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Iraq: fist around freedom of expression tightens

Amnesty International today expressed serious concern regarding a draft cybercrime law that is scheduled for a second reading in the upcoming parliamentary sessions in Iraq. The organization is concerned that the vague and broad language of the law may become carte blanche for repression of freedom of expression and may seriously hinder freedom of press and freedom of assembly, while failing to protect the privacy of users and anonymity of sources. On Friday 1 March a number of Iraqi and international non-governmental organizations (NGOs), including Amnesty International, [called](#) on the Iraqi Parliament to withdraw the draft law in an [open letter](#). The Iraqi Parliament is set to resume its sessions on 9 March.

Amnesty International also expressed concern regarding the widespread arrest of activists, protesters and journalists following protests on 24 January in the Shiladze area, Duhok governorate, Kurdistan Region of Iraq (KR-I). The organization called on authorities in the Kurdistan Regional Government (KRG) to end the continuous arbitrary detention of a journalist and two activists in the governorate and to protect the right to freedom of expression and peaceful protest. Amnesty International urged the KRG authorities to ensure that all charges pertaining to freedom of expression and right to peaceful protest are dropped against all individuals arrested in connection to the Shiladze protests.

The draft cybercrime law

Activists, journalists, human rights researchers and other civil society members in Iraq have told Amnesty International that they fear a draft cybercrime law that is currently in the Iraqi Parliament will be a new addition to the tools of repression already available to authorities, including security forces.

On 12 January, the Iraqi Parliament stated that it had completed its first reading of a [draft cybercrime law](#), drafted in 2011 and initially introduced in 2013 before being subsequently withdrawn. While the draft law seeks to criminalize online acts pertaining to terrorism-related acts, human trafficking, drug sales and use, as well as weapons sales, it also seeks to punish with life sentence or a hefty fine, acts that fall under freedom of expression in articles that contain vague and broad language.

One of the most worrying articles is article 3(a) which could potentially grant the state significant power in curtailing freedom of expression. It punishes with a sentence of life in prison the use of a computer device or an information network “for the purpose of undermining the independence of the country, its peace, or its economic, political, military, or security interests.” The language of the article poses serious risks to freedoms under article 38 of Iraq’s 2005 Constitution which guarantees freedom of expression using all means. Iraq has also been party to the International Covenant on Civil and Political Rights (ICCPR) since 1971[.]. An Iraqi human rights researcher and journalist told Amnesty International: “The use of the Penal Code against journalists and activists has already limited the space for freedom of expression in recent years. This law will bring the ceiling crashing down.”

A newspaper editor based in Baghdad, speaking to Amnesty International, expressed concern regarding the vague wording of the law: “Who defines what interest of the nation is and what harms it? This law does not. This opens the door to authorities to hold us accountable for something as simple as disseminating news updates online.”

“Thought Police” and freedom of press

Other activists and journalists who spoke to Amnesty International also expressed concerns regarding

the potentially invasive law adding that it would lead to “the emergence of what can only be termed as ‘thought police.’” One activist who takes part in organizing the large-scale and regular protests seen in recent years in Baghdad, explained that the harassment, arrest and interrogation of protesters and organizers often stems from what the activists believe to be the invasion of their social media accounts:

“We see arrests based purely on intentions to protest. People are picked up from the streets. Now, they [security forces] will be able to openly say they hacked our social media accounts and emails and this law will allow them to do that in the name of national interest; it will allow them to arrest us based on surveillance this law will permit. They will be in charge of defining and finding loopholes. After that you will be lucky if you end up in front of a judge who sympathizes with human rights.”

He added that a number of protesters arrested in a local police station in Baghdad in late 2018 were made to sign agreements not to protest again, in addition to providing a person to vouch for this. “When we raised this with officials in the Ministry of Interior, it was dismissed as the acts of over-zealous police officers and should be ignored. But this does not translate on the ground. Security forces answer to no one.” In [July](#) 2018, when armed men in civilian clothes arrested protesters in Baghdad, they told them, “We are from the authorities.” They were beaten, tasered and interrogated about individuals who had organized the protests before being forced to sign papers without being told what the contents were, and then released.

