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[Iraq](#)'s semi-autonomous Kurdistan Regional Government (KRG) should stop arbitrarily detaining journalists, activists, and political opposition figures, and end its prosecution of journalists for insulting or defaming public figures. The Asayish - the Kurdistan Security Agency - and police arrested without warrants journalists and others who published articles criticizing public officials, and detained them without charge or trial for periods ranging from several weeks to a year.

In what appears to be a blatant violation of the rule of law, officials in the Ministry of Justice and Ministry of Endowments and Religious Affairs have sought to enforce a proposed law criminalizing "insult" against religious and political leaders, even though the legal and human rights committees of the Kurdish parliament have so far blocked the law's enactment. If passed, the law would be a serious violation of basic free speech standards in the Kurdistan Region, Human Rights Watch said, and could prevent investigative journalism and disclosures about high level corruption in the oil rich region.

"These are dark days for freedom of expression in Iraq's Kurdistan region," said [Sarah Leah Whitson](#), Middle East director at Human Rights Watch. "Instead of ensuring the justice system investigates high-level corruption, the Kurdistan Regional Government is ignoring its own laws to protect free speech and assembly, and using "laws" that are not in force to silence dissent."

During 2012, KRG security forces are reported to have arrested and detained at least 50 journalists, critics, and opposition political activists arbitrarily, and prosecuted at least seven of them on criminal charges concerning insulting or defaming public figures, according to information obtained by Human Rights Watch during six visits to the Kurdistan Region, the most recent in November and December. One former customs official, Akram Abdulkarim, has been in jail for more than a year without trial on national security charges after he accused leading members of the Kurdistan Democratic Party, one of the two parties in the coalition that rules the Kurdistan Region, of siphoning off customs revenues.

In November and December, Human Rights Watch interviewed 16 journalists, political activists, and others arrested since the beginning of 2012, after criticizing regional government authorities.

The authorities released some without charge after a period in detention but successfully prosecuted others on defamation or insult charges, resulting in fines and prison sentences. One, lawyer Zana Fatah, said police detained him without charge for six days at a prison in Chamchamel in October, after he wrote an article accusing the judiciary of lacking independence from the main political parties. The police accused him of defaming the judges but did not charge him with any offense.

Human Rights Watch expressed its concern about the crackdown on free speech in meetings in November with officials of the regional government's Department of Foreign Relations and the Asayish. In response, one official said that, "Talk of corruption cannot be tolerated." Officials said that detained journalists were liars and were "violating the human rights of the government," in one official's words.

Article 2 of the Kurdistan [Press Law](#) (Law number 35 of 2007) protects journalists' right to "obtain information of importance to citizens and relevant to the public interest from diverse sources." The law also says that journalists are protected against arrest for publishing such information, and requires the regional government to investigate and punish "anyone who insults or injures a journalist as a result of his work." The law says that a journalist may not be charged with defamation if "he has published or written about the work of an official or a person entrusted with a public service...if what he has published does not go beyond the affairs of the profession," although the law does not define these terms.

The regional government should respect the Press Law and end the harassment of journalists and other critics, Human Rights Watch said. Parliament should enact a freedom of information law that guarantees the public's right to know, and appropriate access by journalists to information held by government and public institutions.

"Rather than subjecting journalists and other critics to arrest and other punitive measures for expressing dissent or exposing alleged corruption, the KRG authorities should be upholding free speech," Whitson said. "The authorities need to investigate and punish cases of abuse of this right, as their own Press Law requires, and hold those responsible for abuse to account."

Arrests, detentions, and other abuses of the rights of journalists and government critics in the Kurdistan Region have taken place in a climate of impunity, with no prosecutions of members of the Asayish or other security forces for exceeding their powers or breaching detainees' rights.

Niyaz Abdullah of the Metro Center for Defending Journalists, a local media freedom group, told Human Rights Watch that the center had documented over 100 complaints about breaches of journalists' rights that authorities have not investigated. "The government is ignoring the laws in place that require it to investigate abuses and harassment of journalists, and to hold the wrongdoers accountable," Abdullah said.

In its year-end report, the Metro Center documented 21 cases of alleged physical assaults of journalists, including 1 armed assault, 50 arrests, 34 instances of security forces confiscating journalists' equipment, and 5 death threats against journalists. When Human Rights Watch questioned the regional government's failure to investigate complaints of abuses in detention, a senior Asayish official first denied that any complaints had been made against the Asayish and then, when confronted with evidence to the contrary, said that those who made the complaints were liars.

