



## Freedom of Association Status

### A Study on the Status of Trade Unions in the Electricity Sector in Iraq



*Electricity Union workers carry a sign offering condolences to the Iraqi people for the loss of democracy.*



## **I. Introduction**

During the last decade, the Iraqi trade union movement has faced many turning points. It has been deprived of freedom of association in the public sector for over a quarter century according to the Iraqi government decision in 1987 and the dissolved Revolution Command Council Decision No. 150, which changed workers status to employees, making them ineligible for union membership. However, the Iraqi workers have formed several trade union federations since April, 2003 and in various labor sectors, including the public sector.

These trade union organizations took the initiative to represent the Iraqi workers and to defend their rights and interests. In addition to forming trade union organizations in the enterprises of the private, mixed and cooperative sectors, the trade union federations formed organizations in public sector industries such as health, transport, ports, railways, oil, electricity, petrochemicals, and banks.

Electricity sector workers played a key role in establishing those organizations. All major Iraqi trade union federations have formed electricity trade unions in several governorates (provinces). The Union of Engineering and Technical Professionals in Iraq has also formed trade union organizations for workers and technicians in the electricity sector in several governorates. This has contributed to the formation of many trade unions that represent workers in the public sector. These trade unions have succeeded in achieving many gains and benefits for their members.

This research sheds light on the status of these trade unions post-April 2003, their achievements and the main challenges they face as the Iraqi government has not abolished the former dictatorial regime's anti-trade union laws which ban freedom of association in the public sector. These laws were used to ban trade unions in the public sector, and the trade union offices were shut down and their assets were seized by the Iraqi police and security forces. Trade union activists and members were threatened to be charged under the Anti-Terrorism Law for their trade union activism in the public sector.

This comes in conjunction with the Iraqi government-led campaign that banned freedom of association in the public sector in general and took trade unionists to court and fined<sup>1</sup> them as a penalty for their union activities. Some trade union members in the oil, port, and industrial sectors were transferred from their workplaces to other workplaces very far from where they live, in an attempt to restrict their trade union activity.

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<sup>1</sup> AL Basra resumption court issued the decision No. 168/2012 in 2<sup>nd</sup> May 2012 and fining 16 workers and trade unions leaders from Iraqi Federation of Oil Workers huge amounts (about \$28000 - \$58000) for each activists according to Iraqi fining law #12/2006. This punishment taken based on the workers strike in one of Al Basra refinery during March 2010.

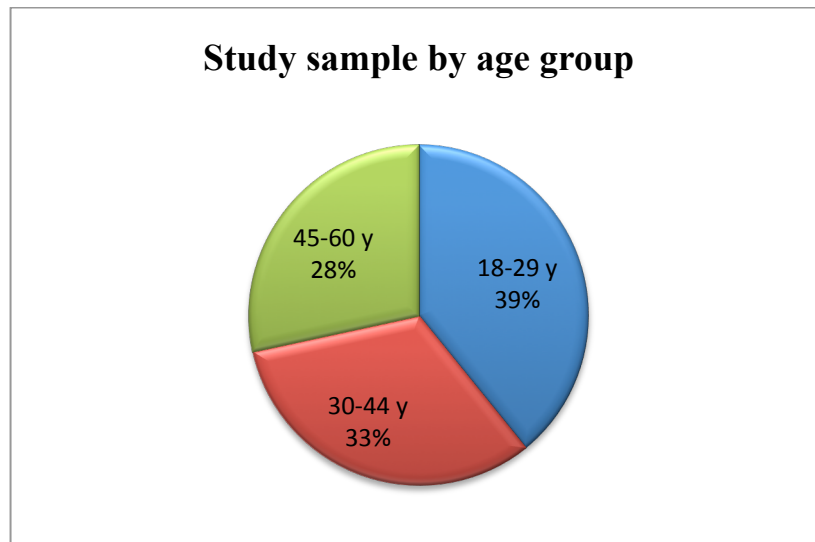


This report also discusses the legal status of the government decisions which ban freedom of association by virtue of Decision 150 of 1987. Iraq is a member of the United Nations and has ratified the two international covenants, in addition to being an ILO member and therefore party to the Declaration on Fundamental Principles and Rights at Work of 1998, which enshrines freedom of association under ILO Conventions 87 and 98, even if Iraq has not ratified ILO Convention 87 of 1948 on Freedom of Association and Protection of the Right to Organize.

## II. Study Sample

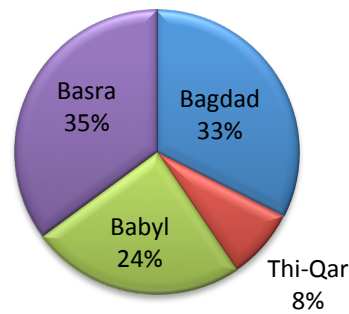
The study sample included 74 workers in the electricity sector in Baghdad, Basra, Babylon, and Thi-Qar governorates. Direct interviews were conducted with 26 workers while 53 others received questionnaires; five forms were discarded for failing to meet the standards of filling in the questionnaires – bringing down the number of respondents via questionnaire to 48.

The study population included 17 women (22.97% of the study sample), and the study population included 61 trade union members (82.43% of the study sample) from the major trade union federations in this sector in the above-mentioned governorates in addition to the Union of Engineering and Technical Professionals in Iraq – Electricity Sector in Baghdad and Basra. The study sample also included seven day laborers (9.45%).

