

**BEFORE THE UNITED STATES  
TRADE REPRESENTATIVE**

**PETITION ON IRAQ  
UNDER THE GENERALIZED SYSTEM OF PREFERENCES ("GSP")**

**SUBMITTED BY:  
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL  
ORGANIZATIONS (AFL-CIO)**

**June 24, 2009**



2008

## Information Required Under 15 CFR 2008

1. *Petitioner:* AFL-CIO, 815 16<sup>th</sup> Street, N.W., Washington, D.C., 20006
2. *Country Subject to Review:* Iraq
3. *Section of Law Warranting Review:* 19 U.S.C. 2642 (d)(worker rights).
4. *Reason for Filing:* The Iraqi Government has not and is not taking steps to afford internationally recognized worker rights. Although Iraq has been the subject of several prior petitions seeking removal the country from the list of eligible beneficiary developing countries on the basis of serious violations of internationally recognized workers' rights, this request includes new information warranting further consideration. In addition, reports included in previous petitions of serious violations are still pending.

**Note:** USTR neither accepted nor rejected the previous petition to remove Iraq from the list of eligible beneficiary developing countries. Thus, we are resubmitting our 2008 petition with updates to the cases previously raised. All such updates, if any, are in italics.

## Introduction

Over six years since the fall of the Hussein regime, there is still no permanent labor law in Iraq and no law governing the industrial relations system. Until the government of Iraq replaces the labor code in effect since 1987, the status of industrial relations and workplace democracy remains ambiguous in Iraq -- leaving the 1987 labor code de facto law of the land. The deeply flawed labor code of 1987 restricts or prohibits the exercise of the most basic labor freedoms. Until the law is overhauled and the government guarantees internationally recognized worker rights in practice, Iraq does not meet congressional requirements for designation as a beneficiary developing country under the GSP.

### 1. The 1987 Law

In 1987, the Iraqi government effectively outlawed independent labor unions under the Trade Union Organization Law. The right to collectively bargain and the right to strike were abolished, as was the minimum wage. All public sector workers (the majority of formal sector workers in Iraq at the time) were reclassified as "civil-service" and prohibited from unionization. Workers' committees could be formed in the private sector, but only in worksites employing more than 50 workers, which represented only about 8% of the workforce in Iraq at the time. By law, these workers committees were required to affiliate with the state-controlled federation of workers, an arm of the Ba'ath security apparatus.

For years, U.S. Department of State Country Report on Human Rights Practices has also noted severe restrictions of trade union rights in law.

FOIA

As to the 1987 labor law, the State Department recently observed that the law denied Iraqi workers the right to create and join organizations of their own choosing:

The constitution provides the right to form and join unions and professional associations, subject to regulating law. Labor Law 150 of 1987, enacted by the Saddam government, did not technically remove that right. However, it declared virtually all public sector workers to be government "executives," and therefore legally ineligible to form or to join unions, a move that, in effect, eliminated unions and the right of association from the public sector. In the private sector, the extant 1987 Trade Union Organization Law allows employees to form workers' committees, with limited rights of association, in private sector worksites employing more than 50 workers. Originally, this was also intended, in practice, to remove the right of association from a majority of private sector workers, because most private sector businesses employ fewer than 50 workers.<sup>1</sup>

As to collective bargaining, the State Department has noted:

The extant 1987 labor code in effect rules out the existence of labor unions able to carry out any free and independent labor union activity and therefore effectively prohibits independent organizing and collective bargaining in the public and private sectors. Because unions have no legal power to negotiate with employers, proactive protection of workers' rights through collective bargaining and written collective contracts is not possible.<sup>2</sup>

## **2. The ILO and Labor Law Reform**

In the spring of 2004, the Iraq Minister of Labor and the ILO signed a cooperative agreement under which the ILO agreed to assist the Ministry in drafting a new labor law that would bring the law into conformity with international labor standards. A new law was drafted by the end of 2004; however, to date this draft has not been adopted, nor have any amendments been officially made to the 1987 law. The status of labor law in Iraq remains ambiguous.

Trade unionists have reported hearing that the draft labor law has undergone some revisions. Of concern, an Iraqi government official is reported to have said that the labor law is being revised with "the specific Iraqi context in mind." To date, the process has not been transparent, nor has there been sufficient consultation of the social partners, especially trade unions and employers, in the process of labor law reform.

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<sup>1</sup> See, State Department, 2008 Country Reports on Human Rights Practices – Iraq, February 25, 2009, available online at <http://www.state.gov/g/drl/rls/hrrpt/2008/nea/119116.htm>

<sup>2</sup> *Id.*

### 3. Labor Law in Practice

Since the fall of the former regime, workers have begun to organize themselves in worksites across the country.<sup>3</sup> This trend continues despite continued attacks on workers rights and the violence in the country, which makes workplace organization very difficult.

