

ARTICLE 19

Iraq: Draft Law on Freedom of Expression, Assembly, and Peaceful Protest

2011

Legal analysis

Executive summary

The Iraqi Draft Law on Freedom of Expression, Assembly, and Peaceful Protest is fatally flawed from a human rights perspective. ARTICLE 19 urges all Iraqi parliamentarians and all stakeholders in Iraqi civil society to reject the Draft Law. Significant legal reform is needed and must be undertaken in order to protect freedom of expression in Iraq.

In numerous key areas, the Draft Law fails to measure up to international human rights standards.

For example, Chapter 2 Article 5 of the Draft Law purports to protect “religions, sects, orders, and beliefs” from degradation. This is in direct conflict with international law on freedom of expression as well as freedom of religion. International human rights treaties protect the rights of individuals and in some instance groups, not the abstract concepts of religions or beliefs.

Even the Draft Law’s definition of “freedom of expression” fails to align with international human rights law. The right to freedom of expression is a fundamental right of all human beings, not merely “citizens” as asserted in Chapter 1 Article 1 of the Draft Law.

The Draft Law fundamentally distorts the criteria for permissible restrictions on the right to freedom of expression, the right to information, freedom of assembly and the right to peaceful protest. The Draft Law allows restrictions on the exercise of free expression whenever such exercise “disrupt[s] public order or morals”. This is an excessively restrictive limitation on the right to freedom of expression.

Furthermore, the Draft Law merely asserts the “right of access to information” without elaborating upon the legislative and institutional changes necessary for the proper protection of the right. ARTICLE 19 fears opponents of the right to information will use this Draft Law as an excuse for not adopting the more comprehensive legislation necessary for safeguarding this important right.

Overall the Draft Law threatens to diminish rather than enhance the protection of human rights in Iraq.

If the Iraqi state authorities are really serious about effectively protecting and enhancing freedom of expression, they would do better to repeal existing laws which are highly restrictive of freedom of expression and used to silence legitimate criticism of public officials or government practices. These laws include the 1969 Penal Code and the 1968 Publications law.

ARTICLE 19 calls on the Iraqi Council of Representatives to adopt legislation which comprehensively protects the right to information, right to freedom of expression, and right to freedom of association for everyone in Iraq.

ARTICLE 19’s Recommendations:

1. The Iraqi Council of Representatives should reject the Draft Law in its entirety.
2. Civil society organisations and other stakeholders should withhold their support from the Draft Law.
3. The Iraqi Council of Representatives should repeal provisions of the 1969 Penal Code and the 1968 Publications law which unjustifiably restrict freedom of expression.
4. The Iraqi Council of Representatives should adopt legislation that comprehensively protects the right to information for everyone in Iraq.

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About the ARTICLE 19 Law Programme

The ARTICLE 19 Law Programme advocates for the development of progressive standards on freedom of expression and access to information at the international level, and their implementation in domestic legal systems. The Law Programme has produced a number of standard-setting publications which outline international and comparative law and best practice in areas such as defamation law, access to information and broadcast regulation.

On the basis of these publications and ARTICLE 19's overall legal expertise, the Law Programme operates the Media Law Analysis Unit which publishes a number of legal analyses each year, Memorandums on legislative proposals as well as existing laws that affect the right to freedom of expression. The Unit was established in 1998 as a means of supporting positive law reform efforts worldwide, and our legal analyses frequently lead to substantial improvements in proposed or existing domestic legislation. All of our analyses are available online at <http://www.article19.org/publications/law/legal-analyses.html>.

If you would like to discuss this Memorandum further, or if you have a matter you would like to bring to the attention of the ARTICLE 19 Law Programme, you can contact us by e-mail at legal@article19.org. For more information about this Comment, please contact Sejal Parmar, Senior Legal Officer, sejal@article19.org, +44 20 7324 2500

I. Introduction

1. In this Comment, ARTICLE 19 sets out its concerns about the Draft Law on Freedom of Expression, Assembly, and Peaceful Protest (the “Draft Law”) that is has recently been proposed and is currently being discussed in Iraq.¹ The Comment is informed by international human rights law in particular key provisions of the International Covenant on Civil and Political Rights (“ICCPR”) on the right to freedom of expression as well as on freedom of assembly and peaceful protest. Iraq ratified the ICCPR on 25 January 1971 and is consequently obliged to implement the provisions of that instrument into its domestic law.² The Comment is also based on ARTICLE 19’s extensive experience of working towards legal and policy reform in Iraq on matters concerning the protection of freedom of expression and the right to information.³
2. ARTICLE 19 has been involved in recent discussions on the development of other media-related laws in Iraq, specifically legislation on the protection of journalists and on the right to information,⁴ and is fully aware of various challenges to freedom of expression in the country. We are therefore compelled to understand the proposal of the Draft Law against the backdrop of the current political, social and legal context of Iraq. Whilst it is not the purpose of this Comment to speculate on the motivations for the proposal of this Draft Law, these possible explanations help to understand its content.
3. Given the emphasis on and deference to “public order or *morals*” (see Article 1(1) and the “Reasons to Issue this Law”) and the prohibition of the “denigration or degrading of religions” (Article 5 para 2), one may suspect that the Draft Law has been motivated by forces of religious conservatism in Iraqi politics and society. We also note that the proposal of the Draft Law comes during a time of intense debates in the country amongst stakeholders – including journalists, the Iraqi Journalists’ Syndicate, international partners and civil society organisations – about the merits of a law on the protection of journalists. The proposal of this Draft Law may therefore be also seen as a reaction to the criticisms made against previously submitted drafts of a Law on the Protection of Journalists. More specifically, the Draft Law may be seen as an attempt to assuage the critics of earlier drafts of legislation on the protection of journalists, including ARTICLE 19, who argued that those proposals threatened to diminish rather than enhance the protection of human rights, including freedom of expression, in Iraq.⁵ In May 2010, ARTICLE 19 argued that a recent version of the Draft Law on the Protection of Journalists is:

counter-productive to its apparent objective of protecting journalists in Iraq; stands contrary to various provisions of international human rights law on freedom of expression, as well as other rights such as freedom of association by among other things establishing a de facto system of licensing; creates the reality and entrenches the perception of a hierarchy or two-tier system in Iraqi law with journalists apparently benefitting from a “higher” standard of protection than other individuals; is unfair because its application depends on whether type of attack is deemed a “terrorist act” and whether the victim is a journalist and a member of the Iraqi Journalists Syndicate; and refers to access to information for journalists, but does not properly protect the right to information as a human right for everyone in Iraqi domestic legislation. All these features and others which are indicated below stand to have profoundly negative consequences for Iraqi journalists and media and, more generally, the embedding of a system of governance that respects democracy, the rule of law and human rights in Iraq.⁶

