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## **BALTIC JOURNAL OF LAW & POLITICS**

A Journal of Vytautas Magnus University  
VOLUME 16, NUMBER 2 (2023)  
ISSN 2029-0454

Cite: *Baltic Journal of Law & Politics* 16:2 (2023): 395-408  
DOI: 10.2478/bjlp-2023-0000029

### **Constitutional Protection for the Right to form Trade Unions**

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Received: December 21, 2022; reviews: 2; accepted: January 04, 2023

#### **Abstract**

The freedom to form and join trade unions is one of the fundamental rights enshrined in international laws and supported by national laws, legislation, and internal constitutions. This privilege evolved as a result of the working class's dramatic increase and painful fight, particularly in Europe, through the pioneers of the British trade union movement, who were the first to establish trade unions between the late 18th and early 19th centuries, when rising capitalism was making its way with rigor and ruthlessness. Such capitalism makes its fortune by exploiting workers and imposing the legality of coercion on the defeated workers, as any European winner does. Unions were officially recognized in 1871, and in France in 1848, before spreading throughout Europe and the rest of the world. As a result, the Iraqi Constitution protects workers' and employers' rights to form and join unions. This right is protected by labor law, which ensures trade unions and associations are formed on a sound democratic basis. In addition to boosting the level of efficiency among members and defending their rights and interests. Trade unions gradually acquired legal character and started to operate freely and independently from management. However, in military or police institutions, no union or associations can be formally formed. The Iraqi Constitution stipulates that the law regulates the formation and governance of trade unions on a sound legal basis, ensuring their independence, resources, and method of registering their members, as well as holding them accountable for their conduct in the exercise of their professional activity in accordance with the rules of ethics and professional conduct. Unions cannot be protected without the involvement of trade union management bodies. Moreover, a court order is required to dissolve a trade union board according to legislative measures enacted through statutory law. Thereof, Article 22, paragraph 3 of Chapter II of the Iraqi Constitution's rights and freedoms section stipulates that "the state protects the right to form or join trade unions and

professional associations, and this is governed by legislation".

### **Keywords**

Constitutional protection, trade unions, workers, constitution, guarantees.

## **CHAPTER ONE**

### **Legal protection for the right to form trade unions in Iraqi law**

The Iraqi lawmaker has attempted to enshrine the right to form trade unions by offering some guarantees under the Trade Union Organizations Act No. 52 of 1987. Covering how trade union work is practiced and how to form or establish such unions, as well as other related legislation. Moreover, ensuring legal protection for trade union representatives under this law, as well as the protection of the guarantees or procedures of trade union activities, as follows:

#### **I. Legal protection for trade union's members**

The Iraqi lawmaker granted legal protection of trade union representatives in line with the Trade Union Organizations Act No. 52 of 1987, chapter three, which covers the rights and guarantees of trade union activity, as per articles No. 28 and 29 of the same law as a guarantee and legal protection in the practice of trade union work, which can be emphasized as follows:

According to Article 28 of Iraq's Trade Union Organizations Act No. 52 of 1987, "any worker who has reached the age of 18 has the right to join a trade union committee or trade association of his profession and he/she should not join more than one association or union".<sup>1</sup>

Article 29 of the same law also emphasized that:

1. A worker can join a trade union committee by applying to the committee or union office, along with a copy of their civil status card or passport, and the committee or union office will decide on the application within 10 days.
2. If the Trade Union Committee's office rejects the application, the worker has the right to file an appeal with the labor court within 30 days from the date of notice, and the court's judgement is binding.
3. After the processing period has expired and there has been no response from the Trade Union Committee's office, the application will be deemed approved.<sup>2</sup>

In order to defend employees' right to leave trade unions, Article (31) of the same law states that:

1. A worker has the right to resign from the trade union committee or the union by submitting a request to the committee or union's office, stating the date of

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<sup>1</sup>) See article 28 of the Iraqi Trade Union Organizations Act Number 52 of 1987.

<sup>2</sup>) See Article No. (29) of the Iraqi Trade Union Organizations Act No. 52 of 1987.

his resignation.

