



**COUNTRY BASELINES UNDER THE 1998 ILO DECLARATION ANNUAL REVIEW (2000-2008)<sup>1</sup>: IRAQ**

***FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	YES, for the 2001, 2006 and 2007 Annual Reviews (ARs).	
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	YES, According to the Government: Involvement of the Iraq Federation of Industries (IFI) and the Iraq Federation of Trade Unions (IFTU) through communication of Government's report and consultation.	
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2007 AR:</b> Observations by the IFI. <b>2006 AR:</b> Observations by the IFI.	
	<b>Workers' organizations</b>	<b>2008 AR:</b> Observations the International Trade Union Confederation (ITUC). <b>2007 AR:</b> Observations by the IFTU. Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2006 AR:</b> Observations by the IFTU. Observations by the ICFTU. <b>2000 AR:</b> Observations by the ICFTU.	
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<i>Iraq ratified in 1962 the Right to Organize and Collective Bargaining Convention, 1949 (No.98) (C. 98). However it has not yet ratified the Freedom of Association and the Protection of the Right to Organize Convention. 1948 (No. 87) (C. 87).</i>

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>

		<b>Ratification intention</b>	<p><b>YES, since 2001, for C.87.</b></p> <p><b>2008 AR:</b> The Government reiterated its support to the ratification of C. 87 and indicated that it has already been submitted to Parliament for endorsement.</p> <p><b>2007 AR:</b> The Government indicated that ratification of C.87 would be submitted very soon to Parliament. The IFI and the IFTU support the ratification of C.87 by the Government.</p> <p><b>2006 AR:</b> According to the Government: Ratification of C.87 will be done after the adoption of the new Labour Code, which integrates the provisions of this Convention.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001): The Government intended to ratify C. 87.</p>	
<b>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</b>		<b>Constitution</b>	<p><b>2007 AR:</b> According to the Government: Article 22 of the national Constitution, 2006, recognizes the principle of freedom of association.</p> <p><b>2006 AR:</b> According to the Government: A new Constitution will be submitted to referendum at the end of 2005. The draft text recognizes the principle and right (PR).</p>	
		<b>Policy/Legislation and/or Regulations</b>	<p><b>Legislation:</b></p> <p><b>2007 AR:</b> According to the Government: The draft of the Labour Code, which is currently under review with ILO technical cooperation, recognizes the PR.</p> <p><b>2006 AR:</b> According to the Government: A revised Labour Code drafted in cooperation with the social partners and the ILO has been submitted to Parliament for review and adoption. This draft text recognizes the PR.</p>	
		<b>Basic legal provisions</b>	(i) Article 22 of the national Constitution, 2006; (ii) Act No.52 on Trade Union Organizations (1989); (iii) Act No.43 on the Federation of Chambers of Commerce (1989); (iv) Act No.44 on the Union of Iraqi Industries (1989); (v) section 6, 116, 128, 147 of Act No. 71 of 1989; and (vi) sections 130 to 196 of the Labour Code.	
		<b>Judicial decisions</b>	NIL	
<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>For Employers</b>	<b>2001 AR:</b> According to the Government: Freedom of association and the right to establish employers' organizations are ensured by law.	
		<b>For Workers</b>	<p><b>2006 AR:</b> According to the IFTU: The Government does not interfere in its activities and respects freedom of association.</p> <p><b>2001 AR:</b> According to the Government: Freedom of association and the right to establish workers' organizations are ensured by law.</p>	
		<b>Special attention to particular situations</b>	NIL	