4. In ARTICLE 19’s opinion, the Draft Law does not promote freedom of expression, the right to information, freedom of assembly and the right to peaceful protest, but rather undermines and even violates these rights. The Draft Law is also contrary to international human rights law on freedom of religion. The Draft Law is so fatally flawed from a human rights perspective that ARTICLE 19 urges all Iraqi parliamentarians, civil society and other stakeholders to reject the Draft Law. Instead, the Iraqi state should undertake significant law reform in order to protect freedom of expression and other rights properly.

II. Relevant Human Rights Provisions

5. As indicated earlier, as a result of ratifying the ICCPR, Iraq is not only bound as a matter of international law by the provisions of the ICCPR, but is obliged to give effect to that treaty through national legislation.⁷ This section recalls relevant provisions of international human rights law on freedom of expression including the right to information, freedom of assembly and freedom of association which are relevant to consideration of the Draft Law.

a. Freedom of Expression and the Right to Information

6. Article 19 of the Universal Declaration of Human Rights (UDHR) protects freedom of expression and states:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

7. Article 19 of the ICCPR elaborates upon Article 19 of the UDHR and states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include 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.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

8. Article 20 of the ICCPR also concerns freedom of expression, specifically the obligations of states to prohibit certain forms of speech. It states:

1. Any propaganda for war shall be prohibited by law.

9. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

b. Freedom of Assembly

10. Article 20 of the UDHR protects freedom of assembly states:

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

11. Article 21 of the ICCPR concerns the right of freedom of assembly also states:

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

c. Right to Protest and Freedom of Association

12. The right to protest is not as such expressly affirmed by international human rights treaty law. It is however implicit in guarantees of the right to freedom of expression and the right to freedom of assembly and also association.⁸ International human rights provisions on freedom of association are therefore also relevant to this analysis.
13. Article 20 of the UDHR concerns freedom of peaceful assembly as well as association. Article 22 of the ICCPR concerns freedom of association and states:
 1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
 2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
 3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

III. Reasons and Objectives

14. The final, unnumbered provision of the Draft Law states the reasons for its proposal. It states:

This law has been issued for formulating a mechanism to guarantee the freedom of expression in all its forms, the right of assembly and peaceful demonstration, and the right to access information so long as these rights do not disrupt the public order or morals. This law has been issued to determine the parties responsible for implementing these rights, and to determine the penalties for violations.

15. The objectives of the Draft Law are set forth in Article 2 which echoes the final provision on the reasons. That provision states:

This Law aims to protect and implement the freedom of expression in all its forms, and the right of assembly and peaceful protest, and the right of access to information in a way that does not disrupt public order or manners, and to determine the parties responsible for implementing these rights.

16. ARTICLE 19 has a set of three observations and comments about these provisions on the reasons for and objectives of the Draft Law. *First*, there is inconsistency within the Draft Law about the rights that are protected by it. The right of access to information is identified as one of the rights that the Draft Law purports to “guarantee”, “protect and implement.” Article 1 also defines the right of access to information as one of the key terms and phrases in the Draft Law. Yet the title of the Draft Law omits any reference to the “right of access to information” at all.

17. *Second* and relatedly, given that Iraq currently does not have any legislation dedicated to the implementation of the right to information, enactment of the Draft Law may serve as an excuse for opponents of legislation on the right to information who may argue that the Draft Law’s provisions on the right of access to information are sufficient for the protection of the right. However, it is clear that the Draft Law merely asserts the “right of access to information” without elaborating upon the legislative and institutional changes that are necessary for the proper protection of that right.⁹ It is obviously not and should be regarded as a substitute for comprehensive legislation on the right to information. ARTICLE 19 repeats its recommendation for the adoption of such comprehensive right to information legislation in Iraq.¹⁰

18. *Third*, the Draft Law indicates that the human rights concerned shall only be protected “so long as these rights do not disrupt the public order or morals” (the final provision) and “in a way that does not disrupt public order or manners” (Article 2). It is speculated that Article 2’s reference to manners was supposed to be a reference to “morals”. The major problem underlying these two provisions, however, is their fundamental distortion and reduction of the criteria for permissible restrictions on the rights to freedom of expression and freedom of assembly and peaceful protest according to international human rights law.

19. Yet any interference with these rights must meet all three of the conditions of the three-part test contained in Article 19(3), Article 21 and Article 22(2) of the ICCPR. This three-part test imposes a justifiably severe burden on the state to demonstrate that any interference with freedom of expression, the right to information, freedom of assembly and freedom of association (and implicitly the right to peaceful protest) is appropriate in any given circumstances. *First*, the interference must be provided for by law. This requirement will be fulfilled only where the law is accessible and “formulated with sufficient precision to enable the citizen to regulate his conduct.”¹¹ *Second*, the interference must pursue a legitimate aim. The protection of public order or public morals are legitimate aims for any restrictions on freedom of expression, freedom of assembly, freedom of association and peaceful protest, under Articles 19(3), 21 and 22(2) of the ICCPR. *Third*, the restriction must also be necessary to secure one of those aims in the sense that there must be a “pressing social need” for the restriction. Furthermore, the reasons given by the State to justify the restriction must be “relevant and sufficient” and the restriction must be proportionate to the aim pursued.¹² In other words, restrictions on freedom of expression, the right to information, freedom of assembly, freedom of association, as well as the right to protest, should

be narrowly construed.¹³ Although the element of legitimacy (of the aim) may be present, the elements of legality (of the interference), necessity and proportionality (of the restriction) are clearly absent from the final provision and Article 2.