2. A worker is considered resigned, with no further action, in the following cases:
  - a- If he fails to pay his membership fee for (6) consecutive months without a valid reason, he is warned to pay, and the warning is not attended within 30 days of the warning date.
  - b. If he leaves his profession and engages in work that is not covered by this Law's provisions.<sup>3</sup>

In the same regard, Law No. 52 of 1987 established legislative safeguards to protect employees from misuse of executive authorities. According to Article 32, "A worker may not be terminated from the Trade Union Committee, or a union, unless by decision of the Disciplinary Committee in accordance with the rules of law".<sup>4</sup>

## **II. Legal protection for trade union's formation**

It is pointless to establish a trade union right without acknowledging the presence of guarantees that allow this right to be exercised. There must be legal regulations in place to ensure that this body is able to exercise constitutional and legal rights in conformity with the law and the Constitution. This is because trade union independence from the state encompasses not only the administrative authority's non-interference in the operation of trade unions, but also the protection of trade unions from the threat of complete collapse, or even restrict its activity by isolating trade union leaders by executive decision. The Iraqi lawmaker has been determined to protect trade unions from abuse of administrative authority in accordance with international agreements and conventions, particularly the 1948 International Labor Convention No. 87 on trade union independence and the preservation of the right to trade union formation.<sup>5</sup>

In the present context, the right to form a trade union without prior authorization is a concept that most international conventions have embraced, as it is the foundation of non-discrimination trade unions conduct. This implies that trade unions can be formed without the consent of any national group. Moreover, the state has no right to intervene in the formation of such labor unions.<sup>6</sup>

We emphasize the extent to which legal protection is provided for the formation of trade unions through two main sections in terms of legal protection as follows:

**Section One:** The concept of trade unions and legal establishment.

**Section Two:** The legal and legislative enactment of trade unions.

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<sup>3</sup>) See Article No. (31) of the Trade Union Organizations Act No. 52 of 1987

<sup>4</sup>) See Article No. (32) of the Trade Union Organizations Act No. 52 of 1987

<sup>5</sup>) Dr. Looni Naseera, System Legal to be honest Associative in Algeria, Arab Magazine for Research And studies in Humanities and Social Sciences, Volume 11, Issue 4, October 2019, Year 11, p 264.

<sup>6</sup>) Dr. Semguni Zakaria, Freedom to Exercise the Associative Right, AL Huda Printing and Publishing House, Algeria, 2013, p 265.

### **1.1. The concept of trade unions and legal establishment**

The concept of trade unions is of major relevance nowadays to describe how trade unions are formed or founded, which therefore includes addressing the concept of trade unions first so that the importance of the role performed by trade unions in favor of workers can be proven, and then addressing the function of legal protection for the formation of such unions:

#### **1. The concept of a trade union**

It is a permanent, democratic, and independent organization founded and run by employees to protect their interests, improve their working conditions, enhance their quality of living, and influence societal values.<sup>7</sup> It may also be characterized as "a gathering place for a group of members working in diverse professions and subject to labor law, so that these unions seek to preserve the rights of their members", as a result, they strive to improve working conditions, increase pay, and ensure limited working hours.<sup>8</sup>

From a different perspective, the legal definition of a union, also known as the doctrinal definition of a union, contains numerous meanings, such as "it is a legal body made up of a group of individuals who work in the same or related profession." It is an organization formed for the aim of collective bargaining in relation to employment and socio-economic interests of members, in collaboration with governments and legislative parties, as well as offering political action in some situations.<sup>9</sup>

Some constitutions, notably the French Constitution, describe trade unions as "an agreement under which two or more individuals agree to conduct their work for no profit aims". It is also described in the Egyptian Constitution as "any group with a continuous organization consisting of at least ten people for a specific purpose without seeking financial benefit".<sup>10</sup> In addition, the Kuwaiti Constitution has defined it as "organizations that last for a certain period, consisting of nominal persons, without a financial benefit, with the aim of social, cultural, sports or religious purposes".<sup>11</sup>

In light of the above, trade unions are described as organizations that legally incorporate workers into economic institutions for the benefit of members. Trade unions are defined as "unions of employees working in a particular profession that attempt to oversee labor issues and protect workers' interests, as well as to

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<sup>7)</sup> Prof. Ahmed Mohammed Mustafa, *Independence and Trade Union Democracy*, Friedrich Foundation Ebert Egypt Office, 2017, p. 11.