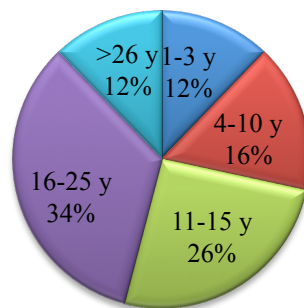




**Study sample by governorate**



**Study sample according to years of service**



**III. Status of trade union organizations pre-April, 2003**

In the 1970s, after former Iraqi Labor Law No. 151 of 1970 was issued, the vocations and industries that enjoyed freedom of association were defined.<sup>2</sup> The provisions of this law included the General Union of the Electricity Workers and Employees, Greater Baghdad Municipality and other municipalities, which includes the workers and employees under the provisions of the aforementioned Labor Law as well as the workers in several enterprises such as water, electricity and electrical installations and their maintenance in addition to the ministries and institutions overseeing those works. This clearly indicates that the entire electricity sector enjoyed freedom of association, including in the public sector, without exception.

This situation continued until 1987 when the major turning point happened in the history of the trade union movement in Iraq; the Revolutionary Command Council during the era of Saddam Hussein's regime issued Decision 150 on March 19, 1987 which changed the worker's status in the public sector to employees. All workers

<sup>2</sup> Occupational Classification Table for Trade Unions under Decision No. 17 of 1973 issued by the Minister of Labor and Social Affairs.



under this Decision have become subject to the Civil Service Laws,<sup>3</sup> and have been excluded from the provisions of the Labor law which is applied exclusively on the private, mixed and cooperative sectors.<sup>4</sup> Therefore, workers and employees of the public sector have been denied the freedom of association since its passage.

Accordingly, Labor Law No. 71 of 1987 and a separate Trade Union Organizing Law No. 52 of 1987 were promulgated. A new Occupational Classification<sup>5</sup> was issued to identify the occupations that may enjoy freedom of association in the private, mixed and cooperative sectors, and to ban this freedom of association in the public sector. This has effectively abolished the role of the General Union of the Electricity Workers and Employees in addition to many other trade unions which used to organize in the public sector.

#### **IV. Iraq Vs. Change post-2003, and the revival of Electricity Trade Unions**

After the fall of Saddam Hussein's regime in April 2003, a number of labor activists restored the trade union organizations in several sectors, including the public sector. Iraq saw the formation of several trade union federations which have paid great attention to the promulgation of new labor and trade union legislation and the cancelation of all anti-labor decisions which were issued during Saddam's era, including, in particular, Decision No. 150 of 1987. These trade union federations have succeeded in organizing public sector workers into democratic and independent trade unions despite the fact that the previous laws and decisions are still in force. The oil and electricity unions have become prominent due to the significance of these two sectors to the future of the Iraqi economy, in addition to other trade unions in the public, private, mixed and cooperative sectors.

The formation of these trade unions happened via democratic elections; workers choose their representatives freely. Increasing numbers of workers and employees in the electricity sector joined these trade unions quickly as they proved to be successful and capable of representing their members and defending their rights, in addition to the significant national role trade unions played in the reconstruction of the national electricity system to supply citizens with electrical power in spite of the difficult circumstances in Iraq and specifically in this vital sector.

Electricity unions struggled fiercely to defend the rights of their members immediately after the fall of Saddam's regime. The Union of Engineering and Technical Professionals – Electricity Sector – organized a demonstration<sup>6</sup> on May 19,

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<sup>3</sup> Articles 2, 5 and 7 of Decision 150 of 1987.

<sup>4</sup> Articles 8 and 10 of Decision 150 of 1987.

<sup>5</sup> Occupational Classification Table for freedom of association under Decision No. 3 of 1987 issued by the Minister of Labor and Social Affairs.

<sup>6</sup> Interview with the President and members of the Union of Engineering and Technical Professionals – Electricity Sector – Baghdad, March 2014.



2003 to demand higher wages. A delegation from the Union negotiated this matter with Jay Garner, the US Military Ruler at the time, and Mr. Kareem Waheed, the former Director of the Electricity Commission. The Union managed to obtain a 30% occupational allowance on top of the base salary for workers in the electricity sector.

The unions also conducted a campaign to demand a risk allowance for electricity sector workers. They staged demonstrations throughout Iraq during November 2007, in an attempt to get a risk allowance of 75% on the base salary. The unions succeeded in this attempt when the Economic Affairs Committee in the Iraqi Council of Ministers approved<sup>7</sup> the unions' demand in the Committee's first session which was held on February 13, 2008, with retrospect as of October 1, 2007. It is worth noting that many workers in the electricity sector were subjected to attacks by terrorist groups and many of them were injured and martyred - including unions activists - while they were maintaining the power grid and transmission lines, especially the lines that were targeted by terrorists in the hot spots<sup>8</sup>.

In 2008, the unions managed to amend the 'occupational/career ranking scale' for the workers in the electricity sector that resulted in improving the average salaries of workers. Workers who graduated from preparatory school (or below), have a professional degree and have 20 years of service can be promoted to the third rank whereas previously their occupational progress was capped at the fifth rank. High school and institute/academy graduates who have at least 18 years of service can be promoted to the second rank whereas previously their occupational progress was capped at the fourth rank. College graduates who have at least 16 years of service can be promoted to the second rank of the occupational scale whereas previously they were capped at the fourth rank.<sup>9</sup> This resulted in significant salary increases for many workers who were able to move up in rank as a result of these changes. The top rank, rank 1, is designated for general directors.

