Access Now submission to the United Nations Human Rights Council, on the Universal Periodic Review 2019 Cycle for Iraq

About Access Now

1. Access Now (www.accessnow.org) is an international organisation that works to defend and extend digital rights of users globally. Through representation in countries around the world, including in the MENA region, Access Now provides thought leadership and policy recommendations to the public and private sectors to ensure the internet's continued openness and the protection of fundamental rights. We engage with an action focused global community, and our Technology Arm operates a 24/7 digital security helpline that provides real time direct technical assistance to users around the world.

2. Access Now advocates an approach to digital security that promotes user rights, including privacy and freedom of expression. Access Now has worked extensively on digital rights including on free expression and web blocking, regulation of Net Neutrality, and data protection.

Domestic and international human rights obligations

3. This is the third Universal Periodic Review for Iraq, having been reviewed in 2010 and 2014. In the 2010 review, Iraq received 176 recommendations, 135 of which were accepted, 27 rejected, and 14 pending.[1] In the 2014 review, the government received 229 recommendations, 175 of which were accepted and 54 noted.[2] In both cycles, Iraq received recommendations to guarantee respect of the freedom of expression, and the recommendations were accepted.

4. Iraq is a party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).[3]

5. Article 38 of the Iraqi constitution upholds the freedom of expression, so long as it does not "violate public order and morality."[4]

Developments of digital rights in Iraq

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[1] UPR-info.org, Iraq Responses to Recommendations (June 2010), https://www.upr-info.org/sites/default/files/document/iraq/session_7_-_february_2010/recommendationstoiraq2010.pdf.

[2] UPR-info.org, Iraq Responses to Recommendations (June 2015), https://www.upr-info.org/sites/default/files/document/iraq/session_20_-_october_2014/recommendations_and_pledges_iraq_2014.pdf.

[3] UN OHCHR, Ratification Status for Iraq, https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=124&Lang=EN.

[4] Constituteproject.org, Iraq's Constitution of 2005, https://www.constituteproject.org/constitution/Iraq_2005.pdf?lang=en.

Freedom of Expression

8. Iraq is ranked 160th on the Reporters Without Borders' 2018 World Press Freedom Index.[5] Journalists continue to be targeted by pro-government militias, as well as by militant opposition groups such as the Islamic State. Coverage of corruption and embezzlement expose journalists to serious threats as many mainstream media outlets are owned or controlled by the government, and murders of journalists go unpunished.[6]

9. In 2017, the Iraqi parliament began reviewing a draft bill on freedom of expression that was initially drafted in 2010.[7] The draft bill includes troubling provisions that would restrict rather than enhance freedom of expression, such as stripping foreign workers of the rights to freedom of expression and assembly, and preventing criticism of religion and religious symbols.[8] However, after opposition by civil society groups and activists, the Iraqi parliament decided to postpone a vote on the draft bill.[9]

10. Freedom of expression came under attack again in 2019 with a draft law on cybercrime.[10] This draft law, a slightly amended version of an earlier 2011 draft that was widely condemned by civil society, would "punish vague and imprecise acts that could fall under the right to freedom of expression with life imprisonment and heavy fines."[11] The bill also raises concerns due to its imposition of a maximum two-year prison sentence for defamation and libel.[12]

Internet Connectivity and Affordability

11. Between 2016 and 2017, Iraq saw a significant jump in the percentage of individuals using the internet, from 21.23% in 2016 to 49.36% in 2017.[13] However, internet speeds remain low with Iraq ranking 133th out of 136 for mobile and 121 out of 177 for fixed broadband speeds.[14]

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[5] Reporters Without Border, Iraq, https://rsf.org/en/iraq.

[6] Id.

[7] Draft Law of Freedom of Expression, Assembly, and Peaceful Protest, http://www.law-democracy.org/wp-content/uploads/2012/01/Iraq.FOE-FOA.IREX-translation.pdf.

[8] Sulayminayah, Reviewing the Draft Law on Freedom of Expression in Iraq (Oct. 11, 2017), https://www.iraqicivilsociety.org/archives/7946.

[9] Gulf Centre for Human Rights, Iraq: Parliament postpones vote on draft law on freedom of expression and peaceful demonstration after popular protests (May 17, 2017), https://www.gc4hr.org/news/view/1596.