<sup>8)</sup> Dr. Salah Ali Hassan, *Protection of Labor Rights*, New University House, 2013, p. 26.

<sup>9)</sup> Dr. Ali Ben Dahieh et al., *New Dictionary of Students*, Tunisia, 1976, p. 47.

<sup>10)</sup> Dr. Ali Awad Hassan, *Unconstitutional Texts in Union Laws*, i1, University Publishing House, Alexandria, 2012, p. 32.

<sup>11)</sup> Dr. Amani Qandil, *Trade Unions*, Al-Ghali Publications, Cairo, 1995, p. 102.

regulate wages and working conditions".<sup>12</sup>

However, the broad term of "trade union" did not become popular in Europe until the mid-nineteenth century. It is described as a group that brings together employees and advocates for protecting their rights. Prior to that time, it was characterized as unions formed by employees who perform a variety of occupations and strive to safeguard workers from abuse of administrative authority.<sup>13</sup>

**To summarize,** there is no general definition a trade union, however a union can be characterized as a social organization comprised of employees from a particular industry or profession. The term "worker" refers to any male or female who works for a wage of any type in the service of the employer and under his direction, regardless of whether the employer represents individual or collective ownership (public or private sector). The union's aim is to establish a legal character for a specific union so that employees' rights could be protected in line with the law.

Trade unions are a major component and the most influential civil society groups that put an end to worker exploitation, extortion, and injustice because of capitalism's dominance and abuses. In most nations, trade unions have been founded to improve working conditions for the benefit of employees<sup>14</sup>, and this has progressed significantly throughout the twentieth century. In most countries, trade unions constituted the fundamental infrastructure for the economy, production, and industry, as well as influencing socioeconomic plans.<sup>15</sup>

## **2. Characteristics of a trade union**

### **1- A trade union is a permanent association**

A trade union is a permanent association in which employees can form temporary committees to represent them when they wish to improve their salaries or working conditions or when they have concerns. This might be a waste of time because difficulties facing workers need quick actions and physical and moral preparations in advance. Such situations may encourage employers to continue causing problems without consideration for the emotions of workers. As a result, it is preferable for employees to form an association or a permanent group to represent them in meeting their future needs and objectives.<sup>16</sup>

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<sup>12</sup>) Dr. Medhat Al-Quraishi, *Business Economics*, Wael Publishing House, Amman, Jordan, I.1, 2007.

<sup>13</sup>) Dr. Mohamed Hussein Mansour, *Labor Law*, New University House, Cairo, Egypt, 2007.

<sup>14</sup>) Dr. Mohaimen Ismael Kadhum, *The land transportation in the Arab Legislation*, Lambert academic publishing, German, 2021.

<sup>15</sup>) Dr. Yusif Sadoun, *Sociology and the study of organizational change in industrial enterprises, development laboratory and major transformations in Algerian society*, University Baji Mukhtar, Ennaba, 2004, P. 13.

<sup>16</sup>) Prof. Ahmed Mohammed Mustafa, former reference, p. 12.

## **2- A trade union is an independent association**

A trade union should be independent in order to protect workers' rights in conformity with the law and regulations. When there are no boundaries or proposals from the government, parties, or employers<sup>17</sup>, the union is considered independent, because such bodies have interests other than the interests of employees. Although the government's views frequently represent the interests of workers, it may exhibit different or contradictory interests to workers politically, economically, or socially. In this context, independence means not to follow any third party politically. Independence and democracy are closely linked; in fact, a union cannot be democratic internally unless it is independent.<sup>18</sup>

## **3- A trade union is a democratic association**

Democracy in trade unions is determined by the rules and objectives of the trade union, which provide the broad norms and foundations for their structure and regulations. Trade unions aim to improve the interests and objectives of the working class and to provide assistance in all legitimate ways consistent with societal standards.<sup>19</sup>