Another journalist relayed:

“In the past, we have had politicians and other members of the authorities send ‘their men’ to our offices to threaten us with court actions and smear campaigns if we did not take down [from website] articles we published about allegations of corruption against them. This law asks for proof for what we publish. What do we do? Not publish and protect our sources, or do we publish and face hefty fines? It is hard enough to operate as an independent news outlet. Nobody wants to help fund media or journalists who will not cooperate with politicians. If this law is passed, we will be the first victims.”

Another journalist added: “In Iraq, it is safer to carry a gun than it is to carry a camera. A camera puts everybody on edge because it is always assumed you are looking for trouble.”

Why now?

It is unclear why this law was reintroduced this year. According to information available to Amnesty International, one official in the Ministry of Defense, and a proponent of the draft law, informed several members of civil society in Baghdad that this law was necessary because security forces were unable to pursue individuals legally due to the absence of a relevant law addressing cybercrime, such as individuals believed to be selling weapons on social media platforms. Activists and other members of civil society disagree that such a vague and broad law is necessary, and fear it will instead be carte blanche for intelligence and security forces. The director of a human rights NGO in Baghdad said: “Why can they not pass a law that regulates internet use in a way that protects privacy and freedom of expression? Why must it be criminalization that puts not only activists and journalists at risk, but also regular people?”

In recent years, Iraq has faced major security challenges posed by the conflict involving the armed group calling itself the Islamic State (IS). Activists however refute the notion that another law is needed to enable intelligence and security forces to crack down on illegal activity: “When have the intelligence apparatuses in Iraq needed to justify their actions or sources of information?”, said one journalist who said security forces had arrested him in Baghdad in 2017 and beaten him, simply for carrying a camera.

Several of those who spoke to Amnesty pointed out the possible ominous timing of the re-introduction of the law. The same director of a human rights NGO in Baghdad explained: “In the past years,

protests and related activities and campaigns have erupted in Baghdad and throughout Iraq with the commencement of summer, when people can really feel the toll of the bad or lack of public services like the limited access to electricity or water. In the south, unprecedented heavy rainfall – an act of God – made for somewhat better access to potable water this winter. What will hide their [government] flaws when the rain stops? The protests will be back throughout Iraq because we have seen no improvement and they [the Iraqi authorities] are preparing for this with a brand new tool.”

Others explained that the spirit in which this law was initially introduced makes for worrying signs. One journalist stated:

“This law was drafted in 2011, in the midst of the Arab Spring. It was to be a tool in the face of any similar events taking place in Iraq. We [civil society] worked hard to have the law withdrawn when it was introduced in 2013. Any amendments that might have been done since then have not addressed the essential problems with this law.” He added, “we face enough harassment from security forces and the authorities who use the Penal Code [1969] to arrest journalists and activists, imagine if this law was passed and added to their arsenal.”

Kurdistan Region of Iraq

On 26 January, protests broke out near a Turkish military base in the area of Shiladze, Duhok governorate, sparked by civilian casualties as a result of Turkish air strikes on 24 January, not for the first time. Local media and activists reported that a number of protesters stormed the base and started fires. Subsequently, two protesters were reported to have been killed.

On the same day, the KRG released an [official statement](#) in regards to the protests, announcing investigations into “a disruptive hand behind these events.”

On 27 January, local activists and local NGOs, as a well as local media, reported that Asayish [General Security Forces of the KRG] members carried out a wave of arrests in the governorate of Duhok, of tens of protesters, activists, journalists, and individuals who may have been bystanders. Asayish members also arrested a journalist and two online activists in the area of Baadre, Duhok governorate, who according to their relatives, were on their way to Duhok to join a peaceful gathering in support of the Shiladze protests.