The 1987 law continues in effect. In addition, new repressive actions taken on the part of the Iraqi government also do not bode well for workers rights in Iraq.

#### A. Continued Implementation of the 1987 Labor Law

Open cases still pending:

- *On May 1st 2009, Mr. Mohammed Zaki, the president of a local union of petrochemical workers was summoned to a meeting by the general manager of the Petrochemical Company in Basra. In this meeting, citing the 1987 labor law that prohibits union organizing in the public sector, the Petrochemical Company accused Mr. Zaki of participating in an illegal organization. The company took Mr. Zaki to court and charged him with forming an illegal union, inciting workers to demonstrate and protest, and sabotaging the national economy. Mr. Zaki is now out on bail, but the case and charges against him are still pending.*

- In March 2008, the Ministry of Civil Society wrote a memo to the Ministry of Transportation informing Ministry officials that people employed by the Ministry are not considered eligible to form or join unions because they are considered public sector civil servants barred by law from the right to form trade unions. Officials in Iraq's southern ports immediately forwarded the Ministry's memo throughout the ports administration.

- In January 2008, the Iraqi government announced its intent to unilaterally impose a union election process in the country. *The process was postponed then announced again for March 2009. While the government again delayed implementation, it is still expected to take place sometime later this year.* The government cited Governing Council Decree No. 3 of 2004 as a basis for its order.<sup>4</sup> In May 2008, the Council of Ministers formed a committee to oversee union elections countrywide. This committee includes eight members: government representatives from the Ministries of Labor and Social Affairs, Justice, Interior, Civil Society Affairs and Governorates; the Independent High Electoral Commission; and the Chamber of Industries. No trade unions are represented on the committee. The proposed elections exclude all union organizations with the exception of a single federation named in Decree No. 3 of 2004. This implies that all union elections undertaken by any other federation or unions will be deemed

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<sup>3</sup> Trade unions in Kurdish Northern Iraq have operated essentially freely since the 1991 Gulf War, when the Coalition forces (US and UK) began to enforce a no-fly zone there, which created space for Kurdish institutions to develop independently. Since 2003, multiple national trade union centers with dozens of sector affiliates throughout the rest of Iraq have emerged across the country, representing workers in dozens of workplaces.

<sup>4</sup> Decree No. 3 attempted to dissolve newly-forming trade union federations in Iraq, and placed the process of establishing new legally sanctioned unions under the auspices of the Iraqi government. The decree also excludes anyone who was a Ba'th Party member of a certain rank covered by the Deba'thification Commission from leading a union.

illegal. The decree also only permits the private, mixed and cooperative sectors to organize unions, excluding the majority of the Iraqi formal sector workforce working in the vast public sector from exercising the right of freedom of association. Finally, the government-controlled process isolates specific sectors in which workers are allowed to form only one union each, and explicitly stipulates where in the country (cities, governorates, etc) the unions “must” hold elections and form branches. The entire process is a flagrant violation of the fundamental rights of freedom of association and the right to organize and bargain collectively.

- In July 2007, the Ministry of Oil issued a directive to all companies and directorates under its purview in the oil sector ordering “the prohibition of cooperation with any member of any union in any of the committees organized under the name of the union as these unions do not enjoy any legal status to work inside the government sector.” The directive further prohibited managers within the entities operated by the Ministry of Oil from dealing with the union in any way or allowing the union to use the offices or other materials or equipment owned by these companies.

- Iraqi trade unions continue to advocate for a new labor law that brings Iraq into compliance with international labor standards. *However, five years after a labor law reform process began in Iraq, there is still no transparency in the process. Unions in Iraq have heard that there is a new draft labor law before the Parliament, but the majority has not been able to access the draft nor have they been invited to discuss or review it.* In the meantime, union leadership does not believe they have the legally protected right to form unions in the public sector.

- Plant managers in the public sector have argued that they do not have the authority to sign contracts with workers committees because of the 1987 law.