As a result, unless a union is a voluntary group of employees with shared interests, it cannot respond to members' requests, such as raising wages or improving working conditions. Any free association cannot be efficient or functional unless members actively participate in activities and challenges. Thus, trade unions are often a democratic institution, with some arguing that the union's strength originates from democratic processes and the exercising of rights in accordance with law, as well as the exercise of leadership rotation through elections.<sup>20</sup>

### **1.2. Legal and legislative enactment of trade unions**

The Iraqi lawmaker is primarily responsible of labor laws which control employment contracts and segregate the rights and responsibilities of employers and workers. Also grants workers the right to form trade unions, as provided in the Workers' Act No. 62 of 1936, the Labor Act No. 151 of 1970, and the current Labor Law No. 71 of 1987. The first special legislation on trade union formation, No. 171 of 1967, was abolished and replaced by the Trade Union Organization of Workers Act No. 52 of 1987, which is still in effect today.<sup>21</sup>

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<sup>17</sup>) Dr. Abdullah Hanafi, *The Role of Trade Unions in Constitutional Life*, Arab Renaissance House, Cairo, 1998, P32.

<sup>18</sup>) Dr. Abdullah Hanafi, *The Role of Trade Unions in Constitutional Life*, Arab Renaissance House, Cairo, 1998, P32.

<sup>19</sup>) Dr. Mustafa Ahmed Abu Amr, *Collective Working Relations*, New University Publishing House, Cairo, 2015, p. 45.

<sup>20</sup>) Dr. Hassan Al Saati, *Industrial sociology*, Arab Renaissance House, Beirut, Lebanon, 1981, P.119.

<sup>21</sup>) Amani Qandil, *Trade Unions*, Al-Ghali Publications, Knowledge Series, Cairo, 1995, p. 93.

It is worth noting that the new labor law, which was drafted in 2010 but has not yet been in force, has re-integrated the rules governing trade union formation with other regulations and objectives as follows:

1. Protecting and expanding production for socio-economic well-being.
2. Work to support workers' fundamental rights.
3. Increase workers' cultural, social, and professional awareness.
4. Strengthening workers sense of unity in Iraq and expanding its regional, Arab, and global relations.<sup>22</sup>

According to this new law, the trade union association of workers consists of:

- a) The General Union of Trade Unions in Iraq.
- b) Trade unions in Baghdad and governorates.
- c) The General Professional Union in Baghdad.

d) The governorate professional union and the trade union organization of workers were in the frontline of the Iraqi people's fight for Iraq's independence, freedom, and unity, as well as the protection of public freedoms and human rights to fight against injustice, terrorism, and exploitation. Moreover, all trade unions, including lawyers, teachers, and journalists, contributed to the general Iraqi national struggle in order to protect trade union rights. Professional unions, trade unions, and associations continued to operate under the supervision of a judicial committee formed in the General Secretariat of the Ministers, which still exists, despite the restrictions placed on the freedom of trade union organization by the civil ruler of the occupying authority in many orders and decisions issued since 9/4/2003.<sup>23</sup>

It is worth noting that trade unions in Iraq are governed by the Trade Union Organizations Act No. 52 of 1987, which establishes the legal and legislative framework.

As a result, one of the most important basic rights protected by the Iraqi Constitution and international agreements signed by Iraq<sup>24</sup> is the regulation of trade unions. As a result, the Trade Union Organizations Act No. 52 of 1987 legally permitted trade unions to be formed in any form, including trade union committees, public unions, and trade unions. In chapter II of the same law, it specifies the types of trade union organizations and their goals. Moreover, Article 5 of the Trade Unions Act No. 52 of 1987 stating the following:

I. A trade union committee can be formed by at least 50 professional workers in one or more projects from the occupations listed in the resolution provided in section (II) of this article.

II. Independent, interrelated, or similar professions are classified according

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<sup>22</sup>) See Article No. (135) of the new Iraqi Labor Law Project.

<sup>23</sup>) Dr. Ibrahim Khalil Ahmed, *Associations and clubs, Iraq Civilization*, Part 13, Baghdad, 1985, P. 145-146.

