, including, for instance, registering the names of the organizers of the demonstration and assembly and providing their addresses, while the state security services arrested the demonstrators and used all methods of violence against them during the February 2011 protests and their aftermath, that is, on the eve of the introduction of this law. Other articles also refer to holding the demonstrators accountable in the event of acts of vandalism on public and private property. According

to an interview conducted with (Jihad S.), some legislators suggested charging the financial losses in business because of the demonstrations for the people who organized them.

The field research results show that the main engine for issuing this draft law was the protests and demonstrations that erupted for the first time in February 2011 in several governorates of Iraq affected by what was called the “Arab Spring”. More than 10,000 demonstrators participated in the “Day of Rage” demonstrations on February 25 in Baghdad and other Iraqi cities, protested against corruption, clientelism and sectarianism in government policy (Al-Rawi 2014), and demanded access to services and job opportunities (Interview with Jihad, S, 2019). The demonstrations lasted for several months and included most Iraqi cities, but they were brutally suppressed (Haddad in Abdul-Jabbar, 2018, p. 12 and 18), as almost 30 protesters were killed and dozens of others were wounded (Al-Rawi, 2014). The demonstrators were accused of being agents of the former regime, conspirators against the government, or anarchists, while the press was prevented from covering the demonstrations, especially in Baghdad (Al-Rawi, 2014).

Moreover, the Iraqi Prime Minister demanded granting 100 days to carry out reforms, but he issued this draft law after three months. Its compelling reasons were “guaranteeing freedom and democracy for the Iraqi society, and for a person to practice their life freely and safely just as the Constitution guaranteed it for them while respecting the freedoms and rights that it stipulates” (Alsumaria News, 2017).

In this political framework, and to limit the rush of demonstrations or any future demonstrations, according to those interviewed, the draft law on freedom of speech was sent by al-Maliki’s government to the State Consultative Council, which is the state’s reference in drafting legislation under Article 5 of the Council’s Law No. 65 of 1979¹. Interviewed activists explained that the law aims to “restrict freedoms” and “curtail their freedom of demonstration and expression” (Sami A.), which in itself constitutes a clear violation of the Iraqi Constitution, which stipulated in Article 38, “First, freedom of expression using all means. Second, freedom of press, printing, advertisement, media and publication. Third, Freedom of assembly and peaceful demonstration, and this shall be regulated by law”. This draft law constituted a violation of the international covenants signed by Iraq, particularly the United Nation’s Covenant on Civil and Political Rights, and Ammar S. indicated that this law would legislate “to suppress disagreement with the other and it does not serve democracy, but rather an introduction to more repressive and tyrannical laws.”

CIVIL SOCIETY PLAYERS

Remarkably, societal and governmental forces stood against this draft law, some within the legislative authority itself, as well as local civil society forces supported by the international organizations, thus the boundaries between “civil society” and “political society” appeared to be fluid and unclear.

On the level of political forces, parties and members of Parliament representing Sunnis, Kurds, and secular figures stood against the draft law. On the other hand, international organizations played a role in pressuring the Iraqi government. According to Jihad S., one of those interviewed, “the country’s reputation is important for these international organizations that have roles in financing

¹ The State Consultative Council has the authority to scrutinize projects in terms of form and subject, and for this purpose it studies the project and reformulates it when necessary, proposes alternatives that it deems necessary, expresses its opinion on it, submits it with recommendations to the Council of Ministers and sends a copy of the project and recommendations to the relevant authority.



government projects or joint work with the government” (previous source). However, the fieldwork shows that the force that exerted the greatest pressure to stop the enactment of the law is the civil society (Ammar S.), which is made up of parties not involved in the political process, civil society organizations, women’s organizations, associations, trade unions, academics, jurists, the media, and public opinion through social media.

Moreover, the focus will be on the work carried out by the “Alliance 38”, as it is one of the networks that adopted several strategies to address the draft law and sought to change it.