[10] Access Now Press Release, Iraq: Call to withdraw the draft Cybercrime Law which would severely undermine fundamental right to freedom of expression (Mar. 1, 2019), https://www.accessnow.org/call-to-withdraw-the-draft-cybercrime-law-which-would-severely-undermine-fundamental-right-to-freedom-of-expression/.

[11] Id.

[12] Id.

[13] The World Bank, Individuals using the Internet - Iraq, https://data.worldbank.org/indicator/IT.NET.USER.ZS?end=2017&locations=IQ&start=1990&view=chart.

[14] Speedtest Global Index, Iraq's Mobile and Broadband Internet Speeds - February 2019, https://www.speedtest.net/global-index/iraq.

12. In terms of affordability, Iraq received a score of 40.4% affordability on the GSMA Mobile Connectivity Index for 2017.[15]

Violations of freedom of expression

13. Iraq has a troubling history of internet shutdowns, which restrict the freedom of expression. As recently as September 2018, the Iraq Ministry of Communications (MCI) announced a 10-day shutdown of all internet communications across the country for two hours a day.[16] The ostensible reason was to prevent cheating on 6th-grade school exams.[17] That was not the first time the government had instituted an internet shutdown during school exams: since 2015, there has been at least one internet shutdown per year during exam periods.[18] [19]

14. In addition to exam shutdowns, the government has imposed total shutdowns for other reasons since 2014. The first total shutdown in 2014 was in response to what the government described as "current security incidents and the exceptional situation that Iraq is having", but was evidently an attempt to "combat embarrassing online news."[20]

15. Between July 2015 and June 2016 alone, there were 22 total-service shutdowns, which cost Iraq more than USD $209 million in lost economic growth.[21] These shutdowns damage both human rights and the economy.

16. In 2018, the government attempted to curb protests in Basra and online criticism by shutting down the internet for several days. The shutdown was followed by "a targeted restriction of access to social media platforms including WhatsApp, Twitter, and Facebook."[22]

Recommendations

17. In the previous two UPR cycles, Iraq received recommendations to guarantee and protect the freedom of expression. Although the government accepted these

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[15] GSMA Mobile Connectivity Index, Iraq - Detail and Analysis 2017, https://www.mobileconnectivityindex.com/#year=2017&zoneIsocode=IRQ&analysisView=IRQ.

[16] Berhan Taye & Emna Sayadi, Iraq imposes internet "curfew" for school exams, but says it has no intention to cut internet (Sept. 5, 2018), https://www.accessnow.org/iraq-imposes-internet-curfew-for-school-exams-but-says-it-has-no-intention-to-cut-internet/.

[17] Id.

[18] Muhannad Hameed, Despite everything, Iraq is still shutting down the internet for school exams in 2017 (Sept. 25, 2017), https://www.accessnow.org/despite-everything-iraq-still-shutting-internet-school-exams-2017/.

[19] Chris Baynes, Algeria and Iraq shut down internet nationwide to stop students cheating in exams (June 21, 2018), https://www.independent.co.uk/news/world/africa/algeria-iraq-shut-down-internet-students-cheating-exams-facebook-a8410341.html.

[20] See note 18.

[21] Id.

[22] FreedomHouse, Freedom in the World 2019 - Iraq, https://freedomhouse.org/report/freedom-world/2019/iraq.

recommendations, the last few years do not show steps by the government to actually protect this right. Therefore, we recommend that:

    a. Iraq take active steps including ending internet shutdowns.

    b. The internet should remain open for free expression and the dissemination and receipt of information, without onerous licensing requirements on websites or social media users, and free from blocking or filtering of information. This is particularly important in Iraq as more Iraqis turn to online mediums to consume news when other mainstream news outlets are controlled or owned by the government.[23]

    c. Iraq must also amend both the draft law on cybercrime and law on freedom of expression to ensure that they uphold rather than restrict rights. The government should take into account the concerns raised by civil society organizations regarding those bills and reflect them in future versions of the bills.

18. The UPR is an important U.N. process aimed at addressing human rights issues all across the globe. It is a rare mechanism through which citizens around the world get to work with governments to improve human rights and hold them accountable to international law. Access Now is grateful to make this submission.

19. For additional information, please contact Access Now General Counsel Peter Micek (peter@accessnow.org).

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[23] FreedomHouse, Freedom in the World 2017 - Iraq, https://freedomhouse.org/report/freedom-press/2017/iraq.