While most of those detained were released on the same day, and some others were released on bail in the subsequent days and weeks, the three arrested in the area of Baadre remain detained and have yet to be brought before a judge. Iraq’s Criminal Procedural Code (no. 23/1971) states that all detainees must be brought before an investigative judge within 24 hours of detention. According to information obtained by Amnesty International, the remaining three individuals have been charged with article 156 of the Iraq Penal Code, which carries the death sentence for whoever “willfully commits an act with intent to violate the independence of the country or its unity or the security of its territory.” The families of those who remain detained have faced extra-legal administrative obstacles when attempting to visit them.

On 19 February, Amnesty International wrote the KRG authorities to seek clarification about the whereabouts and wellbeing of one of the individuals who remains detained. The organization expressed concern that the Duhok Asayish Directorate was creating extra-legal administrative obstacles to prolong the period that the journalist was blocked from accessing his family and lawyer. Incommunicado detention itself amounts to ill-treatment and places him at serious risk of torture and other gross human rights violations. Subsequently, in their correspondence to Amnesty International, KRG officials told the organization that the individuals arrested in connection to the protests in Duhok, including three of whom who were arrested outside Duhok, had been arrested by a judge’s order and charged under the amended 1969 Iraq Penal Code, and had no right to be released on bail.

Amnesty international spoke to a number of relatives of those who were detained and have since then been released on bail. They all stated that they had no knowledge of the whereabouts of their loved ones in the days immediately following their arrest, during what they later found out were their

detention in facilities controlled by the Duhok Asayish Directorate. They were finally able to see their loved ones after local police transferred them to Zirka prison, some three or four days later. Some of those arrested informed their relatives that they had been insulted and beaten during interrogations and kept in cold temperature conditions, while being held in facilities controlled by the Duhok Asayish Directorate.

One relative of an NGO worker who was released on bail told Amnesty International that they had attempted to deliver warm clothing to him in Zirka prison following his transfer, where conditions were markedly better, but were prevented by the prison authorities. He had been arrested from his home in the late hours of 27 January. The relative told Amnesty International:

“They [Asayish members] dragged him out of his house in front of his children without saying why or showing them an arrest warrant. His family was terrified and ran out of the house to stay with other relatives. The next day, they [Asayish facility] would not tell us if he was there or not. After four days, they told us he was transferred to another prison called Zirka. In Zirka, they said working hours were over and we had to wait until general visiting days which meant we saw him nine days after he was taken. They had beaten him in Asayish [detention facility]. He had nothing to do with the fire or violence. He was peaceful.”

Journalists and activists in the KR-I told Amnesty International that while the Region has a protest law and a press law, arrests are rarely made on the basis of these laws. Rather the amended 1969 Iraq Penal Code is utilized, which can carry lengthy prison sentences. One Kurdish journalist told the organization: “I have never been arrested on the basis of the press or protest law. It is always the Penal Code. The authorities are forever looking for loopholes in the law in search of the heaviest punishment. This is not only unjust, it also encourages self-censorship.”

Background

In 2018, security forces in south Iraq shot, beat, arrested and detained protesters demanding access to jobs, basic services and medical care. Amidst the protests in September, the authorities severely restricted access to the internet, including social media platforms. Peaceful protesters in southern Iraq and Baghdad believed the authorities deliberately disabled internet access before security forces fired at them, as they were unable to share images and videos depicting the abuses.

In the KR-I, Kurdish security forces and armed individuals in civilian clothes violently dispersed peaceful protests in Erbil and Dohuk in March. Teachers, health workers and other public sector workers, as well as activists took to the streets across KR-I to protest against austerity measures and delays in payment of and cuts to salaries of state employees. Scores of protesters and several journalists were detained and said they were tortured or otherwise ill-treated and forced to sign pledges that they would not take part in demonstrations again. KRG officials stated that the arrested protesters were charged with inciting violence and then transferred to court. They added that the protesters had not been granted a permit to stage the protests and that members of political parties had incited violence.