<sup>24</sup>) Dr. Mohammed Helmi Murad, *Labor Law*, Knowledge House, Alexandria, 2004, P.25.

to a decision made by the Minister of Labor and Social Affairs.

III. The project mentioned in this law is a commercial, industrial, agricultural, and service-related economic initiative.<sup>25</sup>

This is also declared in Article (6) of the Iraqi Trade Union Organizations Act No. 52 of 1987, which states that "the Trade Union Committee, in collaboration with the employer, seeks to increase worker' efficiency by limiting working hours, securing rights, and raising cultural and social level in accordance with the law".<sup>26</sup>

Furthermore, article 7 of the preceding law stipulates that:

I. Workers who seek to form a trade union committee shall conduct a meeting in which the names, addresses, and tasks of participants are provided. In addition, they must announce their intention to form a trade union committee for a certain profession in line with rules of procedure. Members of the trade union committee should be elected for a maximum of three to five members in accordance with General Union of Trade Unions regulations. The minutes of meeting along with rules of procedure should subsequently be communicated to the Union of Governorates' Trade Unions.

II. The Trade Union Committee elects a president and a treasurer.<sup>27</sup>

As such, the Trade Union Organizations Act and the Protection of the Right to Trade Union Organization (No. 52) of 1987 ensure employees' freedom to form trade unions, with the exception of armed forces personnel, police authorities, and other statutory bodies. This Act applies to civil workers in state administrative agencies, public sector workers, economic workers, investment workers, agricultural workers, domestic workers, informal and seasonal workers.<sup>28</sup>

The Iraqi Trade Union Organizations Act No. 52 of 1987 reiterated the adoption of trade union freedom principles as well as several key provisions to facilitate the formation of independent trade unions. The establishment of democratic trade union associations is a right provided by this legislation, according to Article 5,6,7 of the same Act. The legal identity is constituted from the date of filing documents with the administrative authority, so they are free to engage in their activities; nevertheless, a legal regulation should be declared and followed. In line with the requirements of this legislation, trade union associations have the right to define their own rules of procedure, administrative and financial regulations, and to freely elect their representatives. They also have the freedom to plan and control their own

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<sup>25</sup>) See Article No. (5) of the Iraqi Trade Union Organizations Act No. 52 of 1987.

<sup>26</sup>) See Article No. (6) of the Iraqi Trade Union Organizations Act No. 52 of 1987.

<sup>27</sup>) See Article No. (7) of the Iraqi Trade Union Organizations Act No. 52 of 1987.

<sup>28</sup>) Dr. Hassan Ali Al-Saouri, Rooting trade union work, paper presented at the Trade Union Dialogue Conference, Friendship Hall, Khartoum, August 1990, P.19.



activities. Public authorities, on the other hand, should not engage in the activities of trade unions to avoid hindering their legitimate activities.<sup>29</sup>

## **CHAPTER TWO**

### **Constitutional and judicial protection for the right to form trade unions in Iraq**

The concept of legal and constitutional protection implies an existing right through national and international legislation that recognizes trade unions freedom. Such protection is supported by several legislative guarantees, which are then upheld by practical procedures that put regulations into action.<sup>30</sup>

It is also worth noting that workers' right to form trade unions must be protected, and public rights must not be jeopardized, in order for unions to fulfil their legal obligations and achieve their goals. The freedom to form trade unions is a basic right that underpins all other rights<sup>31</sup>, and it must be exercised freely to preserve this constitutional right. As a result, the formation of trade unions without the involvement of the administrative authorities should be protected by the Constitution.<sup>32</sup>

Based on previous discussion for the need of constitutional protection of the right to form trade unions, this chapter will be divided as follows:

**Section One:** Constitutional protection for the right to form trade unions in Iraq.

**Section Two:** Iraqi lawmaker's stance on the right to form trade unions.

#### **2.1. Constitutional protection for the right to form trade unions in Iraq**

Initially, most Iraqi constitutions did not address the right to form trade unions directly or explicitly, and this is evident through Iraq's previous Constitution of 1925, which did not directly or explicitly state the right to form or join trade union organizations, but rather it states the freedom of associations and membership. Accordingly, the obsolete Act of Associations No. (19) of 1954 was issued, but nevertheless it prohibited the membership of political associations for employees and school students. Then, the Constitution of Iraq was issued in 1958, and stated in Article No. (10) the freedom of expression. This makes it clear to practice the right to express opinion, including the right to form trade unions. In the 1964 Constitution, Article No. 31 explicitly stipulated the right to form trade

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<sup>29</sup>) See Articles No. (10 & 64) of the Trade Union Organizations Law No. 213 of 2017.