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<sup>7</sup> Economic Affairs Committee in the Iraqi Council of Ministers – Letter No. 234/s.l dated February 17, 2008.

<sup>8</sup> There is no specific statistics available about the number of workers who injured or martyred now because all the unions documents and statistics were confiscated by government during closing the union offices but the Adnan Rhema , the president of Electricity profession engineering union in Baghdad confirmed that there were about 600 workers injured and martyred during the period 2003-2005. As well as, the website of ministry of electricity pointed to the martyred workers without give any details or statistics. Furthermore, the magazine " *The Electricity for All* " that was publishing by profession engineering union in Iraq allocated special page in each edition to highlight these cases. As example ; in edition No.9 it focused on two cases ; the death of the general director of Al Karkh electricity unit Mr. Hassan Kadhum Aziz , Mr. Saa'd Jameel Haji , the deputy of trade union committee of Al Resafa electricity unit who killed by the terrorists during his work on April 1<sup>st</sup> 2007 , and Mr. Rafid Abdul Sattar the executive board member of electricity engineering union in Baghdad.

<sup>9</sup> Interview with the President of the Union of Engineering and Technical Professionals – electricity Sector – Baby1, March 2014.



When the State and Public Sector Employees Law No. 22 of 2008 was passed, the Union achieved another success by getting the approval<sup>10</sup> of the government to pay for the accumulated and accrued annual leaves that employees had not been able to use. The employees received the payment during the same year. The Union also managed to have hundreds of temporary workers employed as permanent staff of the ministry and opposed the dismissal of other workers until they are employed on a permanent basis officially. The electricity unions demanded the promulgation of new labor and freedom of association laws, and they organized meetings and conferences to this effect. They submitted their demands to the legislative and executive bodies. Trade unions also played a key national role in organizing conferences to promote peaceful coexistence between the citizens of Iraq from all sects and ethnicities. In this regard, the Union of Engineering and Technical Professionals organized the *National Unity Gathering* in 2005.

At the occupational level, the electricity unions organized demonstrations and protests throughout Iraq in 2008 calling for the removal of the Minister of Electricity and senior Ministry officials because of the deterioration of the services provided to the citizens. The demonstrators called for reforming the electricity sector and standing against financial and administrative corruption, which was rampant at the Ministry. In the demonstrations, the unions stated that there is administrative and financial corruption, false contracts and power stations that were supposed to be established but were not established on the ground.

The demonstrators also called for the rights of the temporary and contract workers who were martyred, and demanded the Ministry to pay them the special allowances like the other ministries. The electricity unions took up exposing the corruption in the Ministry through different means, including the magazine that used to be printed and issued by the Union of Engineering and Technical Professionals – Electricity Sector. Around 4,000 copies of the magazine were distributed throughout Iraq; however, no more issues of the magazine were printed after the electricity unions were dissolved by the Iraqi government. Corruption remains in the Ministry, but the unions have been prevented from exposing it.

## **V. Escalated Protests in the Electricity Sector**

In mid-June 2010, most of the Iraqi cities, particularly in the south, witnessed a wave of protests and demonstrations against the ill-equipped electric power in the country. In Thi-Qar, the demonstration included some riots when a number of demonstrators pelted the provincial council building with stones, which required the intervention of the riot police. The police used water cannons to disperse the demonstrators after they established barricades and barbed wire around the provincial council building.

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<sup>10</sup> Interview with the President and members of the Union of Engineering and Technical Professionals – Electricity Sector – Baghdad, March 2014.

In Basra, two demonstrator was martyred and three others were wounded. While the official media reported this as an accident when the Provincial Council security fired shots in the air to disperse the crowd, demonstrators claimed that the security forces opened fire on the protestors. As a result of these incidents, former Minister of Electricity Kareem Waheed resigned from office on June 21, 2010. One day after his resignation, the Iraqi Council of Ministers commissioned Mr. Hussein al-Shahristani to serve as the acting Minister of electricity in addition to his oil portfolio.

It is noted that Mr. Shahristani tried to freeze the oil unions' work in Iraq in mid-2007 when he became the Minister of Oil. This was followed by prosecution of trade union activists in the Iraqi oil sector. This action was met with severe rejection by the Iraqi trade unions, including the electricity unions which rejected the decisions made by the Minister of Oil against the trade union organizations. "My



*Trade Union and all the other trade unions will stand against Hussein al-Shahristani, the Minister of Oil, if he issues any invalid arrest warrant, and will stand against any minister if they issue any arrest warrants against those who defend the demands of the Iraqi people,"* The President of the Electricity Union affiliated to the General Federation of Iraqi Workers (GFIW) stated, in a clear reference to the rejection of targeting any trade union activists.

## VI. Returning to the Decisions issued by Saddam Hussein's Regime

On July 20, 2010, shortly after Shahristani took charge of the Ministry of Electricity, the Ministry issued Order No. 22244, which banned the freedom of association in the Ministry of Electricity and stopped all forms of communication with the trade unions that were organized inside the Ministry or in any of the affiliated directorates and areas. The Ministry ordered all electricity departments and directorates to shut down the trade union offices and seize their assets, documents, property, computer software, etc. The most severe form of repression was to grant the right to the relevant directorates to take immediate legal measures and refer whoever threatens or resorts to using violence or vandalism to court by virtue of Articles 2 and 4 of Anti-Terrorism Law No. 13 of 2005. Treating trade unionists as terrorists set a dangerous precedent whereby any sit-in, picket or strike could be interpreted as an act of vandalism, and any trade unionists involved in such an act could be prosecuted under the Anti-Terrorism Law.