## **B. Additional Examples of Violations of Freedom of Association and the Right to Organize and Bargain Collectively**

### **i. Human Trafficking and Other Migrant Worker Exploitation**

*The abuse of foreign workers in Iraq, some of whom were brought to Iraq under false pretenses, has been widely reported, including allegations of trafficking and forced labor as reported by the State Department’s Country Reports on Human Rights Practices,<sup>5</sup> Trafficking in Person Report,<sup>6</sup> IraqSlogger,<sup>7</sup> and the Chicago Tribune.<sup>8</sup> These sources report that Iraq has become a source and destination country in the region for the trafficking of men, women and young boys and girls for sexual and labor exploitation.*

Force

Gender

<sup>5</sup> US State Department Country Reports on Human Rights Practices, 2008  
<http://www.state.gov/g/drl/rls/hrrpt/2008/nea/119116.htm>

<sup>6</sup> US State Department Trafficking in Persons Report 2008  
<http://www.state.gov/documents/organization/123362.pdf>

<sup>7</sup> David Phinney, *Forced Labor Building Baghdad Embassy*, IraqSlogger (May 31, 2007), available online at [www.iraqslogger.com/index.php/post/3014/Forced\\_Labor\\_Building\\_Baghdad\\_Embassy](http://www.iraqslogger.com/index.php/post/3014/Forced_Labor_Building_Baghdad_Embassy)

<sup>8</sup> Cam Simpson, *Iraq war contractors ordered to end abuses*, Chicago Tribune, Apr. 23, 2006, available online at [www.chicagotribune.com/news/nationworld/chi-060423pipeline-story.0,3545071.story](http://www.chicagotribune.com/news/nationworld/chi-060423pipeline-story.0,3545071.story)

According to the 2008 Trafficking in Person Report, "Iraqi women and girls, some as young as 11 years old, are trafficked within the country and abroad to Syria, Lebanon, Jordan, Kuwait, UAE, Turkey, Iran, and possibly Yemen, for forced prostitution and sexual exploitation within households in these countries." Also, according to Iraqi labor leaders and the report, "Iraq is a destination for men trafficked from Bangladesh, India, Pakistan, Indonesia, Nepal, the Philippines, Sri Lanka, and Thailand for involuntary servitude as construction workers, security guards, cleaners and handymen," and "women from Ethiopia, Indonesia, Nepal, and the Philippines are trafficked into the area under the jurisdiction of the Kurdistan Regional Government (KRG) for involuntary domestic servitude after being promised different jobs."

In addition, reports show that contractors supporting the construction of the U.S. embassy in Iraq have employed thousands of foreign workers who had arrived in Iraq as victims of trafficking, or who have worked in exploitative conditions akin to forced labor. Common employment practices have included substandard living and working conditions and confiscation of passports -- conditions akin to forced labor. In August 2004 (12) Nepalese workers recruited for jobs they were told would be in Jordan were kidnapped and killed in Iraq by insurgents, underscoring the danger trafficking victims face in Iraq.<sup>9</sup>

MINSD } Abuse of foreign workers' rights has not abated in recent years. Iraqi trade unionists report that Egyptian and Sudanese workers (who entered Iraq prior to 2003) work in exploitative conditions as mechanics or construction workers in and around Baghdad where they face nonpayment or underpayment of promised wages. Foreign workers from South Asia continue to arrive in Iraq both tricked and forced into working for employers and wages they did not agree to by unscrupulous labor brokers.<sup>10</sup> Other foreign workers previously employed by US government contractors are ending up in forced labor conditions in Iraqi factories and homes.<sup>11</sup> Iraqi labor leaders sharply criticize government policies that condone the development of an exploited, unprotected underclass of foreign workers while at the same time developing no plan for job training and placement to stave off widespread unemployment and poverty among Iraqi workers.

## ii. Deba'athification Commission Actions

In a March 8, 2006 letter to the General Federation of Iraqi Workers, the Supreme National Commission for Debaathification named five GFIW leaders who it claimed "have no right to occupy any leadership position in any federation, society, association or union in Iraq" and directed the GFIW to "take proper action and inform (the committee) accordingly." The letter seemed to instruct the trade union federation to hold new union elections and submit newly elected names (presumably not former Baa'th Party members). This action violates the principle of freedom of association in two key ways: first, it is an example of direct government interference in the internal procedures of the unions in Iraq and in the internal union election process. Second, the government is questioning the right to be elected or appointed to certain

<sup>9</sup> See David Phinney, *Blood, Sweat and Tears: Asia's Poor Build U.S. Bases in Iraq*, Oct. 3, 2005, available online at [www.corpwatch.org/article.php?id=12675](http://www.corpwatch.org/article.php?id=12675).

<sup>10</sup> Washington Post, June 5, 2009 "Iraq's Foreign Laborers: Disillusioned and Disliked" <http://www.washingtonpost.com/wp-dyn/content/article/2009/06/14/AR2009061402685.html?hpid=sec-world>

<sup>11</sup> National Public Radio, April 6, 2009 "Trafficking of Foreign Workers Flourishes in Iraq," <http://www.npr.org/templates/story/story.php?storyId=102705618>

union positions based on current or former political party affiliation. Although raised in our previous GSP petitions, no action has been taken to date to repeal this unlawful "decree" from the Supreme National Commission for Deba'athification.

