

# كسر القوالب Breaking the mold

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

Country: Iraq

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### The Iraqi Trade Unions and the Struggle for Freedom of Association

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#### BACKGROUND OF THE CASE STUDY

Freedom of association (FoA) refers to the right of trade unions (TUs) to form their own organizations in order to bargain collectively on behalf of workers. According to the international convention No. 87 (Co87) Freedom of Association and Protection of the Right to Organize Convention signed in 1948, the FoA is a fundamental right of the International Labour Organization (ILO) constitution that should be guaranteed by party members. The ILO constitution justified this right as a crucial building block for achieving "social progress, eradication of poverty...sustainable development...fair share of wealth that labor generates...and to achieve human potential" (Langille, p.3). Thus, the FoA is a significant provision allowing laborers to enjoy protection and socioeconomic development (Solidar, 2013, p.6). This right is part and parcel of the Universal Declaration of Human Rights which states in its Article 23 that "Everyone has the right to form and to join trade unions for the protection of his interests" (Universal Declaration of Human Rights).

Before 2003, the TUs in Iraq were banned from working in the public sector, whereby the previous regime issued Law 52 of 1987 in line with its Law 150 issued in 1987, which treated all workers in the public sector as civil servants subject to the Civil Service Law. Consequently, they were denied the right to form or join TUs, thus restricting their work to the private sector. In my interview with Abdul Karim Abdu Alsada the president of the 'General Federation of Workers' Unions in Iraq' (GFWI), he explained that "when the workers turned into civil employees that meant that they could not enjoy economic rights that workers enjoyed before".

After the collapse of the previous regime during the war of 2003, it was assumed by those interviewed that its laws would be dismantled and consequently, the ban on TUs in the public sector would be invalid.<sup>1</sup> That is, the defeat of the dictator's regime was seen as providing a new political opportunity for freedom of association. Initially, the new space that came about was effectively used by labor activists to establish or re-establish their unions, and they started to enjoy the rights they had previously been deprived of. However, this all came under attack around 2011/2010.

This case study poses the following question: how did the TUs influence the state to address the question of freedom of association? This case study uses qualitative method, reviewing the available literature on TUs in Iraq after 2003 and conducting semi-structured interviews with three TU leaders in Iraq in October-November 2018.

#### TIMELINE OF THE DEVELOPMENT OF THE ISSUE

The post-war ruling elite, in particular the Coalition Provisional Authority (CPA), have restricted the newly established TUs or those re-established ones such as the Iraqi Federation of Oil Unions (IFOU) which was established in 1952<sup>2</sup>. Three decrees were issued in this regard: Order 3 of 2004, which called for the dissolving of the newly formed unions and allowing instead, only a trade union supervised and connected to the state (Ghanim, 2012). Decree No 8750 issued in August 2005 by the Iraqi Transitional Government froze all trade union assets and financial accounts (TUC, 2009) and "gave authorities the power to seize all union funds and prevent their disbursement" (Freedom House, 2010, p. 29). The attack on trade unions began in particular in the oil and electricity sectors that were both governed by one minister: Hussein Al-Shahrastani, the

<sup>1</sup> Interview with Abdu Alsada and Abbas Ribat.

<sup>2</sup> Interview with Hassan Jomma Awad

minister of oil, also as acting minister of electricity. These were considered by those interviewed as the largest sectors in Iraq, employing hundreds of thousands of workers (Interview with Jommaa). In fact, this attack was targeted mainly at the oil sector, aimed at intimidating and punishing the TUs for their rejection and protest against the Iraq oil treaties with foreign companies signed during these two years. On July, 2010, Al-Shahrastani, issued Order No. 22244 (Connell, 2014) stopping “all forms of communication with the trade unions in the Ministry or in any of the affiliated directorates and areas ... whether inside the Ministry or in any of the affiliated directorates and areas” (ibid). The ministry ordered all electricity departments and directorates “to shut down their trade union offices and seize their assets, documents, property, computer software” (Solidarity Center, p. 8). According to three trade union leaders I interviewed, all confirmed that the government would apply laws relating to terrorist crimes if the TUs operated in either the electricity or oil sectors, which are both public and controlled by the government. Since the newly formed trade union was banned from working in the public sector, some of them were taken to court and fined for their union activism (Solidarity Center, p.2).

### CIVIL SOCIETY ROLE AND INVOLVEMENT

These legislations provoked the TUs into launching a campaign to allow them to work in the public sector, expressing their need for freedom and protection to carry out their activities. Historically, Article 13 of the Interim Constitution, or the Transitional Administrative Law, secures this right (Istrabadi, 2005, p.281). The constitution of 2005 stipulates in its Article No. 39 that the freedom of syndicates is guaranteed once regulated by law (Qadr et al., 2016, p 11). Yet, the trade unions were banned from working in the above two mentioned sectors.<sup>3</sup>

The de-legitimation strategies represented a serious threat to trade unionists. Their freedom of organization was restricted, and they faced financial penalties or even the threat of being removed from their work place to remote areas<sup>4</sup>. This policy seems to have been an effective way of not only stopping the trade unions from protesting against the new oil deals, but also, withholding their right to work in this sector altogether. The aspiration of changing the FoA law led to around six trade unions organizing a wide range of activities to make their voices heard.

