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Freedom in the World - Iraq (2007)

Population:
29,600,000

Capital:
Baghdad

Political Rights Score: 6
Civil Liberties Score: 6
Status: Not Free

Ratings Change

Iraq's civil liberties rating declined from 5 to 6 because of growing sectarian violence and insecurity.

Overview

A new full-term Iraqi government came to power as a result of free and fair elections in December 2005. The Shia-dominated cabinet, led by Prime Minister Nouri Kamel al-Maliki, faced numerous challenges in its first year. Sectarian violence swept the country after the bombing of a Shia shrine prompted reprisal killings that have not abated. Meanwhile, the Sunni-led insurgency was dealt a blow when U.S. forces killed terrorist leader Abu Musab al-Zarqawi, and many Sunni Arab tribes decided to pledge their support for the country's new institutions. Al-Maliki's government is hampered by a lack of security and widespread corruption but maintains its commitment to democracy. The Supreme Court confirmed the November 2006 guilty verdict against Saddam Hussein in the al Dujail trial, and the former Iraqi leader was executed by hanging in December.

The modern state of Iraq, consisting of three former Ottoman provinces, was established after World War I as a League of Nations mandate administered by Britain. The British installed a constitutional monarchy that privileged the Sunni Arab minority at the expense of Kurds and Shiite Arabs. Sunni Arab political dominance in Iraq, which formally gained independence in 1932, continued after the monarchy was overthrown in a 1958 military coup. The Arab nationalist Baath party seized power in 1968. The new regime's de facto strongman, Saddam Hussein, formally assumed the presidency in 1979.

Hussein brutally suppressed all opposition to his rule and sought to establish Iraq as the dominant regional power by invading Iran in 1980. During the ensuing eight-year war, his regime used chemical weapons against both Iranian troops and rebellious Iraqi Kurds. Iraqi troops invaded Kuwait in 1990 but were ousted the following year by a U.S.-led coalition. After the war, the UN Security Council imposed economic sanctions on Iraq, pending the elimination of its weapons of mass destruction. Because of Iraq's refusal to fully cooperate with UN weapons inspectors, however, the sanctions remained in place for over a decade.

Following the establishment of a U.S.-enforced no-fly zone north of the 36th parallel in 1991, most of the three northern provinces of Erbil, Duhok, and Suleimaniyah came under the control of Massoud Barzani's Kurdistan Democratic Party (KDP) and Jalal Talabani's Patriotic Union of Kurdistan (PUK), which together established a Kurdistan Regional Government (KRG). During the 1990s, the two

Kurdish parties alternately fought and cooperated with one another. Mid-decade, the KDP and the PUK fought a devastating internecine conflict that jeopardized their fragile autonomy and invited interference from neighboring states. After a settlement was reached in 1998, northern Iraq was governed through a rigid joint administration system, with each of the two parties in control of fixed regions within the no-fly zone. The UN Oil for Food Program, established in 1997, improved economic conditions in the region.

In the aftermath of the September 11, 2001, terrorist attacks on the United States, a U.S.-led military coalition invaded Iraq in March 2003, captured Baghdad less than three weeks later, and established a Coalition Provisional Authority (CPA) to administer the country temporarily. In July, after extensive negotiations with leading Iraqi political and religious leaders, the CPA appointed a 25-member Iraqi Governing Council (IGC) and granted it limited lawmaking authority.

The initial euphoria felt by many Iraqis after the Hussein regime's collapse was quickly tempered by the security vacuum, widespread looting, and acute electricity and water shortages that followed. The CPA decided to disband Iraq's military and reconstitute the armed services. Unable to build up the new forces quickly enough, and with insufficient troops of its own, the U.S.-led coalition presided over a worsening security situation. Unemployment rose as the violence hindered economic activity and thousands of former high-ranking Baath party officials were put out of work because of de-Baathification policies.

Sunni Arabs, who constitute roughly 20 percent of the population, viewed the prospect of majoritarian democracy with immense trepidation. Disproportionately affected by de-Baathification and upset about losing their standing within the Iraqi government to the Shia majority, Sunni Arabs were not eager to participate in the coalition-led political transition plans. Exploiting these fears, loose networks of former regime officials, Sunni Arab tribe members and al-Qaeda militants began organizing and funding an insurgency that rapidly gained strength in late 2003 and 2004.

Deteriorating security conditions slowed progress in many critical areas of Iraq's reconstruction. Oil production remained below prewar levels as a result of sabotage, while essential public services, such as power and water, were repeatedly disrupted in most areas of the country. Residents of northern Iraq, where Kurdish militia forces (*peshmerga*) continued to maintain security, were spared most of these tribulations.