The Ministry sent a copy of the Order mentioned above to all the electricity departments and directorates and to the Ministry's Security Advisor Office in order to take the necessary measures and coordinate with the office of the Commander in Chief of the Armed Forces to instruct the commanders of operations in the governorates to implement the Order within one week from the date of issuance (July 20, 2010).

### **Security Forces raids Trade Union Offices in Electricity Departments**

Based on the above-mentioned ministerial Order, the army and police forces raided the electricity trade union headquarters located in the directorates affiliated to the Ministry of Electricity in several governorates, particularly in Basra, Thi-Qar, directorates and at the Ministry's headquarters in Baghdad. These forces broke into the trade unions' headquarters, broke their doors, changed the locks and seized all the trade unions' assets and documents. "The armed forces demanded the trade unionists to hand over the union's headquarters and when the trade unionists refused to comply, the forces, accompanied by a management committee, broke the doors and seized all the documents, including the trade union related documents," the President of the Electricity Trade Union in Thi-Qar said.

The trade unionists confirmed that the decision was implemented by Baghdad Operations Command, the anti-riot force and the federal police as well as the Electricity Facilities Protection Unit which was used to attack the trade union members and headquarters and "shut them down in a barbaric manner," according to trade union leaders.

## **VII. Unions Protest and the Ministry Justifies!**

The electricity unions in the country strongly condemned and denounced the measures taken by the Ministry of Electricity and its crackdown against the freedom of association. They stated that this was an anti-democratic act and it meant a return of dictatorship, in a clear reference to adhering to the decisions of Saddam Hussein's regime which banned the freedom of association in the public sector. The electricity unions deplored the use of the armed forces to shut down the trade union headquarters, and described this as an unfair decision as it deprives workers of one of their key rights enshrined by the Constitution. They also warned of the void that would result from dissolving trade union organizations, which would negatively affect the production process. These trade unions were elected in a democratic way by their members, the election process was fully documented, and they have thousands of members. Trade union leaders were surprised by such a measure to be taken by the Ministry at that time; all former ministers dealt with trade unions in a friendly and official manner.

The trade unions asked the central government to intervene to stop dissolving trade unions in the departments and directorates affiliated to the Ministry of Electricity.

They threatened to stage a sit-in and demonstrate if these unfair measures, according to trade unionists, had not been stopped. Indeed, the trade unions planned to stage sit-ins in the workplaces. Leaders from the railways, ports and municipality trade unions visited the shut down electricity unions' headquarters to show solidarity and declare the sit-in, but the intensive security measures prevented the trade unionists from having access to these places and from staging the sit-in.



Protesters with a sign saying "I am a trade unionist and not a terrorist, Minister of Electricity"

On the other hand, electricity trade unions lobbied the provincial councils and Iraqi Council of Representatives members to intervene and abolish the ministerial Order. However, these attempts did not achieve anything, which prompted the electricity unions and the other trade union federations that showed solidarity to organize a big demonstration in Baghdad on July 31, 2009 to protest against the Ministry of Electricity actions which were incompatible with the principles of true democracy. The Ministry banned the freedom of association, shut down the trade unions' headquarters, and threatened to prosecute trade union activists under the Anti-Terrorism Law on the grounds of the decisions of the former dictatorship, namely Decision 150 of 1987. Demonstrators who gathered in Firdos Square in the middle of Baghdad held banners demanding the promulgation of laws that regulate the freedom of association in the state organizations. Trade unionists said that what the Ministry of Electricity did came under the pretext of lack of legal grounds for the freedom of association in the state organizations, although Iraq is a member of the ILO and must observe freedom of association.

In Basra, the Freedom of Association Advocacy Committee held its first press conference on August 20, 2010 to demand for freedom of association and to urge the government to respect the Constitution and the nascent democracy. "Despite the legal elections by the masses of workers and employees in all labor sectors, the Government of Iraq and its ministries have been launching campaigns against trade unions since 2003 without any justification, and have been obstructing and confiscating freedom of association and the freedom of the trade union leaders who have been charged with *malicious accusations* to prevent them from exercising their legitimate activities," the Secretary of the Freedom of Association Advocacy Committee said.



It is noted that the Iraqi trade union federations and electricity trade unions issued several statements on this matter denouncing this crackdown and urging the government to put an end to it. One of the statements indicated that “taking such arbitrary measures and controlling the trade union headquarters by the police is an unacceptable measure by the Iraqi trade union movement and all workers who have emphasized the right to organize in the public sector, including the Ministry of Electricity which employs thousands of permanent and contract workers whose interests, rights and benefits need to be defended.”

Another statement stressed that what happened is considered a systematic war against freedoms because banning freedom of association in such an explicit and open manner is a preemptive measure to restrict, suppress and confiscate other freedoms. The unions believe that this is relevant to the government’s crackdown on freedom of association in the Ministries of Industry, Transport, Oil and Electricity. This crackdown was preceded by opening fire on worker’s non-violent demonstrations in the Ministry of Industry in Baghdad on October 6, 2009 and during the worker’s demonstrations in the ports and refineries in Basra in May and June 2009. Those who demonstrated about the provision of electricity in Basra were shot at, resulting in two deaths and three injured.

