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Iraq: Marriage registration and the issuance of marriage certificates

Introduction

The following note describes the marriage registration procedure and the issuance of marriage certificates in Iraq. In doing so, the note will include a description of the system for civil registrations and the legislative framework related to the issuance of civil status documents.

The note is based on open source information and can be shared with interested parties.

Civil registrations in Iraq

Iraq has 18 governorates (muhafizat) and one region (Kurdistan Regional Government, KRG). The governorates are divided into districts (qada'a) and sub-districts (nahiya).¹ In April 2011, there were 275 civil registration offices in Iraq, including 30 in the Kurdistan Regional Government.² Every administrative district in Iraq has one or more civil registration offices in charge of registering births, deaths, marriages and divorces.³

The system for civil registration and vital statistics is centralised, but has dual agencies. This means, that personal information and documents are processed through parallel routes. Where the vital statistics component reports to the Ministry of Health, the civil registration component reports to the Ministry of Interior.⁴

The civil registration system in Iraq has up until 2013 been a manual one, in which family books are kept and the register updated manually. Recently, the Iraqi administration has worked to digitalise the civil registration system and update the types of identity documents issued to residents. In this process, the local registration offices are being connected to the central register and new

¹ Bah, April 2014, pp. 112-113.

² UK Home Office, June 2020, pp. 24

³ Landinfo, 12 September 2014, pp. 7

⁴ Bah, April 2014, pp. 117

registrations will be fed digitally and directly into the digital register.⁵ The digitalisation has supposedly already begun in Iraq, but, as of February 2021, it is not possible to obtain an updated information on the process.

In the manual registration system, a back-up scan of each family register is made at the head office, when 200 families have been registered by the local office. The local office sends the physical document containing the register of 200 families to the head office, which then scans the document and returns it to the local office. The scan is archived at the head office, and the original is archived at the local office.⁶

Records dating from 1957 to 2011 are kept on external hard drives, while records dating from 1948 to 1957 are kept on CDs. Records from 1934-1947 are only kept in paper copy at the head office in secure rooms.⁷

The marriage ceremony and registration

Both religious and civil wedding ceremonies take place in Iraq, but only the civil marriage holds legal validity in the country.⁸ In many cases, a couple will have celebrated their marriage in both ways.

The legislative framework for civil marriages in Iraq is Law No. 188 from 1959: Personal Status Law and Amendments. As it is based on Islamic principles, the civil marriage in Iraq may at the same time be considered a type of religious marriage. It also means that non-Muslims in Iraq are exempted from this law and must instead follow their own religious principles regarding marriage.⁹

The following section will attempt to clarify the differences between the two types of Muslim marriages. As 95-98 % of the Iraqi population are Muslims, this note will mainly focus on marriage registration for Muslims.¹⁰

Religious ceremonies

As mentioned above, the religious marriage does not hold legal validity in Iraq. However, some sources point to a greater personal value of this religious ceremony resulting in the fact that many choose to have a private religious ceremony as well as a civil ceremony.¹¹

According to a Landinfo report from 2014, the likelihood that a couple will celebrate a religious marriage first correlates with how religious their communities are. It is, for instance, likely in Najaf and Kerbala, that the civil marriage is celebrated later than the religious marriage. By the time their children

⁵ Landinfo, 11 April 2018, pp. 15-17

⁶ Bah, April 2014, pp. 115

⁷ Bah, April 2014, pp. 115

⁸ Landinfo, 12 September 2014, pp. 6

⁹ Landinfo, 12 September 2014, pp. 5-6.

¹⁰ CIA World Factbook.

¹¹ Landinfo, 12 September 2014, pp. 5

enroll in school, the couple will have to celebrate a civil marriage.¹² It is also more common for Shia Muslims in Iraq to have a religious ceremony along with the civil, than it is for Sunni Muslims.¹³

In order for a couple to have a religiously valid marriage in Islam, there must be an offer and an acceptance from both parties. The two parties to the marriage will also have to meet conditions and requirements laid out by the religious school of law that they follow.

It should further be mentioned, that there is no predefined age of consent for religious marriages. Instead, the religious institutions demand that the parties to the marriage must have reached puberty in order to be married.¹⁴

Civil marriages

In order for a marriage to be legally valid in Iraq, the marriage must be entered into and registered in the personal status court in Iraq.¹⁵ According to the Personal Status Law, it is the marriage contract between the two parties that is registered in the Family Court.¹⁶ Whether the registration of the marriage in Personal Status Court takes place in connection with some kind of ceremony is unclear.

The most essential aspect of the religious or traditional marriage in Iraq for both Sunni and Shia Muslims is the wedding contract, which must include written conditions for the marriage and the dowry payment.¹⁷

A marriage contract is initiated by an offer expressed by one of the parties to the contract, and the other party accepting the offer. An agent (*Wakil*) accepts the offer on behalf of the party who has been offered the marriage.¹⁸

The Personal Status Law provides several conditions for entering a legally valid marriage in Iraq. Conditions for marriage includes the following:¹⁹

- 1) Marrying more than one woman is only permissible with authorisation of a judge (qadi)
- 2) The second party must accept the offer of the first party.
- 3) Two witnesses having the qualification of legal competence must bear witness to the marriage contract
- 4) Both parties should be sane and have reached 18 years of age. A judge can authorise a party of 15 years of age to marry.
- 5) It is illegal for a relative or non-relative to force marriage upon another and no one has the right to prevent marriage if the party is eligible. In the

¹² Landinfo, 12 September 2014, pp. 5

¹³ Landinfo, 12 September 2014, pp. 9

¹⁴ Landinfo, 12 September 2014, pp. 6

¹⁵ Personal Status Law and Its Amendments, 30 December 1959, section 4 article 10

¹⁶ Personal Status Law and Its Amendments, 30 December 1959, Section 4, article 10

¹⁷ Landinfo, 12 September 2014, pp. 6

¹⁸ Personal Status Law and Its Amendments, 30 December 1959, Law Section 2

¹⁹ Personal Status Law and Its Amendments, 30 December 1959, section 2 and 3

same way, no relative of non-relative has the right to prevent a marriage between two eligible parties.

