

Introduction

Iraq now faces an historic moment in which the country should reflect on its legacy of authoritarian rule while envisioning a free democratic society based on respect for fundamental human rights and the rule of law. The new Constitution represents one of the foundational elements of this complex social and political process. It is an important opportunity for the nation to build on its unique heritage, unite its multiple ethnicities, and create the blueprint for future peace and stability.

The drafting process for the Constitution is outlined in the Transitional Administration Law (TAL). The drafting was to take place after the election of the National Assembly and the Presidential Council (consisting of a President and two Vice-Presidents) and the appointment of the Prime Minister and the Cabinet. The National Assembly was to form a Constitutional Drafting Committee charged with presenting a draft of the new Constitution by the end of August 2005. By the end of the year, the Constitution was to be affirmed by the Iraqi people, signaling the end of the transitional period. This was achieved in October 2005.

Drafting a new Iraqi Constitution has required a thorough understanding of Iraq's rich constitutional history, including a careful reflection on the nation's successive constitutions from the Basic Law of 1925 through the Draft Constitution of 1990. Also valuable was the consideration of the Constitutions of the other twenty-one Arab states as well as the relationship of all these foundational documents to international human rights standards.

Therefore, in an effort to assist the Iraqi people in the process of creating a new Constitution, the International Human Rights Law Institute at DePaul University (IHRLI), the National Democratic Institute for International Affairs (NDI), and the American Bar Association (ABA) prepared a series of publications to support this vital process. These publications include:

1. *Iraqi Constitutional Studies Regarding Basic Principles for the New Iraqi Constitution;*
2. *A Compilation of Iraqi Constitutions and a Comparative Study of International Human Rights Standards;*
3. *A Compilation of Arab Constitutions and a Comparative Study of International Human Rights Standards;*

4. *A Compilation of Legislative Laws and Regulations of Select Arab Legal Systems;*
5. *Public Freedoms and Democracy;* and
6. *Gender Justice and Women's Rights in Iraq.*

Since 2003, IHRLI has also, , conducted the Raising the Bar: Iraqi Legal Education Reform Project, which ranks among the earliest reconstruction programs in Iraq.

This project, funded by the US Agency for International Development (USAID), has concentrated in the following areas:

- Rule of Law and Good Governance
- Legal Curricular Reform
- Rebuilding and Equipping Libraries with the Latest Technologies
- Clinical and Practical Education Programs

As part of this project, IHRLI also organized four seminars on subjects such as: the new Iraqi Constitution, property claims, ethics in legal professions and the implementation of principles of international criminal justice in Iraq. IHRLI also oversaw the rebuilding of law libraries at Baghdad, Basra, and Suleimaniya Universities, as well as provided books, journals, computers, and internet access to their law schools.

In collaboration with the International Institute of Higher Studies in Criminal Sciences (ISISC) in Siracusa, Italy, IHRLI organized a series of training workshops for Iraqi Jurists and law professors, and members of the Iraqi Judiciary.

Following the approval of the new Iraqi Constitution in 2005, Iraq faces important issues that will affect its future. This requires clear understanding as well as complete social integration in order to apply the principles outlined in the Constitution in such a way that would ensure its objectives.

This book, *Gender Justice and Women's Rights in Iraq*, addresses women's rights, or gender equality, within a society that ensures equality to all of its citizens. This may be achieved under the 2005 Constitution through a number of methods, including special implementation of laws of constitutional principles (*i.e.*, Basic Laws). This will be undertaken by

the Constitutional Committee formed from representatives elected in 2006.

In anticipation of this process, IHRLI, in collaboration with the National Democratic Institute, organized a special conference in Amman, Jordan, that was held 11-14 November 2005, to address this subject, in general, and women's rights, in particular.

The Gender Justice in Iraq Conference benefited from the participation of 30 Iraqi and Arab experts. As reflected in the List of Participants, participation was exclusive to Iraqi and Arab women experts in different various fields, including politics, government, science, and academia. The seminar resulted in the production of 24 specialized studies written by participants and other invited contributors, which are presented here in two parts. Part 1 includes 15 studies focusing on women's issues in Iraq. Part 2 includes 9 studies focusing on Arab experiences and how Iraq can draw from them to improve conditions in its own society. Part 3 includes the important Recommendations issued by the Conference Participants in the form of a Final Communiqué, as well as a List of Participants.

We thought it was also important to include these Recommendations in English for non-Arabic speakers so that interested persons can be aware of this important effort by Iraqi and Arab experts in the field.

I would like to take this opportunity to thank all of those who participated in this Conference, which was chaired by Dr. Badria El Awadhi. I would also like to extend gratitude to all of those who contributed studies for this book, especially The Hon. Zoubida Assoul who served as Editor.

All of those who participated in this project hope that the Iraqi Constitutional Committee, which will start its activities soon, would benefit from this effort, leading to improvements for Iraq and Iraqi women, as well as for the Arab world and Arab women. Our Arab society will not be complete unless there is a full integration of women, which requires full equality and justice within the constitution and legislative framework.

To conclude, the staff at IHRLI hopes that these publications and project prove to be valuable to the Iraqi people.

Finally, it is appropriate to recall the following verses from the holy Qur'an:

*"We have honoured the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favors above a great part of Our Creation."*¹

*"O mankind! We created you from a single (pair) of a male and female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full Knowledge and is well-acquainted (with all things). "*²

*"And consult them in affairs (of moment). Then, when thou hast taken a decision, put thy trust in Allah. For Allah loves those who put their trust (in Him)."*³

*"Those who hearken to their Lord, and establish regular prayer; who (conduct) their affairs by mutual Consultation; who spend out of what We bestow on them for Sustenance."*⁴

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⁽¹⁾Holy Quran, Surat al – Esra'a number 17, Aya number 70.

⁽²⁾Holy Quran, Surat al-Hujurat number 49, Aya number 13

⁽³⁾ Holy Quran, Surat A-Imran number 3, Aya number 159

⁽⁴⁾ Holy Quran, Surat al-shura number 42, Aya number 38