The press and media in Iraq have extensively covered the ban of the freedom of association in the public sector. *Albayyna Newspaper*, for example, addressed the subject of dissolving the electricity unions on its front page. *Albayyna Newspaper* expressed its surprise to what Hussein al Shahrستاني did in an article entitled “*Al Shahrستاني dissolves trade unions in the Ministry of Electricity and considers them equal to terrorism.*” The article addressed this decision sarcastically “finally, the acting Minister of Electricity, Dr. Hussein al Shahrستاني found out the real reasons behind the deterioration of electricity in Iraq.” *Freedom of association is equal to terrorism* was the Minister’s rationale for dissolving the trade unions in the Ministry. Now we see that the dilemma of electricity has been solved after finding out that freedom of association is a form of terrorism which operates inside the Ministry’s departments and paralyzes its capacity to increase the amount of the produced electric power. We wonder: if the freedom of association in the Ministry was equivalent to terrorism, then who works in the Ministry and who produces the electric power? Is it, with all due respect, the administrative employees or the electricity facilities protection unit which employs more than 25,000 security personnel who do *not* protect the electricity towers which are falling apart every day because of terrorism? If the Minister has made this great decision to address the severe shortage of electricity, then where is electricity? Iraqi households who protested or remained silent suffer from power outage for 10 hours a day, whereas the government provision is only for one hour. Electricity has been in a miserable condition for one week; electricity only *visits* households shyly and only *stays* there for less than one hour, and even during this *orphan* hour, the electricity current is intermittent.”



Hussein al Shahrstani, the acting Minister of Electricity, justified the ban of freedom of association by quoting a memo issued by the Secretary General of the Council of Ministers which bans the freedom of association in the government departments during the working hours. The Minister added “when I became the acting Minister of Electricity, this decision had not been implemented in the Ministry; I only implemented the decision and dissolved the trade unions.” He also stressed “we are in the process of reviewing what these unions have done to see whether they have been involved in financial or administrative corruption, contracts or bribes to refer them to the Commission on Public Integrity and take them to court.”

Almost four years have passed since the decision to dissolve the trade unions was made and the Ministry of Electricity could not find any case of corruption that was referred to by al-Shahrstani, and no trade unionist has been taken to court because of any financial/administrative corruption accusation contrary to what al-Shahrstani stated to a widespread newspaper in Iraq. In this paper, 91.89% of the study sample believe that the most important reason for banning freedom of association is the activism of trade union organizations in revealing, following up and exposing the many cases of corruption and exposing the corrupt personnel of the Ministry.<sup>11</sup>

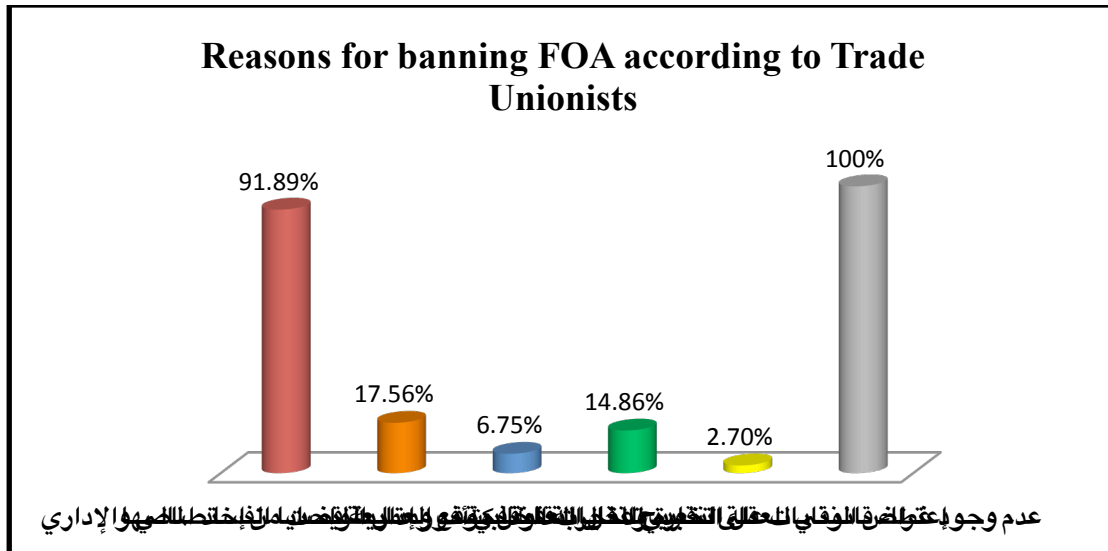
The rationale for taking such a measure by the Ministry was trade unions’ intervention in administrative issues beyond their concern according to 17.56% of the study sample. Pluralism, or having multiple trade unions in the same workplace, was the reason for taking such a measure according to 6.75% of the Study sample. Some other reasons for taking such a measure, according to 14.86% of the study sample, were lack of trade union experience and the fact that some opportunists assumed trade union positions and used them for their personal interest which fragmented the unions and made it easy for the government to ban them. Whereas 2.7% of the Study sample believed that the reason for taking such a measure was trade unions’ objection to the decision of the Ministry of Electricity to dismiss 15,000 contract employees. The whole study sample believed that the lack of legal cover for the freedom of association in the public sector had contributed to taking such a measure by the Ministry.

It is worth mentioning that the Secretary General of the Iraqi Council of Ministers sent a memo (Ref. No. 14985/20/1/2/Q of May 20, 2009) to the Ministry of Electricity stating that Article 2 of amended Freedom of Association Law No. 52 of 1987 applies only to the workers of the private, mixed and cooperative sectors; therefore, there is no legal basis for forming trade unions within ministries or other government organizations, according to the above-mentioned memo.