### iii. Decree 8750

On August 7, 2005, the Government of Iraq (through a committee of several ministers) passed Decree 8750. The decree directs the freezing of assets and "controls all the monies" of all trade union organizations in Iraq. The decree also announced the Cabinet General Secretary's intention to "propose a new paper on how trade unions should operate, organize and function." Decree 8750 not only affects the contested assets of the General Federation of Trade Unions (the Saddam era official union), but also, by implication, bank accounts operated by any new trade union. Thus, unions are not opening any new bank accounts and believe that their meager resources are not secure from government interference or seizure. The Iraqi government has rebuffed union attempts to discuss Decree 8750, and it remains in force. In April 2006, the government froze the bank account of the General Union of Oil Employees (now known as the Iraqi Federation of Oil Unions, IFOU). Although raised in our previous GSP petitions, no action has been taken to date to repeal this unlawful decree.

### iv. Harassment of Trade Unions (2006-2008)

**Note:** These cases in this subsection are provided to illustrate a pattern of harassment of trade unions by the government. These disputes are no longer considered active, although this does not imply that the cases were resolved to the satisfaction of the workers.

- May 11, 2008, the Ministry of Oil transferred eight Ministry workers, all senior union leaders from the Iraqi Federation of Oil Unions (IFOU) in Basra, to new jobs in the Baghdad Al - Dora refinery. After interrogation in Baghdad by security advisors for the Ministry of Oil, during which the workers were questioned about their union activism and relationships with regional and international union organizations, the eight unionists were deemed "troublemakers" by their new Al Dora employers and transferred to again Sanmawa – 250km away from Basra where their families live.

- A strike of oil workers began on Monday, June 4, 2007. The next day, these workers were surrounded and threatened by Iraqi armed forces while attempting to exercise their legitimate right to strike. These pipeline workers belong to the 26,000-member IFOU. The strike was called after months of discussions between the union and the government over wages, health and safety, the use of temporary workers and the future of Iraq's oil industry failed to produce a negotiated settlement. *After the strike ended, the union had the opportunity to discuss its workplace concerns through informal talks brokered with Iraqi government. However, there are still no formal channels for collective bargaining in the oil sector. As a result, there are few mechanisms for conflict resolution and the prospect for future tensions remains open.*

- In February 2007, there were two armed raids by American and Iraqi soldiers on the headquarters of the General Federation of Iraqi Workers (GFIW) and the Iraqi Journalists

Threat



Syndicate. No explanation was ever given for these raids or the confiscation of union materials and property during those raids.

- In April 2006, the Iraqi government used the 1987 law to interfere with union rights when the port of Khor al Zubair in Basra refused to negotiate with a union of port workers, and instead threatened them for asserting this right claiming the union was illegal. The company proceeded to transfer a number of port worker union officers to Sanmawa (250 km from Basra) and Diwanyya (300 km from Basra).
- In February 2006, the General Federation of Iraqi Workers (GFIW) sent an official complaint to International Labor Organization Director General Juan Somavia and ITUC General Secretary Guy Ryder charging that, in December 2005, the Minister of Reconstruction and Housing, the Minister for National Security, and the Minister for Civil Society Affairs interfered in trade union organizing in Iraq. The ministers had tried to “select” the leadership of the engineers union and appoint persons to control and supervise elections to ensure the desired outcome.

## **Conclusion**

For the first time in decades, the trade union movement in Iraq is growing independently. Yet, very significant impediments remain. The labor law reforms under discussion in 2004 between the ILO and the Iraqi Ministry of Labor, if implemented without debilitating amendments or revisions by the government of Iraq, have the potential to dramatically improve the lives of Iraqi workers. A new labor code that fully recognizes the core International Labor Organization Conventions would be a major step towards an independent, democratic Iraq. *Despite reports that a revised draft labor code is proceeding through the Iraqi legislative process, the nature of these revisions are unclear to Iraqi unions and international labor rights organizations. In fact, the government has heightened its practice of invoking the 1987 labor code to harass unions especially in the public sector over the last few years. Finally, the highly flawed union election process, if carried out, could have lasting damage on free and independent trade unionism in Iraq.*

The AFL-CIO strongly encourages the USTR to make the implementation of a new labor law, fully compliant with ILO core labor standards, developed in a transparent manner with social partners, and prepared in conjunction with the ILO, a prerequisite for the further extension of GSP beneficiary status to Iraq. If the government of Iraq fails to expeditiously act to replace the 1987 labor code, GSP eligibility for Iraq should be withdrawn.