20. All that is required under the Draft Law is a determination that the exercise of one of the rights does “disrupt public order or morals” in any given circumstance. Thus, as it stands, the final provision and Article 2 allow excessively restrictive limitations on freedom of expression, the right to information, freedom of assembly, freedom of association and peaceful protest. It therefore needs to be completely amended in accordance with international human rights law.
21. *Third*, the final provision and Article 2 both indicate that it is an aim of the Draft Law “determine the parties responsible for implementing these rights” while the final provision also states that it is to “determine the penalties for violations”. Although the objective implementation of the rights is emphasised in this way, the Draft Law actually gives very little detail on how the rights may be realised through positive action by the state.

IV. Definitions

22. Key terms and phrases are defined in Chapter 1, Article 1 of the Draft Law.
23. Freedom of expression is defined as “the freedom of citizens to express their thoughts and opinions through speaking, writing, filming or any other forms in a way that does not disrupt public order or morals.” The right to access information is defined as “the right of citizens to obtain information from official institutions in accordance with the law, especially information related to the work of these institutions and to the content of any decisions or policies related to the public.”
24. The definitions of these two rights are inadequate from an international human rights perspective in a number of ways. All human beings, not just citizens, are endowed with human rights including freedom of expression and the right to information. The definition of the rights does not reflect international law in other ways. In accordance with Article 19 of the ICCPR, freedom of expression should be defined as including 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.” Thus, from the perspective of the ICCPR, the right to information is an inherent part of freedom of expression.
25. Furthermore, freedom of expression includes the right to express views which may “disrupt public order or morals”. There may be circumstances where such expression may be legitimately curtailed (see discussion of three part test), but the exercise of freedom of expression cannot be restricted to forms of expression that do offend public morals. As famously stated by the European Court of Human Rights in the case of *Handyside v the UK*, freedom of expression is:
- applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no “democratic society”.¹⁴
26. It is interesting that while freedom of expression and the right to access information are defined as rights, the right to freedom of assembly and peaceful protest is not defined as a discrete concept. Rather, private assembly, public assembly, peaceful protest and election assembly are all defined separately. Private assembly is defined as “a gathering attended by invited guests even if held in a public place”; public assembly is defined as “a gathering held in a public or private place where attendance is open to anyone”; peaceful protest is defined as “the gathering of unlimited numbers of citizens in the streets of public areas to express their opinions or request the rights granted by law”; and election assembly is defined as “a gathering with the purpose of introducing candidates for electoral campaigning that takes place during the period determined by the law”.
27. It is argued that such a breakdown of specific types of assemblies is unnecessary in this legislation if one of its aims is really to protect freedom of assembly and the right to peaceful protest. According to recent guidance given by the OSCE and the Council of Europe’s Venice Commission on the right to peaceful assembly, assembly simply “means the intentional and temporary presence of a number of individuals in a public place for a common expressive purpose.”¹⁵
- [A]ll types of peaceful assembly – both static and moving assemblies, and those which take place on publicly or privately owned premises or enclosed structures – deserve protection... An assembly should be deemed peaceful if its organisers have professed peaceful intentions and the conduct of the assembly is non-violent. The term “peaceful” should be interpreted to include conduct that may annoy or give offence, and even conduct that temporarily hinders, impedes or obstructs the activities of third parties.

V. Substantive Rights

a. Freedom of Expression

28. Chapter Two, Articles 3-5 concern freedom of expression. Article 3 indicates that:

First- Ministries and entities not associated with any ministry have the right to establish an open database of information for the public to view. They also have the right to publish information on the progress of their work.

Second- The High Commissioner for Human Rights, which was established based on Law No (53) for the year 2008, specializes in dealing with citizen complaints regarding the decisions of agencies to withhold information from them, and after verifying these complaints the commission has the right to request that the relevant agency provide citizens with the information requested if the request conforms to the law.

29. The first part of Article 3 appears to establish the right of ministries and other entities to formulate a public database of information and to proactively disclose information. This provision, which may be seen as positive, falls far short of international standards on the right to information.¹⁶ After all this is not a *general duty* upon public authorities (including entities exercising a public function) to affirmatively publish information however. Such an obligation would be included by comprehensive right to information legislation as has been urged by ARTICLE 19 for Iraq.¹⁷ Public authorities and bodies exercising a public function should release information concerning, amongst other things, its internal organisation, decision-making processes and finances.¹⁸ Any right to information law should stipulate that such information should be disseminated through a range of means, including through the Internet. Such a law should provide for promotional activities such as public education and the dissemination of information regarding the right to access information, the scope of information available and the manner in which such rights may be exercised. It should also require that adequate resources and attention are devoted to the question of promoting the goals of the legislation. In addition, any legislation on the right to information should establish clear rules for the publication of information.¹⁹
30. The second part of Article 3 appears to indicate the High Commissioner for Human Rights as the mechanism which may “request the relevant agency [to] provide citizens with the information requested if the request conforms to the law”. This does not set up an appropriate institutional framework for dealing with request for information from public bodies. It does not provide any indication of the procedures or the processes for appealing refusals of requests by public bodies, rules on the establishment and operation of an independent, impartial and autonomous body (such as an Information Commissioner) which normally oversees the implementation of legislation on the right to information, including by examining complaints that information has been unjustifiably refused.²⁰ Put simply, Article 3 is not substitute for comprehensive legislation on the right to information.
31. Article 4 then states:
- This law protects the freedom of scientific research including performing scientific experiments and the use of necessary means and conditions for the research. It also ensures the freedom to publish the results of scientific activities.
32. ARTICLE 19 does not have any comments on this provision.
33. Article 5 then states:

The following shall be prohibited:

First- Advocating for war, acts of terrorism, or national, racial, religious and sectarian hatred.

Second- Denigrating religions, sects, orders, and beliefs and degrading them or their followers.