In March, Human Rights Watch [documented](#) police beatings and detention of journalists as they covered demonstrations marking the anniversary of protests that began on February 17, 2011 and then spread throughout the Kurdistan Region. In the year following the start of those protests, security forces killed at least 10 protesters and bystanders, and injured more than 250 others.

"Sadly, the Kurdistan Regional Government today looks less and less like the open and thriving democracy it paints itself to be," Whitson said. "By undermining legal guarantees for free speech, the KRG is undermining one of the basic pillars of a free society."

Details about the crackdown on journalists, critics and protesters, and of individual cases follow below.

Legal Measures to Silence Dissent

Adding to concern over the abuses against journalists and government critics, the regional government sought to pass a new law in 2012 that would increase controls on free expression. The "Draft Law to Protect Sanctities," submitted to the Kurdish parliament in June, would criminalize vaguely defined "insults" against "religious and national symbols," carrying a sentence of up to 10 years in prison, and permit the authorities to close down publications on vague grounds, such as "portraying the prophets inappropriately." Civil society activists and others told Human Rights Watch they were concerned that the authorities intended to use the new law to create a climate of fear that would silence dissident voices, and stifle criticism of the Kurdistan Democratic Party and of the regional government's president, Masoud Barzani.

In September, the Kurdish Parliament's Legal, Human Rights and Civil Affairs Committees rejected the draft law. The committees made clear that its "insult" provisions and penalties would contravene Kurdistan's international human rights and other legal obligations. Those include article 38 of the Iraqi Constitution, which requires the state to guarantee "in a way that does not violate public order and morality, freedom of expression using all means; freedom of press, printing, advertisement, media, and publication; [and] freedom of assembly and peaceful demonstration." The committees ruled that the proposed law would also run contrary to the 2007 Press Law.

Despite the parliament's rejection of the draft law, the authorities have sought to carry out its provisions. In October, Human Rights Watch obtained a copy of a letter that a Justice Ministry official, Head of Public Prosecution Sazgar Ali Naji Attar, had addressed to the Ministry of Religious Endowments and Affairs on September 24, three days after the parliament rejected the draft law. In the letter, he instructed the ministry to inform the public prosecution "if any subject disrespects religion, Kurdish history, or national symbols through the media," so that "the public prosecution can take legal action against the source of the publication." Subsequently, on October 15, the interim religious affairs minister wrote to the ministry's "General Directorates" in Erbil, Sulaimaniya, and Duhok directing them to report any "cases of disrespecting religious and national symbols or degrading them... or when legal action is taken against them."

Human Rights Watch has been unable to ascertain whether these officials' instructions have resulted in arrests, but it has clearly had a chilling effect. One local activist, who requested anonymity, told Human Rights Watch: "When the public prosecutor presses charges against someone under the penal code after they criticize a politician or authority, who knows if it is because of this letter?"

At a meeting in November, Human Rights Watch asked a government Foreign Relations official to explain the attorney general's instruction in light of the parliament's rejection of the draft law. He responded that the proposed law was "not dead" and remained "in the halls of parliament awaiting approval." He blamed opposition parties for blocking it, adding that the "KDP and PUK [the two governing parties] hold a majority in Parliament; they want this law and they will win." As to the Head of Public Prosecution's letter, he said: "There are no laws, so the government must take action outside the law. We have new challenges because of freedom of expression and assembly, so we also need new laws. Believe me, the government will be more relaxed if we get a new law passed."

Crackdown on Protests

In March, Human Rights Watch documented police beatings and detention of journalists covering the demonstrations for the anniversary of the 2011 protests.

On February 17, 2012, hundreds of security forces had surrounded the 150 to 200 protestors who gathered in Sulaimaniya's Sarah Square. Dozens of men in civilian clothes waded into the crowd, punching, kicking, and striking protestors with wooden batons, people who were there told Human Rights Watch. One lawyer said men in civilian clothes with wooden batons attacked him, punched him in the back and pushed him as security forces looked on without intervening.