<sup>30</sup>) Dr. Lonnie Naseera, *Legal System of Trade Union Right in Algeria*, former reference, P.13.

<sup>31</sup>) Dr. Mansour Ahmed, *Judicial Protection of Human Rights*, Arab Renaissance House, Cairo, 1997.

<sup>32</sup>) Dr. Essam Suleiman, *Laws of Associations, Parties and Trade Unions, Comparative Study*, Arab Development Center, Beirut, Lebanon, 2007, p. 24.

unions in accordance with law.<sup>33</sup>

The 1970 Constitution guaranteed constitutional protection for the formation of trade unions within the confines of the law<sup>34</sup>, as explicitly confirmed by Iraq's current Constitution of 2005, which regulated this right to form trade unions as stated in article 22 by forming or joining trade unions within the confines of the law.<sup>35</sup> This will be covered in detail in the second section of this chapter.

## **2.2. Iraqi lawmaker's stance on the right to form trade unions**

Following the foundation of Iraq, the government enacted several laws at the start of the royal family based on prior Ottoman laws and constitutional traditions, as did other countries. As a result, several unions, associations, and clubs were formed, including the attorneys' association in 1918, the Iraqi medical association in 1921, the workers' association in 1928, the barbers' cooperative association and the professional association in 1929.<sup>36</sup> The Iraqi government followed the rules of international law promoted by the United Nations or the Arab League. Iraq's constitutions reflected the government's official stance by protecting public freedoms and human rights, including the right to form and guarantee trade union freedom through new legislation. As a result, article No. (12) of the Kingdom of Iraq's Constitution, enacted in 1925, states that Iraqis are free to express their thoughts, publish their works, meet, form, and join organizations within the confines of the law.<sup>37</sup> In Republican-era constitutions, there has been a commitment to the right to form associations and unions in accordance with the law, as well as the right to gather and demonstrate in line with the Constitution's aims and within the law's boundaries.<sup>38</sup>

In this regard, the 2005 Constitution, which is still in force, protected the right to form and join trade unions and professional unions through legal regulation. Many legislations for the formation of trade unions and professional groups have featured in Iraqi laws in the past, such as General Union of Authors and Writers, General Union of Trade Unions, and General Union of Agriculture Professionals, General Union of Students, General Union of Women, General Union of Youth, Doctors' Union, Dentists' Union, Geologists' Union, Health Professionals Association, Technical Agricultural Association, Pharmacists' Association, Lawyers' Association, Chemical Professionals' Association, Accountants and Auditors' Union, Surveyors' Union, Artists' Union, Journalists' Union, Scientific Associations,

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<sup>33</sup>) See Article No. (31) of Iraq's previous Constitution of 1964.

<sup>34</sup>) See Article No. (26) of the obsolete Constitution of Iraq of 1970.

<sup>35</sup>) See Article No. (22) of the current Iraqi Constitution.

<sup>36</sup>) Dr. Ibrahim Khalil Ahmed, *Associations and clubs, Iraq Civilization*, Part 13, Baghdad 1985, P. 145-146.

<sup>37</sup>) See Article No. (12) of Iraq's Constitution of 1925.

<sup>38</sup>) See Article No. (26) of the Iraqi Constitution of 16/7/1970.

