

## **Independent Commission on Gender Equality Bill**

**Pursuant to the provisions of Article 14 and Item 1 of Article 30 and Article 108 of the Constitution, the following law has been passed**

### **Chapter I Definitions, Establishment and Objectives**

#### **Article 1-Purpose**

This law establishes an independent body named Independent Commission on Gender Equality.

#### **Article 2--Definitions**

In this Bill, unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them respectively:

**“Board”** means the Board of Commissioners of the Commission;

**“Chairperson”** means the Chair of the Board of Commissioners who is also the Chief Executive of the Commission;

**“Commission”** means the Independent Commission on Gender Equality;

**“Gender”** means the social definition of women and men among different communities and cultures, classes, ages and during different periods in history;

**“Gender Mainstreaming”** means ensuring that the concerns of women and men form an integral dimension of the design of all policies, laws and administrative procedures including budgeting and budget implementation, and the monitoring and evaluation of programmes implementing such policies, laws and administrative procedures in all political, economic and societal spheres; so as to ensure that women and men benefit equally, and that inequality is not perpetuated;

**“Member”** means a Member of the Board, appointed in accordance with the provisions of this Bill, and unless the context otherwise requires, shall include the Chairperson.

#### **Article 3-Establishment**

- (1) A supra-ministerial commission known as “the Independent Commission on Gender Equality” shall be established. It shall enjoy a legal personality and financial and administrative independence. The headquarters of this Commission shall be based in Baghdad. It shall be linked to the Council of Ministers, to which it shall also be accountable.
- (2) The Commission shall open offices and branches in the regions and governorates not organized in a region.

#### **Article 4--Objectives**

The Commission aims to:

- (a) Ensure the protection and promotion of respect for gender equality in Iraq;
- (b) Protect the rights and freedoms stipulated in the constitution, international laws, treaties and conventions ratified by Iraq;
- (c) Strengthen, promote and develop gender equality principles and culture;
- (d) Promote, monitor and report on the implementation of government priorities related to the advancement of gender equality.

#### **Article 5—Full Disclosure**

Ministries, bodies not associated with ministries and all independent commissions must provide documents, data, statistics and information related to the work and functions of the Commission on a regular basis. The Commission shall inform the Council of Ministers in case the said institutions do not comply.

## **CHAPTER II Functions of the Commission**

#### **Article 6**

The Commission shall perform the following functions:

- (1) participate in the formulation of national development policies;
- (2) To ensure that the gains which Iraqi women have achieved because of Iraqi culture and tradition will be preserved and enhanced in the process of modernization;
- (3) initiate, lobby for and advocate for legal reforms on issues affecting women, and to formulate laws, practices and policies that eliminate all forms of discrimination against women and all institutions, practices and customs that are detrimental to their dignity;
- (4) monitor and evaluate policies and practices of
  - (a) organs of state at any level;
  - (b) statutory bodies or functionaries;
  - (c) public bodies and authorities; and
  - (d) private businesses, enterprises and institutions, in order to promote gender equality and may make any recommendations that the Commission deems necessary;
- (5) develop, conduct or manage
  - (a) information programmes; and
  - (b) education programmes, to foster public understanding of matters pertaining to the promotion of gender equality and the role and activities of the Commission;
- (6) evaluate
  - (a) any Act of the Council of Representatives;

- (b) any system of personal and family law or custom;
  - (c) any system of indigenous law, customs or practices; or
  - (d) any other law,
- in force at the commencement of this Bill or any law proposed by the Council of Representatives to or any other legislature after the commencement of this Bill, affecting or likely to affect gender equality or the status of women and make recommendations to The Council of Representatives or such other legislature with regard thereto;
- (7) recommend to The Council of Representatives or any other legislature the adoption of new legislation which would promote gender equality and the status of women;
  - (8) investigate any gender-related issues of its own accord or on receipt of a complaint, and shall endeavour to
    - (a) resolve any dispute; or
    - (b) rectify any act or omission,
    - (c) by mediation, conciliation or negotiation: Provided that the Commission may at any stage refer any matter to-
      - (i) the Human Rights Commission to deal with it in accordance with the provisions of the Constitution and the law;
      - (ii) the Inspector General to deal with it in accordance with the provisions of the Constitution and the law; or
      - (iii) any other authority, including a ministry Gender Department, whichever is appropriate;
  - (9) as far as is practicable maintain close liaison with institutions, bodies or authorities with similar objectives to the Commission, in order to foster common policies and practices and to promote co-operation in relation to the handling of complaints in cases of overlapping jurisdiction or other appropriate instances;
  - (10) liaise and interact with any organisation which actively promotes gender equality and other sectors of civil society to further the object of the Commission;
  - (11) monitor the compliance with international conventions, international covenants and international charters, acceded to or ratified by the Republic, relating to the object of the Commission;
  - (12) prepare and submit reports to The Council of Representatives pertaining to any such convention, covenant or charter relating to the object of the Commission;
  - (13) **commission** research or cause research to be conducted to further the object of the Commission;
  - (14) consider such recommendations, suggestions and requests concerning the promotion of gender equality as it may receive from any source.
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- (1) Coordinate with relevant bodies to develop strategies and action mechanisms in order to ensure the achievement of Commission objectives provided in **Article 4 above of this Law**.
  - (2) Conduct studies and researches; submit recommendations and express opinions on issues related to the promotion and development of gender rights.
  - (3) Examine and evaluate legislation in force to determine to what extent they conform to the constitution and submit recommendations to the Council of Ministers.
  - (4) Submit proposals and recommendations concerning Iraq's accession to international

gender rights treaties and conventions.