The security forces beat journalists and photographers who were covering the protests. The coordinator of the Metro Center to Defend Journalists told Human Rights Watch that security forces assaulted him and confiscated his camera after he took photographs. The Metro Center documented over 200 cases of attacks on or harassment of journalists during the protests in Sulaimaniya between February and May 2011, for which there has yet to be a single investigation.

At the 2012 protests, security forces also grabbed and kicked Sebastian Meyer, an American photographer for the Metrography photo agency, as he documented arrests of protestors, and then arrested him, along with Pazhar Mohammed, an Iraqi photographer. Meyer told Human Rights Watch that security forces took his camera and phone. Journalists reported that security forces also detained media crews and workers from the local KNN television, NRT television and other media outlets.

Witnesses told Human Rights Watch that inside their makeshift headquarters on the square, security forces interrogated 25 to 30 protestors and journalists, and then took them to Femanday prison, on the western outskirts of Sulaimaniya, where they held them for a brief period, then released them without charge.

Crackdown on Journalists

Shawki Kanabi, director of the KNN television channel in Erbil, is among the journalists who faced charges during 2012. The authorities charged him with a breach of article 434 of the Iraqi Penal Code, which criminalizes "insult," after a broadcast on June 24 in which he interviewed an employee of a company owned by a member of Erbil's Provincial Council. The employee alleged that the company had "cheated some people" and Kanabi noted that the law prohibited company owners from holding public office. A court convicted Kanabi of "insulting" a member of the provincial council on October 20, and fined him 1.5 million dinars (US\$1,300).

Kanabi told Human Rights Watch that anonymous people contacted him after he was charged, suggesting that if he apologized to the council member and asked his forgiveness, the charges might be dropped, but Kanabi declined. He said that the lack of a law upholding the right to freedom of information was responsible for his prosecution and that this greatly hampers the work of journalists because it "gives the government all the power."

"Journalists can't gather information legally," he said. "When you dig, they have many laws to use against you. The Kurdish government is using unconstitutional means to try to stop free press and political opposition, and tries to justify this effort with proper legal procedures. Before they would kill you; now, they threaten you and arrest you."

In April, police detained Sherwan Sherwani, editor of the independent magazine *Bashour*, after he published two anonymous articles criticizing regional authorities. One alleged that 206 million Iraqi dinars were "missing" from Akre City Council's coffers, apparently due to corruption or fraud. The other reported an allegation by a local businessman that a brother of the regional

government's president had given him \$2 million as part of a business deal.

Sherwani said police detained him on April 20 while he was attending a picnic, but declined to show him an arrest warrant, saying that they were merely taking him for "questioning." They released him on bail after three days, but armed soldiers in unmarked black uniforms immediately detained him for three more days. Sherwani faces trial on charges of defamation of regional politicians, but the court has yet to set a date.

Under the Press Law, the authorities may not penalize journalists with criminal penalties for material they have "published or written about the work of an official... or public representative" as long as the journalist can provide proof.

The law also imposes a time limit on public authorities to file defamation cases within 90 days after an allegedly defamatory article is published. Authorities brought charges against Sherwany 170 days after he published the initial article, and he has appealed on these grounds, without a response.

Human Rights Watch received information from credible sources that the Asayish summoned for questioning and threatened 14 other journalists from Badinan province, making them promise not to write articles for named independent journals, but none of the 14 would agree to speak to Human Rights Watch, apparently fearful of Asayish reprisals. Other journalists and activists described the area between Badinan, Diyana and Massef as a "Bermuda Triangle" for free speech.

The actions of the authorities are having a chilling effect. Asos Hardi of the Sulaimaniya-based magazine *Awene* told Human Rights Watch: "Talking about politics is a dangerous undertaking.... Corruption is an especially sensitive issue. The problem is that there is no mentality of accountability." He said of the authorities: "When they want to put someone away, they put them away, and then they look for the excuse."

Shwan Saber, vice-chairman of the Justice Network for Prisoners, echoed his comments: "When corrupt officials punish free speech, this is what you get. The ruling party is silencing its critics."

The Akram Case

Security forces seized Akram Abdulkarim, a former customs official also known as "Sayid Akram," on November 1, 2011, at the Ibrahim Khalil border crossing between the Kurdistan Region and Turkey, his lawyer told Human Rights Watch.