34. The first part of Article 5 broadly reflects Article 20 of the ICCPR, but does not meet the high standards of that provision. Only propaganda for war should be prohibited under Article 20(1) of the ICCPR, not advocacy for war. In addition only advocacy of national, racial or religious hatred that reaches the threshold of incitement to discrimination, hostility or violence should be prohibited. Advocacy of acts of terrorism or sectarian hatred, unless they reach the level of incitement should not be prohibited under this provision.²¹
35. The second part of Article 5 is in direct conflict with international law on freedom of expression. Any law that purports to protect religions, sects, orders and beliefs from “denigration” or “degradation” is incompatible with international law on freedom of expression as well as freedom of religion. The ICCPR, like other international human rights treaties, protects the rights of individual persons, including religious followers, and in some instances, of groups and persons, but does not protect abstract entities such as religions, beliefs, ideas or symbols.²² As noted, Article 19(3) of the ICCPR only allows restrictions to be placed on the exercise of the right to freedom of expression only as provided by law and when necessary “for the respect of the rights and reputations of others, for the protection of national security or public order, or of public health or morals”, which does not include protection of religions.
36. The Human Rights Committee has never recognised the idea that the denigration or downgrading of religions could be a legitimate ground for restrictions on the exercise of freedom of expression.²³ Moreover, the UN Special Rapporteur on the promotion and protection of the right to freedom of expression and opinion has stated that limitations on the right to freedom of expression were “designed in order to protect individuals against direct violations of their rights” and “are not designed to protect belief systems from external or internal criticism.”²⁴ The UN Special Rapporteurs on freedom of religion or belief and on contemporary forms of racism, racial discrimination, xenophobia and related intolerance have also stated that “the right to freedom of religion protects primarily the individual and, to some extent, the collective rights of the community concerned, but it does not protect the religions or beliefs per se”.²⁵ The UN Special Rapporteur on freedom of religion has also emphasized, “the right to freedom of religion or belief does not include the right to have a religion or belief that is free from criticism or ridicule”.²⁶ The second part of Article 5 is also out of step with recent current trends at the UN Human Rights Council which recently rejected the notion of “defamation of religions” and similar concepts such as the “vilification of religions” that purport to protect religions from attack.²⁷
37. In terms of how Iraq might implement its obligations under Article 20(2) of the ICCPR, Principle 12 of *The Camden Principles* offers helpful guidance on the interpretation of Article 20.²⁸ It states:
- 12.1. All States should adopt legislation prohibiting any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (hate speech). National legal systems should make it clear, either explicitly or through authoritative interpretation, that:
- a. The terms ‘hatred’ and ‘hostility’ refer to intense and irrational emotions of opprobrium, enmity and detestation towards the target group.
 - b. The term ‘advocacy’ is to be understood as requiring an intention to promote hatred publicly towards the target group.
 - c. The term ‘incitement’ refers to statements about national, racial or religious groups which create an imminent risk of discrimination, hostility or violence against persons belonging to those groups.

- iv. The promotion, by different communities, of a positive sense of group identity does not constitute hate speech.

12.2. States should prohibit the condoning or denying of crimes of genocide, crimes against humanity and war crimes, but only where such statements constitute hate speech as defined by Principle 12.1.

12.3. States should not prohibit criticism directed at, or debate about, particular ideas, beliefs or ideologies, or religions or religious institutions, unless such expression constitutes hate speech as defined by Principle 12.1.

12.4. States should ensure that persons who have suffered actual damages as a result of hate speech as defined by Principle 12.1 have a right to an effective remedy, including a civil remedy for damages.

12.5. States should review their legal framework to ensure that any hate speech regulations conform to the above.

B. The Right of Assembly and Freedom of Peaceful Assembly

38. Chapters Three and Four concern the right of assembly and the right of peaceful assembly.

39. Article 6 states:

First- Citizens have the right to hold private assemblies without the need to obtain prior authorization and it is prohibited for security personnel to attend these gatherings.

Second- This law guarantees the freedom of holding election assemblies.

40. ARTICLE 19 has no comment on Article 6.

41. Article 7 states:

42. First- Citizens have the right to hold public assemblies after obtaining a prior authorization from the head of the administrative unit at least five (5) days prior to the event. The request shall include the topic of the assembly, its purpose, and its place and time and the names of the organizing committee...

43. Fourth- Organizers of the assembly or one of the applicants must be informed of the decision of rejection according to the Third item of this Article at least twenty four (24) hours prior to the time of the assembly. The process of informing shall take place according to the methods specified by law.

44. According to international law, advance notification of an assembly – let alone authorization – should not be required. Prior notification and authorization both serve as a restriction on freedom of assembly and therefore needs to meet the three-part test as indicated earlier. The OSCE/ODIHR Venice Commission Guidelines on Freedom of Assembly crystallises the position of international law on freedom of assembly with regard to prior authorization. It states:

[I]n an open society, many types of assembly do not warrant any form of official regulation. Prior notification should only therefore be required where its purpose is to enable the State to put in place necessary arrangements to facilitate freedom of assembly and to protect public order, public safety and the rights and freedoms of others. Any such legal provision should require an assembly organiser to submit a notice of intent rather than a request for permission.

The notification process should not be onerous or bureaucratic. The period of notice should not be unnecessarily lengthy, but should still allow adequate time prior to the notified date of the assembly for the relevant State authorities to plan and prepare for the event in satisfaction of their positive obligations, and for the

completion of an expeditious appeal to (and ruling by) a court should any restrictions be challenged.

If the authorities do not promptly present any objections to a notification, the organisers of a public assembly should be able proceed with their activities according to the terms notified and without restriction.²⁹

45. The Draft Law clearly does not meet these standards. The Draft Law should also provide that the authorities should always protect and facilitate any spontaneous assembly so long as it is peaceful in nature.

46. Article 8 states:

First- It is prohibited to force anyone to attend a public assembly.

Second- It is not permitted to hold a public assembly in public roads.

Third- It is not permitted for a public assembly to extend after 10:00 PM.

Fourth- It is permitted for the participants of a public assembly to raise banners, chant slogans, and to give statements to media outlets on the condition that they do not disrupt the public order or public morals.

47. ARTICLE 19 has no comment on the first part of Article 8 protects the right not to join an assembly. With respect to the second part, the state should always seek to facilitate public assemblies at the organiser's preferred location where this is a public place. Although that is ordinarily accessible to the public according to the principle of proportionality. State authorities should avoid imposing restrictions which would fundamentally alter the character of an event. Any blanket ban on holding a public assembly on public roads such as that in Article 8 of the Draft Law would be over-inclusive and not in accordance with the principle of proportionality, although the right to peaceful assembly might be restricted on public roads in certain circumstances.³⁰ Indeed, the second part of Article 2 is a prima facie violation of freedom of peaceful assembly and it undermines the essential communicative quality of the freedom of peaceful assembly.