- (5) Cooperate and coordinate with civil society organizations that work in gender equality field in Iraq, and communicate with international independent and non-governmental institutions in a manner that ensures the achievement of the Commission objectives.
- (6) Work on spreading the gender equality culture through the following:
  - a) Facilitating gender mainstreaming throughout the public service, private sector and civil society through close cooperation with the Center of Excellence on Gender which has training, mentoring and monitoring capacity.
  - b) Institutionalizing gender responsive budgeting within the executive, judiciary and legislative bodies.
  - c) Organizing conferences, symposiums and artistic and social events, issue publications and prepare media materials on gender equality related topics.
- (7) Submit recommendations and proposals to committees entrusted with the preparation of reports which the state is obliged to submit to the United Nations.
- (8) Submit an annual report to the Council of Ministers containing general assessment of the gender equality situation in Iraq and publish such reports in different media outlets.
- (9) Receive complaints from individuals, liaise with the Independent Human Rights Commission, groups and civil society organizations on violations committed before and after this Law comes into force while maintaining complete confidentiality of the names of the complainants.
- (10) Conduct initial investigations on violations of gender equality based on information.
- (11) Ascertain the veracity of complaints received by the Commission and conduct initial investigations, if necessary.
- (12) Initiate lawsuits related to violations and refer them to the Public Prosecution to take the [necessary] legal action and notify the Commission of the outcomes.
- (13) Set financial policy for the Commission.

### **CHAPTER III**

#### **The Commission's Organization**

#### **Article 7—The Board of Commissioners**

- (1) The Commission shall consist of a board and a secretariat.
- (2) The Board
  - (a) Shall consist of eleven (11) Members, at least two (2) of whom must be law professionals, selected by majority vote of the Council of Representatives upon their nomination by an expert committee composed of members of the Council of Representatives, at least 40% of whom must be women, and who must have expertise and experience in gender and women rights, and must be known for their

competence, integrity and independence.

- (b) Candidates for the membership of the Board must fulfill the following:
- (i) Must be an Iraqi citizen residing permanently in Iraq
  - (ii) Must have at least a first university degree
  - (iii) Must not be less than thirty (30) years old.
  - (iv) Must be of good behaviour
  - (v) Must be competent and experienced in the field of gender equality.
  - (vi) Must be politically independent
  - (vii) Must not have been convicted of a dishonorable crime.
- (3)
- (a) The Board shall elect at its first meeting from amongst its Members, with a majority of six members, a Chairperson and a Rapporteur.
  - (b) The term of office for the Chairperson shall be four (4) years renewable by a majority vote of at least six members.
  - (c) The Chairperson shall be a woman.
  - (d) The Chairperson is the Commission's legal representative and, accordingly, shall represent it before others.
  - (e) The Chairperson or who is acting on his behalf shall perform the following functions:
    - (i) Manage the regulatory and administrative work of the Board;
    - (ii) Prepare the meeting agenda, conduct and preside over them including a meeting requested by at least four members of the Board; and,
    - (iii) Any other functions designated by the Board.
- (4) The Board shall take an oath of office before the Higher Juridical Council with the following wording:  
**"I swear by Almighty God to perform my legal and professional duties with honesty, dedication and devotion, and work to accomplish the functions designated to me independently and neutrally. Allah is Witness to what I am saying."**
- (5) The Board meeting shall hold with an absolute majority of its Members and it shall take its decisions with a majority of Members present. In case there is a tie of votes then the option for which the Chairperson votes shall prevail, unless otherwise stipulated by the law.
- (6) Women representation in the Board shall be no less than 40% and not more than 60% of the members.
- (7) The representation of minorities in the Board shall be no less than one original member and one reserve.

## **Article 8—Meetings**

- (1) The Board shall meet once a month. The Chairperson may, when necessary, call for an extraordinary meeting. Decisions and recommendations shall be made by majority vote of the present members of the Board. In case of an equal number of votes, the vote of the Chairperson shall be the deciding vote.

- (2) The Board may invite representatives of state departments, public, mixed and private sectors, the United Nations, as well as civil society organizations to attend meetings as observers.

