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Iraq: Personal Status Law Amendment Sets Back Women's Rights

Some Improvements from Original Draft, but Still Problematic



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A woman holds a sign protesting women being deprived of their rights in marriage in Tahrir Square, Baghdad, Iraq, August 8, 2024. © AHMAD AL-RUBAYE/AFP via Getty Images

(Beirut) – After months of legal and political wrangling, an amendment to Iraq's Personal Status Law that entered into force on February 17, 2025, violates women's and girls' rights to equality before the law and puts them at risk of other abuses, Human Rights Watch said today. Persistent pressure and advocacy by women's rights groups partly reduced the amendment's harm by retaining provisions for the minimum age of marriage, child custody, and polygamy, but the amended law contains other provisions that threaten women's and girls' rights.

Under the new law, couples concluding a marriage contract can choose whether the Personal Status Law of 1959 or a Personal Status Code (mudawana), to be developed by the Shia Ja'afari school of Islamic jurisprudence, would govern their marriage, divorce, children, and inheritance. Couples do not have the right to change their choice later. This arrangement effectively establishes separate legal regimes with different rights accorded to different sects, undermining the right to legal equality for all Iraqis found in article 14 of the constitution and international human rights law.

"It's deeply disheartening to see Iraqi leaders move the country backward rather than forward on women and girls' rights," said Sarah Sanbar, Iraq researcher at Human Rights Watch. "Though the final text includes important revisions, particularly on the minimum age of marriage, these changes merely take the law from terrible to just plain bad."

The final text of the amendment specifies that the minimum age of marriage in the mudawana cannot contravene the Personal Status Law. The law sets the legal age for marriage at 18, or 15 with

a judge's permission and depending on the child's "maturity and physical capacity." The provision in the final text alleviates concerns that the amendment would have sanctioned marriages of girls as young as 9, but still contravenes the international legal standard that the minimum age for marriage should be 18.

According to the United Nations Children's Fund (UNICEF), 28 percent of girls in Iraq are married before the age of 18. Child marriage puts girls at increased risk of sexual and physical violence, adverse physical and mental health consequences, and being denied access to education and employment.

The final text also retains the existing provisions in the Personal Status Law concerning polygamy. Article 3 of the Personal Status Law states polygamy is only allowed with the consent of a judge, who must ensure that the husband can support more than one wife and that there is a "legitimate interest."

Regarding child custody, the amendment states that the mudawana code may not include "anything that does not align with the best interests of the children," and guarantees the right of the parent without custody to "meet and communicate with their children in an appropriate manner, duration, and place."

In the event of a dispute between a husband and wife over which legal regime shall apply, a judge will determine the best interest of both parties. In the previous version, the husband's decision took precedence, in violation of Iraq's obligations under international law to uphold equal rights for women.

The improvements in the final version of the amended law are a testament to the power of Iraqi women's organizing and advocacy, but the law still violates' women's and girls' rights, Human Rights Watch said.

Article 14 of the Iraqi constitution, as well as international human rights law, guarantee all Iraqis the right to legal equality. The amended code undermines the principle of equality before the law by establishing different legal regimes for different sects of Islam. Sunni religious scholars opposed the amendment and refused to participate in drafting their own mudawana, so only the Ja'afari school will do so.

The amendment also legalizes unregistered marriages, whose harm Human Rights Watch has extensively documented. Human Rights Watch found that unregistered marriages function as loopholes enabling child marriage in Iraq. According to the UN Assistance Mission in Iraq, 22 percent of unregistered marriages involved girls under the age of 14. It is unclear what impact the legalization of unregistered marriages will have in practice.

Women's rights groups also fear that granting clerics the authority to conduct marriages will legalize so-called pleasure marriages. In such marriages, a cleric arranges a contract with a dowry for a limited duration, ranging from an hour to a few months. Under the contract, neither spouse receives an inheritance, and the husband is not required to pay any spousal maintenance when the contract expires. These marriages have been condemned by women's rights groups as a vehicle for sexual exploitation.

The amendment gives the Ja'afari school four months to develop and submit the mudawana to the house of representatives, which shall be obligated to approve it and put it into effect within 30 days. This means lawmakers and the general public will not have a chance to review or vote on the mudawana before it becomes law, removing democratic oversight and granting disproportionate power to religious authorities in setting the law, Human Rights Watch said.

The full extent of the changes will not be clear until the mudawana is submitted. Yet, under the Ja'afari school, a divorced woman has no right to the marital home, spousal maintenance, or her dowry, and her children would continue living with her for only two years, regardless of their age, contingent on her not remarrying.

Parliament passed the Personal Status Law amendment alongside other legislation, including the Property Restitution Law and an amendment to the second General Amnesty Law, together in a single vote on January 21, 2025, rather than voting on each law individually. Several parliament members then filed a lawsuit with the Federal Supreme Court accusing the parliament speaker, Mahmoud al-Mashhadani, of procedural irregularities and violations of the voting process.

On February 11, the Federal Supreme Court annulled a state order it had issued on February 4 halting enforcement of the three laws. President Abdul Latif Rashid then ratified the three laws on February 13 and they entered into force on February 17.

The amendment violates the international Convention on the Elimination of All Forms of Discrimination against Women, which Iraq ratified in 1986, by depriving women and girls of their rights on the basis of their gender. The amendment also violates the international Convention on the Rights of the Child, which Iraq ratified in 1994, by legalizing child marriage, putting girls at risk of forced and early marriage, leaving them susceptible to sexual abuse, and not requiring decisions about children in divorce cases to be made in the best interests of the child.

The draft amendment appears to violate the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights by depriving certain people of their rights on the basis of their religion.

“The ripple effects created by passing this law will reach far and wide, likely changing the fabric of Iraqi society at the expense of Iraqi women and girls’ independence and ability to make their own decisions,” Sanbar said.