48. With respect to peaceful assemblies and protests on roads, the OAS Special Rapporteur on Freedom of Expression has stated:

Naturally, strikes, road blockages, the occupation of public space, and even the disturbances that might occur during social protests can cause annoyances or even harm that it is necessary to prevent and repair. Nevertheless, disproportionate restrictions to protest, in particular in cases of groups that have no other way to express themselves publicly, seriously jeopardize the right to freedom of expression. The Office of the Special Rapporteur is therefore concerned about the existence of criminal provisions that make criminal offenses out of the mere participation in a protest, road blockages (at any time and of any kind) or acts of disorder that in reality, in and of themselves, do not adversely affect legally protected interests such as the life or liberty of individuals.³¹

49. Article 9 states:

The following shall be prohibited:

First- Holding a public assembly at places of worship, schools, universities, governmental departments, unless the lecture or discussion being held fits the intended purpose behind such institutions

Second- Carrying firearms of all kinds or any sharp instruments or tools that may harm people or properties during the assembly.

50. The first part of Article 9 is a blanket restriction on freedom of assembly and may be considered a prima facie violation of the right. In order to successfully argue that the restrictions imposed by the first part of Article 9 are in compliance with international human rights law, the state would need to specify: the nature of any valid rights claims made; how, in the particular context, these rights might be infringed (outlining the specific factors considered); how, precisely, the authority's decision mitigates against any such infringement (the necessity of the restrictions); and why less intrusive measures could not be used. With respect to freedom of religion, which may be invoked

in relation to restrictions on freedom of assembly at places of worship, such a claim would require that the assembly impose a direct and immediate burden on the expressive rights or the exercise of the religious beliefs of others.³²

51. Article 10 on the Right to Peaceful Assembly states:

First - Citizens have the right to participate in peaceful demonstrations to express their opinions or demand the rights granted to them by law, in accordance to Article 7 of this law.

Second - It is not permissible to organize demonstrations before 7am or after 10 pm.

52. The second part of Article 10 is problematic because it appears to impose a blanket and onerous prior restriction on assemblies in the morning or at nighttime. The state may argue that demonstrations before 7am and after 10pm raise particular public safety concerns. In such instances, extra precautionary measures should generally be preferred over restriction on the time of demonstration. The state has a duty to protect public safety, and under no circumstances should this duty be assigned or delegated to the organiser of an assembly. However, the organiser and stewards may assist in ensuring the safety of members of the public. The use of negotiation and/or mediation could also be used to help resolve disputes around assemblies by enabling law enforcement authorities and event organiser to reach agreement about any necessary limitations before 7am and after 10pm.

VI. General Provisions and Conclusion

53. Article 11 of the Draft Law states:

First- Security authorities are responsible for protecting participants in demonstrations and assemblies if they are organized in accordance to the provisions of this law. It is prohibited for these authorities to use force to break up the assembly or demonstration except when the assembly or demonstration undermines security or causes damage to persons, property or funds.

Second- In situations where damage occur to persons, properties or funds as a result of assemblies and demonstrations, the individuals responsible for causing the damage shall pay compensation. If it is not possible to determine the responsible parties, victims have the right to demand compensation in accordance with the law, and this does not waive their right of filing criminal law suits against the responsible parties in the future.

54. ARTICLE 19 is concerned that Article 11 suggests that the security authorities are responsible for protecting participants of demonstrations *only* if they are organized in accordance with the provisions of this law. This provision allows the police and other security authorities to abrogate their responsibilities to protect individuals from threats to their human rights, in particular their right to life and right not to be subjected to torture or to cruel, inhuman or degrading treatment³³ – including by the police themselves, the security forces and state agents – simply because of the way that they have been organized.

55. Article 12 of the Draft Law states:

It is not permissible to restrict the rights and freedoms granted by this law except for the public interest and to prevent disruptions of public order or morals.

56. This provision does not properly reflect the criteria established in international human rights law for permissible restrictions on the right to freedom of expression. These were discussed earlier.

57. Article 13 of the Draft Law states:

First- All who intentionally advocate war, acts of terrorism or national, racial, religious or sectarian hatred, shall be given a punitive sentence of imprisonment for not more than (10) ten years.

Second- A punitive sentence of no less than (1) one year and a fine of no less than (1 000 000) one million Dinars and no more than (10 000 000) ten million Dinars shall be given to anyone who:

A. Publicly attacks the beliefs of a religious sect or demeans its rituals.

B. Intentionally disturbs, prevents, or hinders the rituals of a religious sect or religious events or gatherings

C. Ruins, damages, defaces or desecrates a building established for a religious ritual, a religious symbol, or any other objects with religious sanctity.

D. Prints or publishes the holy book of a religious sect with the intention to distort or alter its meaning, or to belittle its teachings and provisions.

E. Publicly insults a figure or symbol that is respected by or sacred to a religious group

F. Publicly imitates a religious figure or religious ritual with the intention to mock.

58. On the basis of what has been stated earlier, the above provisions which punish attacks on beliefs, the demeaning of rituals, the printing or publishing of the holy book with the intention of altering

its meaning, the public insulting of a religious figure and the imitation of a religious figure or religious ritual are incompatible with international human rights law on freedom of expression and freedom of religion also. The penalties in relation to all the offences indicated are inappropriate under international law and will likely have a chilling effect on speech and discussions on religious issues in Iraq if the Draft Law were to be adopted.

59. Article 14 of the Draft Law states:

Penal Code number (111) of the year 1969 applies to any case not specifically covered in this law.

60. Article 15 of the Draft Law states:

The (dissolved) Coalition Provisional Authority order number (19) dated 07/10/2003 (Right of Assembly) is repealed by this law.

61. Article 16 of the Draft Law states:

The Interior Minister has the authority to issue regulations to facilitate the enforcement of this law, in coordination with the Human Rights Minister, State Minister for Civil Society Affairs and the head of the High Commissioner for Human Rights.

62. Article 17 of the Draft Law states:

This law is valid starting from the date of its publication in the official gazette.

63. ARTICLE 19 has not comment on Articles 14-17 of the Draft Law.

VII. Conclusions and Recommendations

64. As indicated by the above discussion, the Draft Law is contrary to international human rights law and interpretive standards in multiple ways. Therefore, ARTICLE 19 recommends the following:

- The Iraqi Council of Representatives should reject the Draft Law in its entirety. The enactment of such a law would be counterproductive a greater public understanding of human rights in Iraq.
- Civil society organisations and other stakeholders should withhold their support from the Draft Law.
- The Iraqi Council of Representatives should repeal provisions of the 1969 Penal Code and the 1968 Publications law that restrict freedom of expression unjustifiably, including and especially provisions which penalise defamation and speech that is insulting.
- The Iraqi Council of Representatives should adopt legislation which comprehensively protects the right to information for everyone in Iraq.