### **Article 9--Bylaws**

- (1) The divisions, functions and compositions of the organizational structure of the Commission shall be defined through bylaws to be issued by the Board by a two-thirds majority.
- (2) An office for the Inspector General shall be established in the Commission

## **CHAPTER IV Members**

### **Article 10--Replacement of Members**

Membership in the Board of Commissioners shall be terminated for one of the following reasons:

- (a) If the Member's resignation is accepted by the Board in accordance with internal regulations.
- (b) If the Member dies or becomes incapacitated
- (c) If a Member is convicted of a crime.
- (d) If the recommendation by a majority of five members of the Board for the removal of one of its members for violating the code of conduct is ratified by a simple majority of the Council of Ministers.
- (e) The Council of Ministers may relieve the Board of its post in its entirety or in part by an absolute majority vote after violation of a law is proven against them.
- (f) If it is proven that the information supplied by the Member while assuming his post is incorrect.
- (g) If the seat of any of the members of the Board is vacant for any of the reasons mentioned in Article 8 of this section, he shall be replaced by another Member selected with the same mechanism stipulated in **Article 7(b)**.

### **Section 11-- Rights of the Members**

- (1) The Commission shall be headed by a Chairperson in the rank of minister.
- (2) The deputy Chairperson shall be in the rank of a deputy minister.
- (3) The Chairperson, his deputy and Members of the Board shall enjoy immunity during

the period of their service at the Commission.

- (4) Members shall enjoy the privileges of the rank of Director General of a ministry for a renewable period of five years.
- (5) The Board may grant its employees allocations not exceeding those granted to the employees of the Council of Ministers.
- (6) Members may not be appointed into a public post, with the exemption of academic posts, for three years after the end of their work as commissioners.
- (7) Members shall be entitled to a pension of 80% of their salaries, after the end of their post, except in case of dismissal, resignation, or conviction of a crime related to their work. The provisions of this item shall apply to former commissioners.

## **CHAPTER IV Complaints**

### **Article 12**

- (1) The Board has exclusive jurisdiction with respect to the civil enforcement of its own procedures and regulations. The Board must refer a criminal case to appropriate authorities if it finds evidence of criminal misconduct relating to the integrity of the electoral process.
- (2) ...
- (3) The Court of Cassation shall form a committee of three non full time judges to look into the appeals referred to it by the Board of Commissioners or submitted to the judicial authority by those directly affected by the Board decisions.
- (4) Decisions of the Board may be appealed only to the ....
- (5) Board decisions shall be published in three daily newspapers for a period of at least three days both in Arabic and Kurdish. Appeals against such decisions must be submitted by the concerned political entity within three days starting from the last day of the publication of the decision. Such appeals may be submitted to the ... in the regions and governorates.
- (6) ... must decide on an appeal within ten days of its referral by the Board of Commissioners.
- (7) Decisions by the ... Panel are final and cannot be appealed in all cases.
- (8) Upon its formation, the Judicial Appeals Panel shall establish appeal procedures before it against the decisions of the Board of Commissioners without violating what is mentioned in this law. This shall be exempted from the applicable amended civil procedural law No. 83 of 1969 and other procedural laws.

## **CHAPTER V**

### **Public Accountability**

#### **Article 13**

- (1) The Commission shall produce and publish an annual report of its activities and expenditures and shall provide to the legislature an annual financial audit prepared in accordance with international public sector accounting standards and best practices.
- (2) The Chairperson and/or the Board shall appear before the appropriate legislative or executive committees upon request to, to defend or explain the Commission's activities and reports, and shall otherwise cooperate fully with legislative and executive entities in explaining Commission activities.
- (3) The Chairperson and/or the Board shall make available to the public, in full written form, all Commission decisions, rules, guidelines and codes, in an appropriate and timely manner.
- (4) The Commission shall adopt a public consultation process through the view of the government, citizens and civil society organisations can be solicited with respect to proposed rules, guidelines, codes and policies.
- (5) All decisions of the Board shall be made public.
- (6) The Commission shall develop and adopt a Code of Ethics governing the Commission and its staff. Violations of this Code shall constitute grounds for appropriate disciplinary action.

## **CHAPTER VI**

### **Final Provisions**

#### **Article 14**

- (1) The Board shall be selected within 60 days as of the date of approval of this law.
- (2) The committee responsible for Family, Women and Children in the Council of Representatives shall follow up the formation of the Board.
- (3) The Commission shall seek the assistance of international experts in gender equality from the United Nations at the stages of preparation and conduct of election and referenda.
- (4) The Commission shall have an independent annual budget prepared according to the basis and customary rules, proposed by the Board in consultation with the Ministry of Finance and shall be approved by the Council of Representatives and incorporated into the general budget for the state.
- (5) Employees of the Commission, with the exception of the commissioners, shall chose between taking retirement or being appointed to public posts, in accordance with their



functional grades.

- (6) The Board must publish its decisions in both Arabic and Kurdish within 24 hours in a way it determines without prejudice to Sub-Article (4) above, of this law.
- (7) Quarterly reports must be prepared and submitted to the Council of Representatives.
- (8) Representation of the components of the Iraqi society shall be put into consideration in the formation of the Commission in accordance with the rules and regulations.
- (9) The Chairperson shall have the powers and privileges of a minister in terms of official communication with the ministries and other governmental departments.
- (10) The Commission shall adopt the general population census officially conducted by the Federal government.
- (11) This law shall enter into force from the date its approval and shall be published in the National Gazette.

### **Compelling Reasons**

Because of the need for a law which will regulate the functions of the Commission pursuant to Article 108 of the constitution;

This law has been passed.