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>At national level (enterprise, sector/industry, national)</b>	<b>Information/ Data collection and dissemination</b>	<b>2001 AR:</b> According to the Government: There is a lack of information and data concerning the PR.	
		<b>At international level</b>	According to the Government: There are no particular restrictions for the international affiliation of employers' or workers' organizations.		
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2008 AR:</b> According to the Government: only one trade union existed before 2003 but since, a large number of other trade unions have been created. The Government is currently preparing facilities for trade unions elections.</p> <p><b>2001 AR:</b> According to the Government: Labour legislation is implemented by labour inspection committees (section 16 of the Labour Code).</p>			
	<b>Involvement of the social partners</b>	<p><b>2007 AR:</b> The IFI stated that it had been elected to the board of the Arab Labour Organization (ALO).</p> <p><b>2001 AR:</b> According to the Government: Section 116 (1) of the Labour Code provides that «Workers' and employers' organizations are represented on labour inspection committees entrusted with the proper implementation of the labour legislation».</p>			
	<b>Promotional activities</b>	<p><b>2008 AR:</b> The Government indicated that social dialogue is well functioning and as an example, the Government submitted a copy of a specific Committee within the Ministry of Labour and Social Affairs where governmental, employer and worker representatives deal with ILO issues and adopt recommendations.</p> <p><b>2007 AR:</b> According to the Government: Tripartite committees have been set up to ensure the realization of the PR.</p>			
	<b>Special initiatives/Progress</b>	<b>2006 AR:</b> According to the Government: A draft Constitution and a draft Labour Code have been prepared that recognize the PR. The Government no longer interferes in employers' and workers' organizations activities.			
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2007 AR:</b> According to the IFI: The social and economic situation (economic crisis with more than 50% unemployment rate and insecurity) makes it difficult to exercise the PR in Iraq.</p> <p><b>2006 AR:</b> The IFI mentioned that it wished to be consulted in the Government's decisions concerning economic and social issues.</p>		