*The translation of the chart is underneath it.*

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<sup>11</sup> Most of the sample elements said that the key reason for banning freedom of association is the activism of trade unions in revealing and exposing financial and administrative corruption cases in this sector rather than compliance with Decision No. 150 of 1987.



Revealing and following up financial & administrative corruption 91.89%	Unions' intervention in administrative affairs 17.56%	Unions' pluralism within the same workplace 6.75%	Lack of trade union experience 14.86%	Unions' objection to contract workers' dismissal 2.70%	Lack of legal cover for FOA 100%
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### VIII. International Labor Solidarity with Electricity Unions in Iraq

The international trade union movement reacted to the banning of freedom of association by the Ministry of Electricity with protests. The ITUC sent a letter to Iraq's Prime Minister Nouri al-Maliki on July 23, 2010 in which ITUC Secretary General Sharan Burrow expressed the ITUC's protest against the Electricity Minister's Decision which banned freedom of association in the electricity sector and granted the Ministry the power to coordinate with the police forces to shut down all trade union headquarters and seize their assets. Furthermore, this Decision granted the police the authority, under the Anti-Terrorism Law of 2005, to arrest any trade union activist who tried to protest against this unfair measure according to the ITUC's letter.

In its letter, the ITUC stressed that this measure is a clear case of intimidation of free, independent and democratic trade union organizations, and urged the Government of Iraq to stop the unfair measures immediately. If the Government of Iraq truly seeks to adopt democracy, respect for the Constitution and rule of law, it must adhere to international standards.

In the letter, the ITUC reminded the Government of Iraq of its membership in the ILO and its commitment to LO Conventions including Convention 87 on Freedom of Association and Protection of the Right to Organize which ensures the right of trade union organizations to exercise their legitimate activities without intervention or



retaliation against their leaders or members. It is worth mentioning that the ITUC *Annual Survey of Violations of Trade Union Rights* of 2011 included in one of its paragraphs the violations against the electricity unions in Iraq.

Likewise, the Trade Union Congress (TUC - UK) expressed its support for the Iraqi trade unions in the electricity sector and approached the UK government to urge the Iraqi government to stop the draconian actions including the crackdown on electricity trade unions in implementation of the Ministry of Electricity Order. In its support letter, the TUC stated that the abovementioned “Order is in clear violation of the international core labor standards. It is also a violation of the Iraqi Constitution, and one of the most draconian acts by the Iraqi Government since the fall of Saddam.” The letter stressed “this is just the latest in a series of recent attempts to undermine the Iraqi trade union movement.”

On July 22, 2010, Manfred Warda, the General Secretary of ICEM (which later merged with other global union federations to form IndustriAll) sent a letter to Iraq’s Prime Minister, Nouri al-Maliki saying “this Order is a direct affront to all trade unions in Iraq, particularly trade unions such as the GUEWT that ICEM and its affiliated unions across the world have been working with in order to establish free and democratic institutions for the betterment of all Iraqi workers.”

In addition, the specialized international labor campaigns website, LabourStart, launched a campaign in solidarity with the Iraqi electricity unions.

Volume 1, Issue 3 of the Trade Union Rights Bulletin (2010) issued by the Solidarity Center included details about the violations against the electricity unions in Iraq. It also talked about the protests organized by the unions and the statements issued by the Iraqi trade union federations.

## **IX. Electricity Unions resort to Judiciary**

Despite all the protests by the unions, nothing has changed regarding the government’s position on banning freedom of association in the public sector in general and in the electricity sector in particular. This prompted the Union of Engineering and Technical Professionals – Electricity Sector – to file a court case<sup>12</sup> against the acting Minister of Electricity at the Supreme Federal Court regarding Ministerial Order No. 22244 of July 20, 2010 mentioned earlier. In the lawsuit, the Union argued that the Order dissolves the Union of Engineering and Technical Professionals in the Ministry of Electricity and that it is an administrative order which violates the Constitution and law. The union is established under the Constitution and law, has by-laws approved in line with the Constitution and law, and registered under Certificate No. IZ865 of October 6, 2005 issued by the NGO Assistance Office which belongs to the Secretariat General of the Council of Ministers.

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<sup>12</sup> Case No. 72/Federal Court/2010



In the lawsuit, the union also argued that the acting Minister of Electricity does not have the right to dissolve the above-mentioned union, and that he also seized all the union assets within the Ministry and he threatened the workers in the union's headquarters. The union called for issuing a judgment that considers the Ministerial Order null and void, reinstates the Union's structures and board of directors, reopens the union's branches, reinstates all the Union's persons, returns all its assets that had been confiscated by the Ministry's security forces, obliges the Ministry not to repeat such an act in the future, cancels all the decisions in violation of the law which affected the rights of establishing this Union and the rights of its members from the trade union and occupational aspects, suspends all the Ministerial and administrative orders which involve any targeting or retaliation against the Union's members.

The court's ruling indicated that the president of the Electricity Sector Union, and the claimant, represented by the Union's Vice President do not enjoy the legal personality, and are not entitled to contact the official bodies directly (according to Article 22(3) of the union's by-laws). The main contact should be the union's president or the board of directors, whoever is authorized. The Union of Engineering and Technical Professionals by-laws stipulates the union shall have a number of sections and sectors including the electricity sector; the ruling, therefore, demonstrates that there is no legal grounds for the Union of Engineering and Technical Professionals in the Ministry of Electricity, but rather an electricity sector affiliated to the Union of Engineering and Technical Professionals.