In spite of the escalating insurgency, Iraq's political transition progressed substantially. In March 2004, the IGC adopted a Transitional Administrative Law (TAL) to serve as the country's interim constitution. In June, after weeks of UN-mediated negotiations among the main (noninsurgent) political groups, the CPA and the IGC transferred sovereignty to an Iraqi Interim Government (IIG), headed by Prime Minister Iyad Allawi.

Elections for a 275-seat Transitional National Assembly (TNA), along with simultaneous elections for provincial governments and the KRG, were held in January 2005. Insurgents' calls for a boycott and threats of violence on election day led the vast majority of Sunni Arabs to stay away from the polls, handing a landslide victory to the Shiite-led United Iraqi Alliance (UIA) and a KDP/PUK Kurdish coalition. After three months of contentious negotiations, the TNA selected

a new Iraqi Transitional Government (ITG), headed by Prime Minister Ibrahim al-Jaafari.

The meager representation of Sunni Arabs in the TNA (only 17 seats) gave them little voice in the process of drafting a permanent constitution. The final text that went to referendum clearly reflected the interests of the Shiite and Kurdish coalitions. It outlined a federal system with powerful regional governments. The constitution recognized KRG autonomy and allowed other provinces to form similar autonomous regions. But the charter failed to unequivocally stipulate that revenue from oil and natural gas fields, located mostly in Kurdish and Shiite regions, be distributed equitably nationwide.

Many articles of the constitution pertaining to internationally recognized political rights and civil liberties depend on subsequent legislation for clarification and enforcement. The charter also stipulates that the Federal Supreme Court should include an unspecified number of "experts in Islamic jurisprudence" alongside civil judges. The draft constitution was approved by a popular referendum in October 2005, though two Sunni Arab provinces voted overwhelmingly against it. However, under a compromise brokered as a concession to Sunni demands before the referendum, the first elected parliament would form a Constitutional Review Committee to determine whether the document should be amended. Any amendments would have to be ratified by referendum. The Constitutional Review Committee was created by parliament in September 2006.

The Sunni Arab community's self-exclusion from the political process paved the way for Shiite and Kurdish parties to extend their influence throughout government. Cabinet ministries were distributed according to ethnicity and sect, following a trend established early in the transitional phase, with powerful ministerial positions, such as interior, oil, and foreign affairs, reserved for Shia and Kurdish candidates from the main political parties. Shia political parties' control over the interior ministry allowed their associated militia forces to infiltrate the police and counterinsurgency forces. Extrajudicial detentions and killings by Shiite militias and militia-dominated police units, as well as Kurdish security forces in the north, proliferated during 2005.

In sharp contrast to the January elections, many prominent Sunni Arab moderates ran in the December 2005 elections for a full-term Parliament, and the minority increased its political representation. The Shia UIA led the elections, but failed to gain an absolute majority. After a four-month negotiating deadlock, Nouri Kamel al-Maliki of the Shia Da'wa party was chosen as prime minister. Moqtada al-Sadr, leader of the Mahdi Army, a major Shia militia, emerged as an important power broker while his armed followers continued to undermine security.

The February 2006 bombing of al-Askari shrine, an important Shia pilgrimage site in the city of Samarra, set off a new cycle of intense sectarian conflict that has not yet abated. Sectarian fighting has erupted throughout Baghdad and in provincial cities where Sunni and Shia Arabs live in close proximity. Iraqi Kurdistan has largely avoided such violence. Civilian deaths increased dramatically, and the transfer of operational command of Iraqi security forces to the Iraqi government was delayed. However, al-Qaeda suffered a blow in June, when U.S. forces killed its leader in Iraq, Abu Musab al-Zarqawi. Although the robust Sunni insurgency remains active, many Sunni Arab tribes and communities have reportedly turned against the radical foreign fighters they once supported.

The trials of Saddam Hussein and several other former senior Iraqi officials culminated in 2006. The al Dujail trial concluded in July 2006 with a verdict delivered on November 5. Saddam Hussein and six other defendants were found guilty of crimes against humanity in the arbitrary killing and displacement from the town of Dujail in 1982. Hussein and two others were sentenced to death by hanging. Another trial opened in August 2006 in which Hussein and six other defendants faced charges of genocide, crimes against humanity, and war crimes stemming from the Anfal campaign against the Kurdish population in northern Iraq, which may have resulted in the death of up to 100,000 Kurds. Although the verdict handed down for the Dujail trial was appealed, Iraq's Supreme Court confirmed the original decision, and Saddam was executed on December 30, 2006, by hanging.