65. If the Iraqi state authorities were really serious about protecting and enhancing freedom of expression more effectively in Iraq, they would do better to repeal laws which are highly restrictive of freedom of expression and used to silence legitimate criticism of public officials or government practices. These include the 1969 Penal Code which criminalises defamation making it a crime to engage in a range of forms of expression such as shouting or singing in a manner that provokes dissent or to obtain materials that incite constitutional change or that promote “banned ideologies” with the aim of publishing them; and includes numerous restrictions on what may be published in the name of protecting “state secrets”. These laws also include the 1968 Publications Law that provides for up to seven years jail for publicly insulting the government, the national assembly or public authorities, or inciting violence and civil disorder.³⁴ They should also adopt comprehensive right to information legislation, combat the situation of impunity and reform media laws in Iraq.³⁵

¹ The translation of the Draft Law, which appears at the end of this Comment, has been provided by IREX (Iraq).

² See UN Treaty Collection http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en Iraq is also a member of the League of Arab States which has adopted the Arab Charter on Human Rights which at Article 32 guarantees the right to information and freedom of expression.

³ In recent years ARTICLE 19 has produced numerous reports on the state of media freedom in Iraq. See *Free Speech in Iraq: Recent Developments* (London, August 2007) <http://www.article19.org/pdfs/publications/iraq-free-speech.pdf> ARTICLE 19 has also conducted strategic litigation in the country. See amicus brief in the case of the *President of the Intelligence Services v Alan Rusbridger and Gaith Salim Abd al Ahad* (concerning a defamation case brought against a journalist and a newspaper by the Iraqi authorities) 18 January 2010 <http://www.article19.org/pdfs/analysis/iraq-alan-rusbridger-and-gaith-salim-abd-al-ahad.pdf>

⁴ ARTICLE 19, *Comment on the Draft Law on Access to Information*, January 2010 <http://www.article19.org/pdfs/press/iraq-article-19-comments-on-draft-access-to-information-law.pdf>

⁵ ARTICLE 19 analysed a version of the Draft Law on the Protection of Journalists in August 2009. ARTICLE 19 *Comment on Draft Journalists Protection Law of Iraq*, August 2009 <http://www.article19.org/pdfs/analysis/iraq-comment-on-draft-journalists-protection-law.pdf> ARTICLE 19 has developed a model Draft Law on the Protection and Regulation of Journalists and Media Workers as a means to comprehensively and coherently protect journalists in accordance with international human rights law.

⁶ ARTICLE 19, *Comment on the Draft Journalist Protection Law of Iraq*, May 2011 at p 4 <http://www.article19.org/pdfs/reports/comment-on-draft-journalist-protection-law-of-iraq.pdf>

⁷ Articles 2(1)(b), 14(1) and 16, Vienna Convention on the Law of Treaties 1969.

⁸ Decisions of international courts and tribunals emphasise the “paramount importance in any democratic society” of the rights to freedom of expression, assembly and association as the right to protest. *Tae Hoon Park v Republic of Korea*, Communication 628/1995, Views of the Human Rights Committee, 20 October 2008, para 10.3. See also *Appleby and others v UK*, Judgment of the European Court of Human Rights, 6 May 2003, para 39.

⁹ See ARTICLE 19, *Memorandum on the Access to Information Draft Law of Iraq*, January 2010 <http://www.article19.org/pdfs/analysis/iraq-analysis-of-draft-access-to-information-law.pdf>

¹⁰ ARTICLE 19 recommends the adoption of legislation that properly guarantees and implements the right to information in Iraq for several interrelated reasons. *First*, the right to information is a fundamental human right that is crucial to the functioning of a democracy and key to the protection of other rights. The right is especially important in the context of Iraq – a post-conflict state struggling to establish the rule of law and democracy in the face of continued and considerable sectarian violence and where human rights conditions remain extremely poor. Clearly, the consolidation of the democracy, the rule of law and human rights in Iraq should be the priority of the Iraqi government, and also the international community. *Second* and more specifically, a properly protected right to information would counter corruption and enhance the flow of information in the country and help to promote good governance, openness and transparency within Iraq’s public administration. It would

also increase a sense of trust amongst the people about the governmental and public authorities, whether at the national or local levels. *Third*, such legal protection would allow Iraq to join the community of nearly 90 states who have adopted legislation or national regulation on the right to access information to date. This collection of states includes countries as diverse as Sweden, Jordan (the first Arab country to adopt right to information legislation) and Indonesia. *Fourth*, the adoption of such legislation would also address the gap between Iraq's domestic legal protection and practice, on the one hand, and international legal obligations, on the other, as a signatory to the ICCPR. It is recalled that the right to information is provided in international human rights law under the UDHR, as well as in the UN Convention Against Corruption to which Iraq acceded on 17 March 2008.

¹¹ *Sunday Times v United Kingdom* (1979) 2 EHRR 229 at para 49 (European Court of Human Rights).

¹² *Lingens v Austria*, Application No 9815/82, Judgment of 8 July 1986, paras 39-40 (European Court of Human Rights).

¹³ The Human Rights Committee has stated that "any restrictions ... must be permissible under the relevant provisions of the Covenant. ... States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right." Human Rights Committee, General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc CCPR/C/21/Rev.1/Add.13, 26 May 2004, para 6.

¹⁴ *Handyside v the UK*, Application No. 5493/72, Judgment of the European Court of Human Rights of 7 December 1976 at para 49.

¹⁵ OSCE ODIHR/Venice Commission, Guidelines on Peaceful Assembly CDL-AD(2010)020 2nd edition, adopted by the Venice Commission at its plenary 4 June 2010
[http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)020-e.pdf](http://www.venice.coe.int/docs/2010/CDL-AD(2010)020-e.pdf)

¹⁶ See ARTICLE 19, *Global Right to Information Index* <http://www.article19.org/pdfs/press/rti-index.pdf> (released 21 September 2010); ARTICLE 19, *Model Freedom of Information Law*, (London, 2001) <http://www.article19.org/pdfs/standards/modelfoiaw.pdf>; ARTICLE 19, *The Public's Right to Know: Principles on Freedom of Information Legislation* (London, 2001) <http://www.article19.org/pdfs/standards/righttoknow.pdf>.