In the lawsuit, the union argued that former Governing Council Decision No. 3 of 2004 does not apply to the Union which is not subject to the NGO's Law. However, the court ruled out the Union's allegation because Decision No. 3 which was issued by the Governing Council on January 7, 2004 dissolves the unions' boards of directors and forms interim boards of directors that should prepare for general elections.<sup>13</sup>

The court also stated that the Ministerial Order did not dissolve the union as claimed in the lawsuit but rather "bans freedom of association in the Ministry, and suspends all forms of transactions and communication with the unions which operate within the Ministry's headquarters, directorates and other locations." Therefore, the lawsuit lost its legal basis, according to the court ruling, and the Ministerial Order was an administrative decision according to the provisions of State Shura Council amended Law No. 65 of 1979. The ruling could be challenged before the Administrative Judiciary Court if it is filed by a legal opponent. The lawsuit was beyond the competence of the Supreme Federal Court, and the case was set aside. After that, the

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<sup>13</sup> Under Governing Council Decision No. 3, a committee was established to oversee trade unions' and professional associations' elections in Iraq, including the GFIW, and this is in violation of the international core labor standards on freedom of association because this committee was chaired by the Minister of Labor and Social Affairs, and its membership includes a number of other ministries.



union resorted to the Administrative Court, and the case is still in the process of prosecution until the date of this study.

## **X. The Effect of Government Resolutions on Workers and their Organizations.**

The decisions that were adopted by the Ministry of Electricity in which they have accordingly closed three union offices, confiscated their belongings and banned the practice of union organizing at workplaces, has led to negative impact on workers, especially union members, and on union organizations in general.

Some of those impacts are:

- 1- The declination of membership at electricity sector:  
Leaders of trade unions that have been selected for this study mentioned<sup>14</sup> that a significant declination in membership has occurred, and that has pushed those unions to focus their efforts on stopping that decrease in members, to protect the existing organizing structures and to provide moral support in attempt to maintain the core leadership structures at least, as a minimum. Some of the unions succeeded in those attempts while others have failed to keep union grassroots and leader individuals in several worksites.
  
- 2- Reflecting a negative image on unions, and their work:  
Electricity unions had remarkable, wide support of workers in various worksites, whether they were temporary or fixed term workers, and many workers joined those unions. But after the issuance of the mentioned Ministerial resolution which has considered those who do not comply as terrorists and charged them under the article 4/ terrorism, many workers left the union, especially those who had limited experience with unions and their legal rights. This is because many believed that the unions were illegal and a threat to employees, and believed the claims that it was the reason why they were addressed by the anti-terrorism law. Adding to that, the ministry's has repeatedly accused union members of financial and administrative corruption, without giving any proof of clear evidence. As a result, many employees have a negative image of unions, especially amongst youth. This will have terrible consequences for the future of the Iraqi union movement in general and especially in the electricity sector by weakening the grassroots movement in this sector and discouraging workers from joining unions, and restricting communication between workers and the union. Although some of the unions

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14 In an interview with Mr. Abbas kadhim Ribat, the president of engineering professions in the southern sector. He said that union membership till 2010 was 2050 members, the affiliation declined by 50% after the decree (22244) was issued in August 2010.





have opened offices outside the worksites, the presence of unions inside workplaces increases their strength.

3- The retreat of workers' rights at the electricity sector:

Electricity sector unions played an essential role in gaining recognition of a lot of worker's rights, such as monitoring work conditions, documenting work violations and negotiating with managements to improve those rights, etc. They were successful in many of their campaigns, such as adjusting the ranking system and job titles, raising wages and allowances, transforming many temporary workers to permanent employees<sup>15</sup> and achieving job security for them, and monitoring the working conditions of temporary workers who are not covered by the Civil Service law and ensuring that provisions of the labor law are applied to protect their rights and interests.

These roles have become difficult to implement, and unions are unable to continue to play these roles because of the prevailing atmosphere of denial of union rights and freedoms. That has negatively influenced employees, especially temporary contract workers, as they no longer have an official entity that can address their issues, advocate for their demands, and monitor their working conditions. This has pushed them to march in protests and demonstrations in several Iraqi governorates, demanding execution of the necessary formalities to make them permanent employees, which the union used to be able to achieve through negotiations with management and ministry officials.

4- Preventing unions from advocating for social and economic reforms:

Electricity unions played an important role in developing the production of electric power in Iraq. They constantly urged workers to work hard and not to spare any effort to reconstruct this vital sector which has a direct effect on people's lives and the Iraqi economy. Many projects in both the public and private sectors have experienced damage and some have completely stopped production due to the inconsistent power supply and frequent power cuts. Also unions played an important role in confronting financial and administrative corruption. Unions also were active in the community by conducting social awareness activities, including the national reconciliation and anti-sectarianism conference that was mentioned previously. It also worked closely with the families of martyrs who worked in the electricity sector, and helped

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<sup>15</sup> Several workers whom have been interviewed were among temporary workers , and have been transformed to fixed term staff with the help of the electricity union's direct initiatives.



resolve obstacles for them to receive their financial compensation and pension payments, and in many cases gained the ministry's approval to employ one of the martyr's family members at the ministry to ensure a decent life for the families as compensation for the sacrifices they gave to the sector and to Iraqi people.