Political Rights and Civil Liberties

Although it has conducted free and fair elections, Iraq is not considered an electoral democracy due to the foreign military presence and impairments caused by ongoing sectarian and insurgent violence. Under the constitution, the president and two vice presidents are elected by Parliament and must appoint the prime minister, who is nominated by the largest parliamentary bloc. Elections are to be held every four years. Although the president and vice presidents are not directly elected by the people, the roles are largely ceremonial. The prime minister is charged with forming a cabinet and running the executive functions of the state. The Parliament consists of a 275-seat lower house, the Council of Representatives, and a still-unformed upper house, the Federal Council, which would represent provincial interests. The constitution provides for independent executive, legislative, and judicial branches, as well as "independent associations" like the central bank and the electoral commission. Political parties representing a wide range of viewpoints are allowed to organize and campaign without legal restrictions, but the Baath party is officially banned.

The Independent Electoral Commission of Iraq (IECI), whose nine-member board was selected by a UN advisory committee, has sole responsibility for administering elections in Iraq. Voting in January 2005 for the transitional National Assembly and the constitutional referendum in October 2005 were certified as free and fair by international monitors. The December 2005 elections for a four-year government also went smoothly, though there was some insurgent violence. Sunni Arabs came out in greater numbers nevertheless and increased their representation in Parliament.

Iraq is plagued by pervasive corruption. In August 2005, a group of 27 former senior officials of Iyad Allawi's interim government, including former ministers of defense, labor, transportation, electricity, and housing, were indicted in connection with the embezzlement of more than \$1 billion from military contract expenditures. According to the head of the Commission for Public Integrity, "Every government department is plagued by some type of corruption and the problem has become endemic countrywide." Corruption has seriously hampered reconstruction efforts, and it is estimated that 25 percent of donor funds are unaccounted for. Iraq was ranked 160 out of 163 countries surveyed in Transparency International's 2006 Corruption Perceptions Index.

Corruption within the Oil Ministry has become a serious national security threat. Iraq depends heavily on oil for state revenue, but almost half of the oil money is being funneled to illegal armed groups through smuggling and protection rackets.

A member of the National Assembly was indicted in 2006 for stealing millions of dollars allocated to protect a critical pipeline against attack. He was accused of channeling some of that money to the insurgency. Even the inspector general's office, which oversees all ministries' activities, is not immune from corruption; several inspectors general of various ministries were fired in 2006. Although the Iraqi government now requires employees to sign codes of conduct and complete financial disclosure forms, there is not full compliance.

Freedom of expression is protected by the constitution and generally respected by the authorities. However, it has been seriously impeded by sectarian tensions and fear of violent reprisals. Over a dozen private television stations are in operation. Although most are affiliated with particular religious or political groups, the nonpartisan station Al-Sharqiya is the most widely watched. Major Arab satellite stations are easily accessible, as roughly one-third of Iraqi families own a satellite dish. More than 150 print publications have been established since 2003 and are allowed to operate without significant government interference. Internet access is not restricted by the authorities, but only about 0.1 percent of the population has access.

Although the Iraqi media are not subject to direct government censorship, violent retributions against journalists have hindered their ability to report widely and objectively. Many have continued to persevere in spite of violence and political threats. As many as 130 journalists and media workers, most of them Iraqis, have been killed in Iraq since 2003. In the single most deadly attack against the media, assailants dressed in police uniforms stormed the al-Shabbiya satellite station building in October 2006, killing dozens of employees. Dozens of journalists were abducted in 2006 by insurgents and militias, or were detained without charge or disclosure of supporting evidence by U.S. forces, on suspicion of aiding and abetting insurgents. Bilal Hussein, a photographer, has been held without charge in U.S. custody since April for photographing insurgents in al-Anbar province.

A new set of laws passed in 2006 criminalizes the ridicule of public officials, and a number of Iraqi journalists have been charged with the offense. The Qatar-based Al-Jazeera satellite television station has been banned from working in the country since August 2004 for violating CPA Order 14, which prohibits media organizations from publishing or broadcasting material that incites violence or civil disorder. Al-Arabiya, an Arab satellite station based in Dubai, was suspended from working in Iraq for one month in 2006 on charges of inciting sectarianism and violence.

Freedom of religion is guaranteed by the constitution and generally respected by the government. Mosques, churches, and other religious institutions are allowed to operate with little formal oversight. However, all religious communities in Iraq were threatened by sectarian violence in 2006. Following the bombing of al-Askari shrine in February, sectarian fighting erupted in much of the country and has not abated since. Thousands of Iraqis have been killed by death squads, insurgents, and militias. Members of both major sects and other groups have been driven from mixed or isolated neighborhoods because of sectarian tension and violence. According to the UN High Commissioner for Refugees, there are approximately 1.6 million internally displaced persons in Iraq, and another 1.8 million who have fled the country. Northern Iraq has largely escaped the unrest.

Baathist-era restrictions on academic freedom were abolished in 2003. However, academic institutions operate in a highly politicized and insecure environment.