CIVIL SOCIETY STRATEGIES AND TACTICS TO STOP THE DRAFT LAW: THE “ALLIANCE 38” AS AN EXAMPLE

Networking between groups protesting against the law began with the formation of the “Alliance 38”, in reference to Article 38 of the Iraqi constitution, which provides freedom of speech. A planning committee was established in which several protest activists and human rights activists participated, and the largest number of organizations were involved with the joining of almost 20 organizations² and 50 activists before their number later reached 100. The coalition expanded its work to the rest of the governorates. Later, the campaign mobilized the circles affected by this law, such as trade unions, and contacted the Federation of Trade Unions, retirees’ unions, and those affiliated with companies and self-financing institutions. These sectors have participated in numerous demonstrations and gatherings in recent years to

² An example is the Iraqi Al-Amal Association, the Burj Babel Organization, the Tammuz Organization for Social Development (interview with Sami A.)

demand their rights (interview with Jihad S.). This alliance, with various organizations and parties not affiliated with it, organized demonstrations and rallies in many cities of Iraq, protesting the draft law and calling for amendments to its texts, and round tables were set up to discuss it and analyze its effects on freedom of speech. In "Alliance 38", the protesters used satellite channels and social media to deliver their protest after establishing a network of relationships with satellite channel reporters, journalists, and legal professionals. The media, especially satellite channels, contributed to explaining the law's restrictions (Ammar S.).

In their daily broadcast, television programs dealt with various aspects of this law. They played a significant role in publicizing its effects, given the "heavy material it provides to the media" (previous source). The media revealed several aspects of this law during the hosting of personalities from different points of view. (Ammar S.) asserted that "there are many programs that have been shown, especially the "Know Your Right" program on AlHurra channel, to raise awareness about various aspects of the law, plus covering the discussion of the law in Parliament"³. Furthermore, social media played a major role in highlighting "the danger of this law on Freedom of Speech if it was legalized" (Ammar S.). These strategies have transformed the law into a matter of "public opinion" (Sami A.).

INFLUENTIAL FACTORS

The pressure came from the highest levels by mobilizing some parliamentarians from different political parties to ensure their standing with civil society organizations, which had a major role in preventing the law from being legislated. Campaign 38 sought to gain support and endorsement from many Members of Parliament who represent the civil and secular parties and politicians against the law who support freedom of speech. The protesters took advantage of the "bilateralism" expressed by (Ammar S.) and the differences between the conflicting poles in the Parliament to push them not to vote on the draft law.

As the field research showed, the clerics were relied upon who were "induced and flattered" (an interview with Ammar S.) to obtain their support in rejecting this law because of their role and influence in decision-making in Iraq, either from the Shiite or Sunni Islamic religious parties who oppose this law. Finally, the protesters sought to communicate with the international organizations, as the latter impacted legislating the Iraqi government's policies, especially international organizations present inside Iraq.

TRANSFORMATIONAL MOMENT

External factors contributed to postponing the vote on the draft law. After it was read twice in the Parliament without concluding an agreement or voting on it, the ISIS attack on Mosul began in June 2014, but the draft was submitted again after the 2015 and 2016 demonstrations by a specialized committee that includes legal, human rights, security, defense, culture, media, endowments and religious affairs committees to vote on it in Parliament in August 2017. The new draft did not include amendments submitted by civil society organizations or the "Alliance 38", which sparked protests from activists against the draft law. More than that, new changes were made to deepen its restriction of freedoms, as explained by one interviewee. Besides that, the law was read once in Parliament, and the decision was postponed until further notice, due to many reasons, most notably the attempt to win over voters, especially that Iraq was on the verge of launching the parliamentary election campaign in April 2018 (Interview with Jihad S.).