¹⁷ ARTICLE 19, *Memorandum on the Draft Information Act of Iraq*, December 2010.

¹⁸ More specifically, they should release information concerning: the internal organisation of the public body, including the structure and functions of, the laws/regulations governing and concessions or licenses granted to the body; the decision-making process of the public body including its aims, regulations, decisions, management indicators, reports generated, services officered, programmes administered, procedures, requirements, mechanisms for civil participation, location; financial information, including, gross and net remuneration of all civil servants, full detailed budget and reports on its use, results of audits and other reviews, all announcements of procurement of goods and services, all contracts, design and implementation for access to subsidy programmes; other relevant information, including any other information which may be useful or relevant for knowledge or evaluation of the functions and policies of the body, frequently asked questions and other guides and a log of requests for information and responses.

¹⁹ Notably, public bodies should: use language which is clear, accessible and which facilitates comprehension by its users; update the information on a regular basis; publish the date of update for each item; indicate the administrative division responsible for generating the information for each item; indicate the official responsible for generating information for each item; provide for information to be made available indigenous or local languages; indicate items which are not applicable to them; indicate a complaints procedure for failure to comply with the principle of transparency; provide for a system for increasing the requirements for proactive dissemination of information.

²⁰ See ARTICLE 19, *Global Right to Information Index* <http://www.article19.org/pdfs/press/rti-index.pdf> (released 21 September 2010); ARTICLE 19, *Model Freedom of Information Law*, (London, 2001) <http://www.article19.org/pdfs/standards/modelfoilaw.pdf>; ARTICLE 19, *The Public's Right to Know: Principles on Freedom of Information Legislation* (London, 2001) <http://www.article19.org/pdfs/standards/righttoknow.pdf>.

²¹ As stated in a Joint Statement of the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information: "Restrictions on freedom of expression to prevent intolerance should be limited in scope to advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence." Joint statement from 10 December 2008 available at <http://www.article19.org/pdfs/other/joint-declaration-on-defamation-of-religions-and-anti-terrorism-and-anti-ext.pdf>

²² See also Article 10(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, adopted 4 November 1950, entered into force 3 September 1953; Article 13(2) of the American Convention on Human Rights, OAS Treaty Series No 36, 1144, adopted at San Jose, Costa Rica, on 22 November 1969, entered into force 18 July 1978; Article 9 of the African Charter on Human and Peoples' Rights, OAU Doc CAB/LEG/67/3 rev. 5 adopted 27 June 1981, entered into force 21 October 1986.

²³ It has held, however, that the right to freedom of expression is of paramount importance in any society, and any restrictions on the exercise of this right must meet a strict test of justification. See inter alia *Kim v the Republic of Korea*, Communication No 574/1994 views adopted on 3 November 1998 and *Park v the Republic of Korea*, Communication No 628/1995 views adopted on 20 October 1998.

²⁴ Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo, to the Human Rights Council, 28 February 2008 A/HRC/7/14 paragraph 85.

²⁵ Report to the Second Session of the HRC A/HRC/2/3, 20 September 2006, paragraph 38.

²⁶ Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, 21 December 2009 A/HRC/13/40 para 39.

²⁷ This happened after sustained efforts by many civil society organisations and states, including members of the Organisation of Islamic Conference such as Turkey. See Resolution 16/18 of the 16th session of the UN Human Rights Council on Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief (adopted without a vote on 24 March 2011). See ARTICLE 19, "The Demise of Defamation of Religions: Human Rights Council Should Support Resolution on Religious

Discrimination” 22 March 2011 <http://www.article19.org/pdfs/press/the-demise-of-defamation-of-religions-human-rights-council-should-support-re.pdf>

²⁸ Camden Principles on Freedom of Expression and Equality, April 2009
<http://www.article19.org/pdfs/standards/the-camden-principles-on-freedom-of-expression-and-equality.pdf>

²⁹ OSCE ODIHR/Venice Commission, Guidelines on Peaceful Assembly CDL-AD(2010)020 2nd edition, adopted by the Venice Commission at its plenary 4 June 2010
[http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)020-e.pdf](http://www.venice.coe.int/docs/2010/CDL-AD(2010)020-e.pdf) at p 9.

³⁰ The blocking of public roads as a protest tactic can be restricted in certain circumstances. See, for example, *Lucas v. UK* (2003, admissibility), where the European Court of Human Rights declared inadmissible the application of a demonstrator at Faslane naval base in Scotland (where protesters against Trident Nuclear submarines blocked a public road) after her conviction for a breach of the peace.

³¹ Inter-American Commission on Human Rights: *Report of the Office of the Special Rapporteur for Freedom of Expression* (2008), at paragraph 70.

³² *Öllinger v. Austria* Application No 76900/01, judgment of the European Court of Human Rights of 29 June 2006, at para 46.

³³ See Articles 6 and 7 of the ICCPR.

³⁴ See International Federation of Journalists, *Breaking the Chains: Middle East and Press Freedom World Review* May 2009 – April 2010 <http://mena.ifj.org/assets/docs/130/023/66c2a82-dd01417.pdf>

³⁵ See ARTICLE 19, *Memorandum on the Draft Information Act of Iraq*, December 2010.

ANNEX: Draft Law of Freedom of Expression, Assembly, and Peaceful Protest

Draft Law of Freedom of Expression, Assembly, and Peaceful Protest

In the Name of the People

The Presidency Council

Based on what was adopted by the parliament and ratified by the Presidency Council, and based on the provision of Article (38), the (First) item of Article (61) and the (Third) item of Article (73) of the constitution, the following law is issued:

No. () year 2010 The Law of Freedom of Expression, Assembly and Peaceful Protest

Chapter One Definitions and Objectives

Article-1-

Wherever the following terms and phrases are mentioned in this law, they shall carry the following meanings:

First- Freedom of Expression- The freedom of citizens to express their thoughts and opinions through speaking, writing, filming or any other forms in a way that does not disrupt public order or morals.