Hundreds of university professors and intellectuals have been assassinated by insurgents or political militias for voicing their opinions, encouraging dialogue, or for sectarian reasons.

Rights to freedom of assembly and association are recognized by the constitution and generally respected in practice. The constitution guarantees these rights “in a way that does not violate public order and morality.” Domestic and international nongovernmental organizations were able to operate without legal restrictions, though security constraints limited their activities in many regions. Peaceful demonstrations occurred frequently during the year without interference from coalition forces or the Iraqi government, except when they were in violation of curfews. Gatherings or rallies that violated anti-Baath strictures were considered illegal.

The constitution guarantees “the right of forming and joining professional associations and unions.” Iraq’s 1987 labor law remains in effect, technically prohibiting unionization in the public sector. However, union activity has flourished in nearly all industries since 2003, and strikes have not been uncommon. In 2005, the interim Iraqi government promulgated Decree 8750, which gave authorities the power to seize all union funds and prevent their dispersal, with the promise of future laws to be passed under the permanent government. To date there have been no new labor laws passed, but a parliamentary committee (consisting of mostly pro-union lawmakers) was established to revise the decree and enact International Labor Organization–compliant labor laws drafted in 2004. At least three union leaders, including the International Federation of Trade Union’s International Secretary Hadi Saleh, were murdered in 2005.

The new constitution provides for an independent judiciary. The Higher Judicial Council (HJC)—headed by the chief judge of the Federal Supreme Court and composed of Iraq’s 17 chief appellate judges and several judges from the Federal Court of Cassation—has administrative authority over the court system in Iraq. In practice, however, judges have come under immense political pressure and have largely been unable to pursue cases involving organized crime, corruption, and militia activity. Since 2003, 13 judges have been killed, according to the Higher Judicial Council. The new constitution stipulates that trials must be conducted in public “unless the court decides to make it secret.” The accused are “innocent until proven guilty in a fair legal trial.” According to a recent UN report, the “growing perception of impunity for current and past crimes committed risks further eroding the rule of law.”

Persons accused of committing war crimes, genocide, and crimes against humanity fall under the jurisdiction of the Iraqi High Tribunal (IHT), previously known as the Iraq Special Tribunal. The IHT statute does not explicitly require that guilt be proven beyond a reasonable doubt and lacks adequate safeguards against self-incrimination. Numerous irregularities were noted by international observers in the al Dujail trial, which culminated in the execution by hanging of Saddam Hussein in December 2006.

Iraq’s Criminal Procedure Code and the constitution prohibit arbitrary arrest and detention, though both practices are common in security-related cases. There were credible reports of illegal detention facilities run by the Interior Ministry and party-sponsored militias. The constitution prohibits all forms of torture and inhumane treatment, and affords any victims the right to compensation. But neither coalition

forces nor the Iraqi authorities have established effective safeguards against the mistreatment of detainees, and allegations of torture by security services were serious and widespread in 2006.

There is a critical lack of centralized control over the use of force in Iraq. Insurgents, militias, and criminal gangs, many with ties to government security forces, were responsible for the mistreatment and killing of thousands of Iraqi civilians in 2006. Human rights abuses by the nascent security forces have taken on a sectarian dimension, fueling instability. Police recruits have themselves been a target of violence. As of August 2006, there were approximately 36,000 people in detention. Cases of torture have been documented in both official and unofficial detention centers. The interior minister has attempted to stem abuses by police forces and complicity with militias by firing thousands of employees, including an entire brigade, but the problem remains endemic. The frequent employment of martial law in attempts to stem growing insecurity and violence grants sweeping powers of arrest and restricts basic freedoms.

Although the exact number fluctuated during the year, over 13,000 Iraqis suspected of involvement in the insurgency were held by the U.S. military at any given time, before being released or handed over to the Iraqi authorities. Detainees in coalition custody have also experienced torture and mistreatment.

The internal security forces are dominated by Shiites, and there were credible allegations of employment discrimination against Sunni Arabs and non-Muslim minorities in some government institutions in 2006. Many former members of the Baath party faced difficulty in obtaining work in Shia-dominated ministries and government institutions due to the overzealous application of de-Baathification procedures. Minorities in northern Iraq—Turkmen, Arabs, Christians, and Shabak—reported instances of discrimination and harassment at the hands of Kurdish authorities in 2006. Palestinians were the targets of harassment and discrimination by both police and the general public throughout the year.

The constitution promises Iraqi women equal rights under the law, and they are guaranteed 25 percent of the seats in the legislature. While women comprised 32 percent of the TNA, the portion dropped to 25 percent after the December 2005 elections. Public security for Iraqi women remained a major problem in 2006. Women who hold jobs, attend university, or go out in public unveiled were frequently harassed, and in some cases killed, by radical Islamist groups of both major sects.