POLITICAL RESULTS

The Iraqi Parliament has not reached the enactment of this law, especially that its draft contradicts the Iraqi Constitution and violates international agreements. However, the failure to enact the law does not mean that the danger of its enactment will end at any moment, given that the text has not been modified and is still disregarded in the Parliament. Thus, the possibility of submitting again and voting on it again is an existing matter. In fact, promulgating a law that violates the freedom of opinion stipulated in the Iraqi Constitution in Article 38, will lead to legalizing the restriction of freedom of speech, and will give the state a legal cover for violating the rights of citizens, given that the Iraqi government's violations of freedom of speech have been documented by international organizations, and United Nations Assistance Mission for Iraq confirmed in its report on human rights in Iraq from January to June 2017 that many Iraqis did not enjoy the freedom of peaceful assembly, and there were documented incidents indicating that the security forces dealt inappropriately with public gatherings "(United Nations Assistance Mission for Iraq, 2017, p. R). The organization submitted its recommendations to the Iraqi government on the need to "conduct a review of existing laws and policies and the right to protest peacefully, including the draft law on freedom of speech assembly and peaceful demonstration for all persons, according to the international human rights standards." (United Nations Assistance Mission for Iraq, 2017, p. C).

CONCLUSIONS AND LESSONS LEARNED

The case study confirmed the importance of benefiting from the following points:

First, networking: the protest movement in 2011 created a network of connections and relationships that have a common interest in ensuring freedom of speech, assembly and demonstration. This type of network and networking contributed to the formation and establishment of new alliances later on to address other violations and abuse. For example, "Alliance 38" resulted from a network of organizations contributing to the demonstrations between 2011 and 2015. Networking and joint work provided the foundations for the emergence of larger organizations and alliances in defense of political freedoms.

Second, mobilization, support and endorsement from foreign organizations: Mobilization operations and the support that civil society organizations received from their foreign counterparts, helped to strengthen their campaigns and put pressure on Iraqi politicians not to legislate the law in its current state and the necessity to make amendments to it in accordance with the international standards. The support provided by organizations such as United Nations Assistance Mission for Iraq has urged the Iraqi government to promulgate its laws in line with international conventions, and it has also had a major role in impeding legal projects that violate this right at least, especially since civil society has not been able to impose laws that recognize these freedoms.

Third, pressure: The continuous pressure to change the law was of utmost importance since it was not enacted yet; thus, they should "be vigilant and careful not to pass it in the absence of time," as expressed by (Ammar S.), which, according to him, requires the continuation of the campaigns even if the law is not on the agenda of the Parliament.

Finally, as evidenced by this case study, early and rapid action is necessary and required for civil society to stop similar laws to promulgate other future laws that restrict political or social freedoms.

³ Alhurra Channel - Iraq (May 2015) <https://www.youtube.com/watch?v=xLeW92yQl8o>

REFERENCES

- Al-Rawi, Ahmad" (2014) *The Arab Spring and Online Protests in Iraq*. *International Journal of Communication* 8(1):916-942. https://www.researchgate.net/publication/277776886_The_Arab_Spring_and_Online_Protests_in_Iraq
- الدستور العراقي (2005). http://www.iraqinationality.gov.iq/images/constitution_ar.pdf
- «السومرية نيوز» (2017) «نص قانون حرية التعبير بعد اضافة تعديلات عليه من التحالف الوطني» <https://www.alsumaria.tv/news/210815/>
- الموسوي، ناصر. عمران (2015). قراءة في مشروع قانون: (حرية التعبير عن الرأي والاجتماع والتظاهر السلمي). <https://www.hjc.iq/view.2718/>
- حداد، فنار. في عبد الجبار. فالج (2018) «حركات الاحتجاج العراقية من سياسة الهوية إلى سياسة القضايا» http://eprints.lse.ac.uk/88294/11/Faleh_Iraqi%20Protest%20Movement_Published_Arabic.pdf
- يونامي (2017) «تقرير عن حقوق الإنسان في العراق من كانون الثاني إلى حزيران 2017» file:///C:/Users/Jashim/Downloads/UNAMI_HRO-OHCHR_report_Jan-Jun_2017-ARABIC_Final.pdf

BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

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Issam Fares Institute for Public Policy and International Affairs
American University of Beirut
P.O.Box 11- 0236

📍 Riad El-Solh / Beirut 1107 2020, Lebanon, Issam Fares Institute Building, AUB

☎ +961-1-350000 ext. 4150 / Fax +961-1-737627

✉ ifi.comms@aub.edu.lb

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