Second- The Right of Access to Information- The right of citizens to obtain information from official institutions in accordance with the law, especially information related to the work of these institutions and to the content of any decisions or policies related to the public.

Third- Private Assembly- A gathering attended by invited guests even if held in a public place.

Fourth- Public Assembly- A gathering held in a public or private place where attendance is open to anyone.

Fifth- Peaceful Protest- The gathering of unlimited numbers of citizens in the streets or public areas to express their opinions or request the rights granted by law.

Sixth- Election Assembly- A gathering with the purpose of introducing candidates for electoral campaigning that takes place during the period determined by the law.

Article-2-

This Law aims to protect and implement the freedom of expression in all its forms, and the right of assembly and peaceful protest, and the right of access to information in a way that does not disrupt public order or manners, and to determine the parties responsible for implementing these rights.

Chapter Two Freedom of Expression

Article-3-

First- Ministries and entities not associated with any ministry have the right to establish an open database of information for the public to view. They also have the right to publish information on the progress of their work.

Second- The High Commissioner for Human Rights, which was established based on Law No (53) for the year 2008, specializes in dealing with citizen complaints regarding the decisions of agencies to withhold information from them, and after verifying these complaints the commission has the right to request that the relevant agency provide citizens with the information requested if the request conforms to the law.

Article-4-

This law protects the freedom of scientific research including performing scientific experiments and the use of necessary means and conditions for the research. It also ensures the freedom to publish the results of scientific activities.

Article-5-

The following shall be prohibited:

First- Advocating for war, acts of terrorism, or national, racial, religious and sectarian hatred.

Second- Denigrating religions, sects, orders, and beliefs and degrading them or their followers.

Chapter Three Right of Assembly

Article-6-

First- Citizens have the right to hold private assemblies without the need to obtain prior authorization and it is prohibited for security personnel to attend these gatherings.

Second- This law guarantees the freedom of holding election assemblies.

Article-7-

First- Citizens have the right to hold public assemblies after obtaining a prior authorization from the head of the administrative unit at least five (5) days prior to the event. The request shall include the topic of the assembly, its purpose, and its place and time and the names of the organizing committee.

Second- The organizing committee mentioned in the (First) item of this article shall consist of a president and at least other two members. If the members of the committee are not identified, the names included in the request form shall be considered the de facto members of the organizing committee. The organizing committee shall be responsible for properly managing the assembly, fulfilling its obligations as prescribed by the law, and protecting the assembly in coordination with the relevant entities.

Third- If the head of the administrative unit refuses the request to hold a public assembly, the president of the organizing committee has the right to appeal to the court with the relevant jurisdiction.

The court shall adjudicate the matter urgently.

Fourth- Organizers of the assembly or one of the applicants must be informed of the decision of rejection according to the Third item of this Article at least twenty four (24) hours prior to the time of the assembly. The process of informing shall take place according to the methods specified by law.

Article-8-

First- It is prohibited to force anyone to attend a public assembly.

Second- It is not permitted to hold a public assembly in public roads.

Third- It is not permitted for a public assembly to extend after 10:00 PM.

Fourth- It is permitted for the participants of a public assembly to raise banners, chant slogans, and to give statements to media outlets on the condition that they do not disrupt the public order or public morals.

Article-9-

The following shall be prohibited:

First- Holding a public assembly at places of worship, schools, universities, governmental departments, unless the lecture or discussion being held fits the intended purpose behind such institutions

Second- Carrying firearms of all kinds or any sharp instruments or tools that may harm people or properties during the assembly.

Chapter Four Right to Peaceful Assembly

Article -10-

First - Citizens have the right to participate in peaceful demonstrations to express their opinions or demand the rights granted to them by law, in accordance to Article 7 of this law.

Second - It is not permissible to organize demonstrations before 7am or after 10 pm.

Chapter Five General Provisions and Conclusions

Article-11-

First- Security authorities are responsible for protecting participants in demonstrations and assemblies if they are organized in accordance to the provisions of this law. It is prohibited for these authorities to use force to break up the assembly or demonstration except when the assembly or demonstration undermines security or causes damage to persons, property or funds.

Second- In situations where damage occur to persons, properties or funds as a result of assemblies and demonstrations, the individuals responsible for causing the damage shall pay compensation. If it is not possible to determine the responsible parties, victims have the right to demand compensation in accordance with the law, and this does not waive their right of filing criminal law suits against the responsible parties in the future.

Article 12-

It is not permissible to restrict the rights and freedoms granted by this law except for the public interest and to prevent disruptions of public order or morals.

Article-13-

First- All who intentionally advocate war, acts of terrorism or national, racial, religious or sectarian hatred, shall be given a punitive sentence of imprisonment for not more than (10) ten years.

Second- A punitive sentence of no less than (1) one year and a fine of no less than (1 000 000) one million Dinars and no more than (10 000 000) ten million Dinars shall be given to anyone who:

- A. Publicly attacks the beliefs of a religious sect or demeans its rituals.
- B. Intentionally disturbs, prevents, or hinders the rituals of a religious sect or religious events or gatherings
- C. Ruins, damages, defaces or desecrates a building established for a religious ritual, a religious symbol, or any other objects with religious sanctity.
- D. Prints or publishes the holy book of a religious sect with the intention to distort or alter its meaning, or to belittle its teachings and provisions.
- E. Publicly insults a figure or symbol that is respected by or sacred to a religious group
- F. Publicly imitates a religious figure or religious ritual with the intention to mock.

Article-14-

Penal Code number (111) of the year 1969 applies to any case not specifically covered in this law.

Article-15-

The (dissolved) Coalition Provisional Authority order number (19) dated 07/10/2003 (Right of Assembly) is repealed by this law.

Article-16-

The Interior Minister has the authority to issue regulations to facilitate the enforcement of this law, in coordination with the Human Rights Minister, State Minister for Civil Society Affairs and the head of the High Commissioner for Human Rights.

Article-17-

This law is valid starting from the date of its publication in the official gazette.

Reasons to Issue this Law

This law has been issued for formulating a mechanism to guarantee the freedom of expression in all its forms, the right of assembly and peaceful demonstration, and the right to access information so long as these rights do not disrupt the public order or morals. This law has been issued to determine the

parties responsible for implementing these rights, and to determine the penalties for violations.

For the above reasons, this law has been legislated.