

# ***A Compilation of Legislative Laws and Regulations of Select Arab Legal Systems***

## **Introduction**

Iraq now faces a historic moment in which the country should reflect on its legacy of authoritarian rule while envisioning a free democratic society based on a 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. In this way, the new constitution 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 is 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 forms a constitutional drafting committee that is charged with presenting a draft of the new constitution by the end of August 2005. By the end of the year, the constitution should be affirmed by the Iraqi people, signaling the end of the transitional period.

Drafting a new Iraqi Constitution requires a thorough understanding of Iraq's rich constitutional history. This includes a careful reflection on the nation's successive constitutions from the Basic Law of 1925 through the Draft Constitution of 1990. It is also valuable to consider 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 (NDI), and the American Bar Association (ABA) have prepared a series of publications to

support the vital process of drafting the new Iraqi Constitution. 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; and
4. A Compilation of Legislative Laws and Regulations of Select Arab Legal Systems.

As a part of these series, IHRLI is also preparing two further publications, the first of which pertains to constitutional guarantees of public freedoms in the Arab World and the second relates to the protection of women's rights in the Iraq and Arab World.

Since 2003, IHRLI has, with funding from the US Agency for International Development (USAID), also conducted the Iraqi Legal Education Reform Project, which ranks among the earliest reconstruction programs in Iraq.

This project has concentrated on the following areas:

- Rule of Law and Good Governance
- Legal Curricula 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 of legal professions, and the implementation of principles of international criminal justice in Iraq. IHRLI also oversaw the rebuilding of the law libraries in Baghdad, Basra, and Suleimaniya Universities, as well as provided books, journals, computers and internet access.

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

To conclude, the staff at IHRLI hopes that these studies and projects prove to be valuable to the Iraqi people during this complex transitional

moment. Finally, it is appropriate to recall the following verses from the Holy Quran:

*“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 favours, above a great part of Our Creation.”<sup>1</sup>*

*“O mankind! We created you from a single (pair) of a male and a 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).”<sup>2</sup>*

*“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).”<sup>3</sup>*

*“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”<sup>4</sup>*

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<sup>1</sup> Holy Quran, Surat al-Esra'a number 17, Aya number 70.

<sup>2</sup> Holy Quran, Surat al-Hujurat number 49, Aya number 13.

<sup>3</sup> Holy Quran, Surat Al-Imran number 3, Aya number 159.

<sup>4</sup> Holy Quran, Surat al-Shura number 42, Aya number 38.

\* See also the following web pages, International Human Rights Law Institute, DePaul University [www.iharli.org](http://www.iharli.org); International Institute of Higher Studies in Criminal Sciences, Siracusa, Italy [www.isisc.org](http://www.isisc.org) ; International Association of Penal Law, Paris, France [www.penal.org](http://www.penal.org) .

## Summary of Contents

During the second half of the Twentieth Century, Arab states sought to unify the general framework of their respective legislative processes, particularly through multilateral cooperation within the League of Arab States. In 1981, at the Second Conference of Arab Ministers of Justice, the "Sana'a Strategy" was adopted to unify domestic legislation through the adoption of a series of unified Arab codes. The legal processes included: civil law, civil law procedures, construction registration law, penal law, penal procedures, juvenile law, prison standards, combating information technology crime, and matters related to personal status, and judicial organization and regulation.

The League of Arab States also remains actively engaged in further efforts to unify Arab legislation in numerous contemporary matters, including the drafting of Arab codes relating to trade in organs and transplants and the prohibition of cloning for purposes of birth. In addition, due to the growing complexity of relations between states and/or international organizations, the need arose to develop Arab codes in areas including cooperation in penal matters, international crimes falling within the jurisdiction of the International Criminal Court, trafficking in persons, as well as laws relating to arbitration, conciliation, labor, and trade.<sup>5</sup>

The League of Arab States also formed a committee to unify legal and judicial terms, structures, and processes in order to achieve a more integrated and harmonized Arab world legal system.

The League of Arab States also formed a committee to unify legal and judicial terms with a view to reaching a harmonized Arab legal system. Concurrently, to effectuate the recommendations of this committee, the League of Arab States also established the Arab Centre for Legal and Judicial Studies in Beirut, Lebanon, which organized and

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<sup>5</sup> The International Institute of Higher Studies in Criminal Sciences, Siracusa, Italy (ISIS) hosted the committee of Arab experts that drafted the Arab code for cooperation in penal matters which was chaired by Professor M. Cherif Bassiouni and attended by leading jurists from the Arab world.

hosted numerous legal events for law professionals from across the region, as well an annual conference for Arabs active in the field of drafting legislation as a forum for exchanging ideas and experience. The latter meeting of this annual conference, held in Cairo, Egypt, issued a significant set of recommendations as guidelines to Arab legislators in future efforts to draft legislation. These recommendations are appended herewith.

It is also noteworthy that during the session of the 2005 Arab Summit in Algiers, Algeria, the Pan-Arab Parliament in Damascus, Syria, was established, representing a further step on the way to unifying Arab legislation. This parliament will demonstrate that the consecrated Islamic *Shari'a* represents a solid foundation for Arab jurisprudence while utilizing other legal schools employed in the region, such as the Latin system in Egypt and other North African states and the Anglo-American system in Sudan.

IHRLI compiled this selection of Arab legislation and regulations relating to legislative organization. It includes Jordan's Internal Regulations of both the Deputies Council and the Senate; the United Arab Emirates' Federal Decree number 97 of the Internal Regulations of the National Federal Council and Federal Law Number 10 of the Supreme Federal Court; and Algeria's Regulatory Law Number 02/99 of the National Peoples Council and the Peoples Assembly, their relationship and their relationship with the government, as well as the Internal Regulations of the Nation's (*Umma*) Assembly and the Rules of Procedure of the Constitutional Council.. Despite the current state of affairs in Iraq, IHRLI decided to include the Law of the National Assembly and the Internal Regulations of the National Assembly as the official instrument governing the legislative procedure as of this writing. A number of Moroccan instruments are also appended, including the Regulatory Law Number 32.97 of the Counselors Council, Internal Regulations of the Counselors Council, Regulatory Law Number 31.97 of the Deputies Council, Internal Regulations of the Deputies Council as adopted by the Council, Regulatory Law Number 1.77.278 of the Supreme Court and Regulatory Law Number 29.93 of the Constitutional Council. From the Syrian Arab Republic, the Internal Regulations of the Peoples Assembly and Law Number 19 of the Supreme Constitutional Court are included. Finally, the wealth of experience from the Arab Republic of Egypt was brought through

the inclusion of Law Number 38 of the Formation of the Peoples Assembly, the Rules of Procedure of the Peoples Assembly, Law Number 120 of the Consultative (*Shuraa*) Council, the Rules of Procedure of the Consultative (*Shuraa*) Council, and Law Number 48 of the Supreme Constitutional Court.

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