		<p><b>Workers' organizations</b></p>	<p><b>2008 AR:</b> The ITUC reiterated the same challenges mentioned in the 2007 AR and added that trade unions were still fully controlled by the authorities. Moreover, a member of the Executive Bureau of the General Federation of Iraqi Workers (GFIW), Alaa Issa Khalaf, was shot dead on 25 January 2006, when leaving home for work by several unidentified men and on 27 April 2006, as the leader of the health workers' union was leaving his office, Thabet Hussein Ali was abducted by a group of terrorists. His bullet-ridden corpse was discovered the following day and he was carrying signs of severe torture, including wounds caused by an electric drill. Furthermore, on 18 August 2006, Tariq Mahdi, a leader of the Union of Health Service Employees was murdered by a militia in Mahmoodya. On 27 July 2006, a demonstration by workers at a cement factory in Tasloja (Sulaimaniya), in support of a wage increase, was violently suppressed by the company's security guards. 13 strikers were injured. The guards were subsequently arrested by the police. It added that the Supreme National Commission for De-Baathification (SNCD) sent the two following notifications to the Iraq Federation of Trade Unions (IFTU): (i) a letter concerning the rules to be followed in the trade union elections based on Decree 3 of the Government Council; (ii) a list of five people who were «not permitted to hold any leadership post in any federation, company, association or trade union in Iraq». Finally, it underscored that the laws were outdated and/or need to comply with international labour standards. The Draft Labour Code has not yet been adopted. Therefore, the employment laws dating back to the era of Saddam Hussein remain in force, such as the ban on workers in the public sector from organizing or going on strike. Indeed, Law No. 150 changed the status of workers in state-owned enterprises to consider them as civil servants, and therefore depriving them from the right to organize.</p> <p><b>2007 AR:</b> According to IFTU: The political and social situations in Iraq make it difficult to exercise the PR. The ICFTU raised the following challenges: (i) the new labour code drafted with input from the ILO has still not been implemented; (ii) Decree 875 gave the Government total control over the existing unions' finances, (iii) the fact that only one national trade union has been granted official recognition gives the opportunity to employers to refuse to acknowledge other unions in the workplace unless they join the IFTU; (iv) the Federation of Workers' Councils and Unions in Iraq (FWCUI) claims 300,000 members across Iraq, but has been denied recognition as a representative workers' organization, (v) many employers have reportedly used the existence of the old laws to threaten any workers seeking to take strike action in public enterprises.</p> <p><b>2006 AR:</b> The IFTU mentioned that it wished to be consulted in the privatization process. According to the ICFTU: (i) there were many encouraging signs of trade union activities among workers, but full freedom of association is not yet restored given that several national-level union other than the IFTU (for example the Federation of Workers' Councils and Unions in Iraq (FWCUI) are not officially recognized; (iii) given that old laws are still in force, there are many obstacles to trade union's rights, including the ban on organizing and the right to strike in the public sector only one trade union organization was given official recognition; (ii) strikes are banned in the public sector; (iii) workers trying to take strikes action are being threatened.</p> <p><b>2005 AR:</b> According to the ICFTU: (i) there are no offices to register trade unions and employers refuse to recognize unions on the ground that they are not registered</p> <p><b>2000-2002 ARs:</b> According to the ICFTU: (i) there is a single trade union structure through the GFTU that is controlled by the ruling Ba'ath Party; (ii) there are no unions for public sector workers and workers in state enterprises; (iii) severe restrictions exist on the right to strike, including the threat of imprisonment.</p>
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	<b>According to the Government</b>	<p><b>2008 AR:</b> The Government indicated that a serious problem of insecurity still prevailed in the country, mainly due to terrorism.</p> <p><b>2006 AR:</b> According to the Government: The main difficulty encountered in realizing the PR in Iraq is related to the political and security situation.</p>
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2008 AR:</b> According to the Government: Technical assistance is needed for capacity building on freedom of association for workers' and employers' association and to the Ministry of Labour and Social Affairs. It added that ILO technical cooperation would increase the leadership quality of workers' and employers' representative on freedom of association and other international labour standards. Other needs were put forward by the Government, namely labour inspections and vocational trainings.</p> <p><b>2007 AR:</b> According to the Government: ILO technical cooperation is necessary to strengthen capacity building of employers' and workers' organizations, labour inspection and social dialogue. According to the IFI: There is an urgent need for ILO technical cooperation to strengthen the capacity of employers' organizations on the PR. According to the IFTU: ILO should support trade unions' capacity building on the PR.</p> <p><b>2006 AR:</b> According to the Government: Given the negative effects of the war on the activity of the Ministry of Labour and Social Affairs and the employers' and workers' organizations, the Government needs ILO technical cooperation project to facilitate the realization of the PR in Iraq in the following areas, in order of priority: (1) capacity building of responsible government institutions and employers' and workers' organizations; (2) training of government officials and employers' and workers' organizations on the PR, in particular social dialogue and collective bargaining techniques; and (3) training of other officials (judiciary, social workers, teachers). The IFI and ICFTU requested special ILO assistance in capacity building.</p>
	<b>Offer</b>	NIL
<b>EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS</b>		<p><b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) encouraged the Government of Iraq (and few other governments) to complete the legal review process to remove the obstacles to ratification of C.87. They also listed Iraq among the countries where some unions are subject to government's interference or influence. In this regards they recalled the following: «the right to official recognition is an essential aspect of the right to organize as it allows employers' and workers' organizations to be in a position to play their roles efficiently. Furthermore, any government intervention in employers' and workers' organizations' internal affairs (right to establish and join organizations of their own choosing, without distinction whatsoever and without previous authorization, right to draw up internal constitutions and rules, right to elect their representatives in full freedom, etc.) constitutes interference in the functioning of these organizations, which is a denial of the principle and right.» (Cf. Paragraphs 32 and 36 of the 2007 AR Introduction – ILO: GB.301/3).</p> <p><b>2007 AR:</b> The IDEAs listed Iraq among the countries that have been indicating their intention to ratify C.87 and C.98 for several years, with no indication that progress had been made (Cf. Paragraph 73 and 74 of the 2003 Annual Review Introduction – ILO: GB.286/4). (Cf. Paragraph 33 of the 2007 AR Introduction – ILO: GB.298/3).</p>
<b>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</b>		NIL