After the mentioned ministerial resolution was issued, it became difficult for the unions to participate in any of such activities due to the weakened structures and lack of funds caused by this resolution. Accordingly a wide category of the community has lost the services of the unions and the means of communication between workers and unions has been broken. Publications that the union used to print and distribute were banned, such as *Electricity for Everyone*, the newsletter that was produced by the Union of Engineering and Technical Professionals – Electricity Sector.

The union's ability to interact with workers and society has been greatly reduced, which has also reduced their ability to represent workers and fight for their rights and interests. That will negatively affect the future of thousands in this sector alone and their families, as well as that of Iraqi people in general, as a result of the decline in public freedoms and jeopardizing democracy in Iraq.

## **XI. Conclusion**

Decision No. 150 of 1987 which was made by the Government of Iraq during Saddam's regime to change workers' status to employees and ban freedom of association is a clear violation of national, Arab and international laws. Changing workers' status to employees must not deny them the right to form and join trade unions. This clearly highlights that Saddam's regime and the successive governments have been in violation of Article 23(IV) of the Universal Declaration of Human Rights which states that "Everyone has the right to form and to join trade unions for the protection of his interests." This explicitly states that no one shall be excluded from this right, whether a worker or an employee. Article 30 of the UDHR states "Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein." This proves the validity of the point mentioned above.

The two international covenants clearly refer to this right; Article 22 of the International Covenant on Civil and Political Rights issued by the UN General Assembly in 1966 states "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. 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, 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. Nothing in this article shall authorize States Parties to the International Labor Organization 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.”

Article 8 of the International Covenant on Economic, Social and Cultural Rights issued by the UN General Assembly in 1966 states “The States Parties to the present Covenant undertake to ensure: (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others; (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations; (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others; (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.”

As Iraq ratified<sup>16</sup> the two international covenants under Ratification Law No. 193 of 1971, issuing any decision to ban freedom of association in any sector would be in direct violation of the Ratification Law mentioned above. The ILO Declaration on Fundamental Principles and Rights at Work of 1998 states that “in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances.” The International Labor Conference “declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect... the principles concerning the fundamental rights which are the subject of those eight core Conventions,” namely Convention 87 of 1948 on Freedom of Association and Protection of the Right to Organize, although Iraq has not ratified this Convention.

Article 2 of ILO Convention 87 states “Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the

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<sup>16</sup> The Government of Iraq ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights issued by the UN General Assembly on December 16, 1966 under Ratification Law No. 193 of October 7, 1971 published in the Official Gazette – Issue No. 1927.



organization concerned, to join organizations of their own choosing without previous authorization.”

The ILO Committee on Freedom of Association explains this article very clearly regarding the category included by these guarantees, and stresses that public servants must not be denied the right of association, as set forth below:

1. The standards contained in Convention No. 87 apply<sup>17</sup> to all workers “without distinction whatsoever”, and are therefore applicable to employees of the State. It was indeed considered inequitable to draw any distinction in trade union matters between workers in the private sector and public servants, since workers in both categories should have the right to organize for the defense of their interests.
2. Public servants, like all other workers, without distinction whatsoever, have the right to establish and join organizations of their own choosing, without previous authorization, for the promotion and defense of their occupational interests.<sup>18</sup>
3. Public servants, like all other workers, have the right to establish and join organizations of their own choosing for the promotion and defense of their members’ interests. These organizations may conduct activities, including in particular meetings, without interference by the public authorities.<sup>19</sup>
4. In view of the importance of the right of employees of the State and local authorities to constitute and register trade unions, the prohibition of the right of association for workers in the service of the State is incompatible with the generally accepted principle that workers, without distinction whatsoever, should have the right to establish organizations of their own choosing without previous authorization.<sup>20</sup>
5. The denial of the right of workers in the public sector to set up trade unions, where this right is enjoyed by workers in the private sector, with the result that their “associations” do not enjoy the same advantages and privileges as “trade unions”, involves discrimination as regards government-employed workers and their organizations as compared with private sector workers and their organization.<sup>21</sup> Such a situation gives rise to the question of compatibility of these distinction with Article 2 of Convention No. 87, according to which workers “without distinction whatsoever” shall have the right to establish and join organizations of their own choosing without previous authorization, as well as with Articles 3 and 8, paragraph 2, of the Convention.

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<sup>17</sup> (Paragraph 212 – 1996)

<sup>18</sup> (Paragraph 213 – 1996)

<sup>19</sup> (Paragraph 214 – 1996)

<sup>20</sup> (Paragraph 215 – 1996)

<sup>21</sup> (Paragraph 216 – 1996)



6. Local public service employees should be able effectively to establish organization of their own choosing, and these organizations should enjoy the full right to further and defend the interests of the workers whom they represent.<sup>22</sup>

Article 4 of Convention 87 states “Workers and employers’ organizations shall not be liable to be dissolved or suspended by administrative authority.”

Whereas Decision 150 of 1987 and its enforcement to ban freedom of association in the public sector is in violation of the two international covenants and in violation of the ILO Declaration on Fundamental Principles and Rights at Work because Iraq is a member of the ILO; and

Whereas the ILO Committee on Freedom of Association report explains evidently that public servants should enjoy freedom of association according to ILO Convention No. 87 of 1948;

Therefore, all the measures taken by the Government of Iraq to ban freedom of association in the public sector are overall illegal.

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<sup>22</sup> (Paragraph 217 – 1996)