### STRATEGIES AND TACTICS

The efforts to adopt the FoA law began in 2010; the trade union, according to their press release published on July 2016,<sup>16</sup> worked intensively and put exceptional effort into unifying their views and stances (GFITU, 2016). Thus, despite their differences, the TUs worked together for years on issuing FoA laws.

The main strategy adopted by the TUs was to negotiate with the officials in the Iraqi government and use the support of international organizations (IOs) to convince the former to accept labor rights, in particular FoA. Thus, the TUs attended many meetings and consultation sessions with IOs such as the ILO and the Solidarity Center, and together with governmental representatives, to make their demands clear. For example, on September 2015,<sup>30-28</sup>, the TUs held a conference in Erbil on “the Future of the Trade Unions Rights and Freedoms”. This was attended by TUs from all over the country. Among the invitees were the Parliamentary Committee for Labor and Social Affairs, the Ministry of Labor and Social Affairs, and international TUs. The conference concluded with an appeal sent to parliament, urging it



to ratify the FoA treaty. They based their plea on the fact that Iraq has already signed Treaty No. 98 of 1949 on the right to organize and collective bargaining convention. On May 2016,<sup>25-24</sup>, they convened their umbrella organization with the task of advancing their recommendations for the proposed FoA law.

### TRANSFORMATIVE MOMENTS

This policy came about as a result of the Iraqi adoption of a new labor law issued in 2015. This has “opened the door for the Iraqi government to ratify Convention 87” (Solidarity Center, 2016). The interviewees stated that the new law contributed to the shift in the state policy towards the FoA, and Iraq had joined the committee of TU rights of the ILO, which made the state committed to sign Treaty 87. This furthered the TUs’ push for a law, not just ratifying this treaty.

### POLICY OUTCOME

The outcomes of the TUs’ activism on the FoA are two-fold: first, the state ratified the treaty on January 2018,<sup>15</sup> which will be in full force from the mid- January 2019. Second, a presidential order was issued by the general secretary of the Council of Ministers calling for the trade unions to join a newly-formed steering committee that was tasked with writing the FoA law. Out of nine members of the committee, six are from the trade unions, Hassan Jommaa being one of them.<sup>5</sup> This committee is expected to submit its draft in the coming months. The government’s decision to include the TUs was perceived by the unions as recognition of their legitimate work and as one of the interviewees put it, “it gave us a sense of power”<sup>6</sup> (ibid).

<sup>3</sup> Interview with Abbas Ribat in October 2018.

<sup>4</sup> Interviews with Hassan Jommaa Awad)

<sup>5</sup> Interview with Hassan Jommaa).

<sup>6</sup> Ibid.

## CONCLUSIONS AND LESSONS LEARNED

The experience showcased in this research that a politics of de-legitimation strategies was used against trade unions, according to a civil society actor in Iraq post2003-. However, this case provides evidence that civil society has the tools to influence policy-makers and have its demands met.

Despite the effectiveness of the campaign for ratification of the FoA treaty, the field work raises some issues. Firstly, civil society has shown the importance of the participatory process in decision-making, whereby the TUs come together and work jointly on their own causes with the stakeholders and can “provide a model for a bottom-up legislative process that can make positive change in Iraq” (Solidarity Center, 2015). This strategy appeared to be active and influential to have their demands met. The case study has provided vivid examples of how civil society can inform state politics from the bottom up.

Second, the significant role that strategies of interaction with policy-makers, government institutions and IOs can play in creating a new reality has been elicited, as this could tackle the de-legitimation strategy that has been used by the state. Third, the involvement of the workers was poor. As it seems that the trade unions acted on behalf of their members instead of encouraging them to step forward and take action themselves. This raises a concern that increasing workers’ awareness about these laws is important but it is not enough; the engagement of workers in the legal battles will be critical for amplifying the TUs’ strength.

Fourth, the role of civil society could be held back from making change if there is no real desire to empower this sector from the state’s end. The insistence of the trade unions on having legal coverage and using the power of the “law” proved crucial before the civil society could step forward. The experience of the TUs provides clear evidence that their advocacy and bargaining on behalf of workers could be stopped, as long as they are not able to secure legal provision that allows them to operate legitimately. Finally, it is contended that despite civil society organizations by definition being independent from the state, its freedom of organization can be narrowed or widened according to the state’s interest.

## ABBREVIATIONS

- CPA: Coalition Provisional Authority
- FoA: Freedom of Association
- GFWI: General Federation of Workers’ Unions in Iraq
- ILO: International Labour Organization
- IOs: International Organizations
- IFOU: Iraqi Federation of Oil Unions
- TUs: Trade Unions



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## BREAKING THE MOLD PROJECT

In mid2018-, 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

The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.

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