He was detained a week after he gave media interviews accusing leading members of the Kurdistan Democratic Party of siphoning off customs revenues generated at that border crossing, and diverting them to the office of a senior politician. Following these interviews, with the local television station NRT, the opposition *Bashour* magazine, and *Hawlati* magazine, 50 parliament members signed a petition calling for transparent accounting of the revenues generated at the border crossing with Turkey. Authorities have not officially denied Akram's allegations.

The authorities detained him without access to his lawyer for between two and three weeks, during which they assaulted him, the lawyer said. The authorities then charged Akram with jeopardizing national security by publicly publishing an unclassified manual for customs officials that he developed while working for the Asayish with the Interior Ministry's collaboration, his lawyer said. The Asayish now accuses Akram of violating article 316 of the 1969 Iraqi Penal Code, which penalizes, by up to ten years in prison, "[a]ny public official or agent who exploits his position in order to obtain funds, goods or documents establishing legal rights or other things to which he is not entitled and which belong to the State," for publishing the unclassified manual.

Akram remains in Zirga Prison in Zakho, a city in Duhok province. He has been in poor health,

following an operation shortly before his arrest. Akram expressed fears for his life in prison in an open letter published in *Bashour* magazine on October 30, 2012 and said he had refused to accept prison-administered medical treatment after other prisoners had told him that security officials in the prison might try to poison him. His wife has told Akram's lawyer that she is routinely followed by unknown people and also fears for her safety.

The authorities have not set a trial date, though they detained Akram more than a year ago, reinforcing local activists' assessment that Akram is held essentially for political reasons because of his criticisms of Kurdistan Democratic Party leaders. Dr. Kamaran Barwany, an activist working on Akram's behalf, told Human Rights Watch: "This is not a national security case, this is a case of political dissent and freedom of thought."

The Osman Case

Mystery still surrounds the case of Sardasht Osman, a 23-year-old student and free-lance journalist who was abducted and murdered more than two years ago after he wrote an article criticizing the Kurdistan region's two ruling parties. Osman was found dead on May 4, 2010 on a road near Mosul. His body bore signs of torture and he had two bullet wounds to the head. A family member who saw his body said he had been shot in the mouth, which the family member and local Kurdish journalists interpreted possibly as a message to the media to "be silent."

Amid the outcry that followed Osman's murder, President Barzani appointed an investigatory committee. This committee announced on September 15, 2010 that members of Ansar al-Islam, an armed group connected to Al Qaeda, had killed Osman because he had failed to carry out promised action on their behalf. The committee said that Hisham Mahmood Ismaeel, from Beji, north of Tikrit, had confessed during interrogation to delivering the bound and blindfolded Osman to Ansar al-Islam operatives in Mosul.

Ansar al-Islam quickly denied responsibility, however. A statement attributed to the armed group says: "If we kill or kidnap someone, we will announce it ourselves. We don't need anybody to lie for us." More than two years on, Ismaeel is due to stand trial on March 2, after many delays, before the Criminal Court in Erbil.

In December 2012, the regional government's deputy interior minister provided a different version of events, replying to repeated inquiries by Human Rights Watch. He said a ministry investigation found that "Osman had contacted Al-Qaida-affiliate Ansar al-Islam to obtain information about the group for the purpose of publication on internet about the group's past and future activities" but that when Osman did not join the group, Ansar al-Islam "became suspicious of him and killed him."

International Law Protects Freedom of Speech

International human rights law recognizes freedom of expression as a fundamental human right, essential both to the effective functioning of a democratic society and to individual human dignity. Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Iraq is party, guarantees the "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." Article 15 of the ICCPR guarantees that no one can be prosecuted for an offence that was not crime in law at the time it took place.

It is well established under international human rights law that politicians and other public figures are subject to, and must tolerate, wider and more intense scrutiny of their conduct than ordinary people who do not seek to be a focus of public attention. The United Nations' Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights say that restrictions on freedom of expression "shall not be used to protect the state and its

officials from public opinion or criticism." The UN Human Rights Committee, in its definitive interpretation of the ICCPR on freedom of expression, has stated that all public figures are legitimately subject to criticism, and states should not prohibit criticism of public institutions.

The regional government fell far short of these obligations in 2012, Human Rights Watch said. It tolerated harassment and intimidation of journalists and other critics, including those seeking to expose official corruption and other wrongdoing, while permitting a climate of impunity for those carrying out the abuses against dissidents.

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