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An amendment to an important law in Iraq: pros and cons

Recently, Iraq’s Parliament passed an amendment to the Personal Status Law, which caused a significant outcry in the media, academic circles and on social media.

The issue of personal status is a sensitive one and has its own backstory. The first Personal Status Law was enacted in Iraq in 1959, shortly after the revolution that established a republican system to replace the monarchy.

At the time, it was considered the most progressive law of its kind in the Arab world, declaring that individuals had the right to enter into a legal marriage upon reaching the age of majority, i.e. 18.

Parliament’s passage of the amendment drew mixed reactions in the country’s media and academic circles

Under this law, men who violated the above provision and married outside the state court system faced imprisonment of up to 6 months or a heavy fine. In such cases, citizens were supposed to certify the marriage contract, and their children would then receive documents that allowed them to go to school, enjoy benefits, etc.

After the overthrow of President Saddam Hussein, the new authorities began to overhaul the previous legal system.

In the new Iraqi constitution, adopted in 2005 while the country was under US occupation, Article No. 41 was introduced. It stated that “Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law.”

This clause was taken advantage of by religious and conservative forces that wanted to see changes to the Personal Status Law. This would open the way for the clergy to serve as the

sole interpreter of Islamic law, which many believe allows girls to be married off in their early teens.

Such trends were opposed by civil society organizations and rights advocates who defended the principle set out in the 1959 Law. A UN report published in 2022 indicated that more than a quarter of Iraqi women married in 2021 were under eighteen years of age.

Nevertheless, in January this year, the Parliament passed an amendment to the Personal Status Law. It does not abolish it, but it does give Iraqis the right to choose between the provisions of the Shiite and Sunni communities or those of the Personal Status Law when entering into marriage contracts. That is, it gives the clergy legal authority in the area of marriage.

Parliament's passage of the amendment drew mixed reactions in the country's media and academic circles.

Thus, the influential Iraqi website sotaliraq.com, citing the opinions of many observers and experts, concluded that the parliamentary session was a failure. The new amendment was not up to the level and importance of the paragraphs of the Personal Status Act, which are public-spirited and are the source of much controversy and doubt.

This view is shared by Ayad Allawi, former Vice President of Iraq and General Secretary of the National Accord Party. According to him, the amendment procedure lacked transparency and there had not been a full public discussion. It would put at stake the rights and future of families, women and children.

In the view of Intisar al-Mayali, a member of the Iraqi Women's League, the passage of the amendment to the law "will have a catastrophic impact on the rights of women and girls. Early marriage violates children's rights and women's ability to defend themselves in divorce, custody and inheritance matters."

The group Coalition 188, which includes representatives of the feminist movement, civil society organizations, prominent lawyers, parliamentarians and religious figures, was not silent either. The group warned that it would continue to press against the amendment through legal and political means.

The Iraqi Women's League, along with a number of activists, also declared its opposition to the amendment. It insisted that it would not accept this move and would join forces to reverse it.

According to a number of experts and political analysts, the amendment to the Law was passed for "political motives." Its adoption comes at a tense period, as Iraq, from a security

perspective, is at the epicenter of the situation in the wider region. The Iraqi state has many more important priorities that will determine its fate over the next decade.

Meanwhile, MPs opposing the amendment said they intend to file an appeal for a review of the decision in accordance with the proper procedures.

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