- 6) A Muslim man may marry a Muslim, Christian or Jewish woman, whereas a Muslim woman may only marry a Muslim man.

According to Iraqi Personal Status Law, marriage by proxy is permissible as long as the proxy meets the legal and lawful conditions.²⁰

In order for the marriage contract to be registered, the following conditions must be met:²¹

- 1) A statement showing the identity of the two parties to the contract must be submitted. This statement should also include the amount of the dowry and establish the absence of any legal impediment to the marriage. The document must further be signed either by the local community leader, a *mukhtar*, or by two “revered figures of the district’s citizens”
- 2) A medical report confirming that the parties are of good health and there are no medical impediments to the marriage should be submitted.

Upon registration of the marriage contract in the personal status court, the judge will issue a marriage certificate to the couple. The marriage certificate will be filled in by the judge and stamped with the stamp of that particular court. The personalisation technique varies from court to court, meaning that personal information on some marriage certificates may be printed on, while it is written by hand on other certificates.²²

Non-Muslim marriages in Iraq

In case the marrying couple is Christian, the marriage should be entered in a Christian church and afterwards registered in the personal status court the same way as a Muslim couple will have to.²³

Civil registration

When the marriage has been entered and registered in the personal status court, it should be registered in the local civil registration offices in the administrative district in question. Civil status updates pertaining to the family are recorded in the family page. A new family page with the couple’s information is started when a man marries.²⁴

Registration of marriages contracted outside of Iraq

According to a Landinfo report from 2014, marriages entered outside of Iraq may be registered in Iraq.²⁵

²⁰ Personal Status Law and Its Amendments, 30 December 1959, article 5

²¹ Personal Status Law and Its Amendments, 30 December 1959, section 4 article 10

²² Landinfo, 12 September 2014, pp. 7

²³ Landinfo, 12 September 2014, pp. 7

²⁴ Landinfo, 12 September 2014, pp. 7; UK Home Office, June 2020, pp. 23

²⁵ Landinfo, 12 September 2014, pp. 7

The registration will go through the Iraqi embassy covering the country, where the marriage was entered. At the Iraqi embassy, the husband is required to present two copies of the marriage certificate, his own ID-card and his wife's for confirmation by the embassy.²⁶

The husband must also produce a written request for the Iraqi embassy to send the papers concerning marriage registration to the Civil Status Office in the Nationality Directorate in Iraq. The Civil Status Office in the Nationality Directorate will then register the marriage in the family book.²⁷

Access to documentation and replacement documents

In a letter dated from 2014, the British Embassy in Baghdad explained that the long history of displacement in Iraq has yielded well established procedures for replacement of documents for returnees and internally displaced persons.²⁸

Sources, however, indicate that access to documentation for Iraqi citizens has become difficult, and the internally displaced persons face further and specific challenges.²⁹ Civil status documentation is generally issued and renewed based on paper-based registrations at the local civil status registry in the person's place of origin.³⁰ For internally displaced persons, the process thus requires travelling to another part of Iraq which might be challenging.³¹ The Iraqi Ministry of Migration and Displaced (MoMD), the United Nations High Commission for Refugees (UNHCR) and the Network of Protection Assistance and Reintegration Centers (PARC) can be instrumental for returnees and internally displaced persons in obtaining replacement documents.³²

It should further be noted that access to documentation for Iraqi citizens is complex and at times circular. A person can, for instance, present the registrar with a civil status ID card in order to have a passport issued, but may also use a passport in order to obtain a civil status ID card.³³

Corruption and trustworthiness of civil status documents

According to Landinfo, the public administration in Iraq is notorious for the high level of corruption.³⁴ Transparency International ranks Iraq as number 160 out of 180 on the Corruption Perceptions Index of 2020.³⁵

²⁶ Landinfo, 12 September 2014, pp. 8

²⁷ Landinfo, 12 September 2014, pp. 8

²⁸ UK Home Office, June 2020, pp. 34

²⁹ St. Thomas King and Ardis, 2015; Minority Rights Group International, 13 April 2016

³⁰ St. Thomas King and Ardis, 2015.

³¹ St. Thomas King and Ardis, 2015; Minority Rights Group International, 13 April 2016.

³² UK Home Office, June 2020, p. 34.

³³ UK Home Office, June 2020, p. 14.

³⁴ Landinfo, 11 April 2018, p. 27.

³⁵ Transparency International (2021)

Paying a bribe to have documents issued is common, also in order to have documents issued, that the person is legally entitled to. It further appears that it is possible to have documents issued illegally by proxy by bribing the public official.³⁶

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³⁶ Landinfo, 11 April 2018, p. 27.

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