Cooperative Associations, and Association of engineers. These organizations all have their head office, presidents, and management bodies. Members get financial and moral benefits, establishing housing and consumer's associations, as well as society clubs, publications, and periodicals. Moreover, some trade unions have been successful in establishing a pension and social security fund for their members.<sup>39</sup>

The Iraqi lawmaker is concerned about the protection of human rights and fundamental freedoms, particularly the ability to form labor unions under the Constitution's provisions. The Constitution is an internal source of trade union freedom, as stated in Article No. 22 of the 2005 Constitution on Rights and Freedoms,<sup>40</sup> through Article No. 22, which stipulates that "the State guarantees the right to form or join trade unions and professional associations as regulated by law", as described below:

### **I. The Constitution of the Kingdom of Iraq in 1925**

Article (12) of Iraq's 1925 Constitution enshrines the principle of the right to form trade unions, which states: "the freedom of Iraqis to express opinion, publish, meet, form, and join organizations within the legally specified limitations of the law." This Article does not specifically address the right to form trade unions, but it does state that individuals have the freedom to express their opinions, as well as the freedom of publication, the right to hold meetings, and the formation of private associations in accordance with the law.<sup>41</sup>

### **II. The Constitution of Iraq issued on July 16, 1970**

The right to form democratic trade unions and organizations was clearly incorporated in Iraq's 1970 Constitution, via the provisions of Article (26) of Iraq's previous 1970 Constitution, which protected the right to form trade unions in conformity with the law. In other situations, it granted the right to gather and demonstrate in conformity with the Constitution's aims and within legal boundaries.<sup>42</sup>

### **III. Iraq's current Constitution of 2005**

After the adoption of the current Iraqi Constitution in 2005, political and institutional reforms were produced for labor law in Iraq in terms of ensuring the

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<sup>39</sup>) Prof. Mohammed Najm Jalab Al-Daribi, *Employee's Freedom to Express Opinion*, Master's Paper, Faculty of Law, Mustansiriyah University, 2013, P. 114.

<sup>40</sup>) Dr. Jamal al-Banna, *The Emergence and Development of the Trade Union Movement*, Labor University Press, Cairo, i2, 1989.

<sup>41</sup>) See Article No. (12) of the previous Iraqi Constitution of 1925.

<sup>42</sup>) See Article No. (26) of the Iraqi Constitution of 16/7/1970.

right to form trade unions, as stated in Article No. (22) third paragraph in Chapter II on rights and freedoms section, which stipulated that "the formation of trade unions and associations on a democratic basis is a right guaranteed by law." They can function independently in order to increase members' efficiency and protect their rights and interests".<sup>43</sup>

This was also emphasized in the first and second paragraphs of Article 22, which states that "all Iraqis have the right to work to ensure a decent standard of living," and that "the law regulates the relationship between workers and employers based on economic basis, while taking social justice rules into account".<sup>44</sup>

## **CONCLUSION**

### **I. Research Findings**

1. A trade union is a modern concept that simply means: an independent public organization composed of members within a particular industry that is administered by a delegate leadership elected by members to look after their interests and manage their fundamental rights.
2. Iraqi lawmaker granted legal protection of representatives of trade unions under articles No. (28) and (29) of the Trade Union Organizations Act No. (52) of 1987, as a guarantee and legal protection to practice trade union activities in the Iraqi society.
3. The right to form trade union organizations has become a political and constitutional right of persons and freedoms in Iraq since the 1970 Constitution, as it has guaranteed constitutional protection for the formation of trade unions within the boundaries of the law. This was also explicitly confirmed by Iraq's current Constitution of 2005, which regulated the right to form and join trade unions in the third paragraph of Article 22 within the boundaries of the law.
4. The right to form trade unions has gained a global consideration through the United Nations General Assembly's statement in support of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as the European Convention on Human Rights and the American Convention on Human Rights. Such conventions have secured the freedom to form trade union organizations in accordance with the law and in the benefit of the nation and citizens in a democratic society.
5. Having the freedom to form trade unions and carry out their activities has global and regional implications. Although this is insufficient to fulfil their function, the establishment of a constitutional judiciary should be maintained to ensure that such rights are safeguarded at both the constitutional and legislative levels.

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<sup>43</sup>) See the text of Article 76 of the current Iraqi Constitution of 2014.

<sup>44</sup>) See 1st and 2nd paragraphs of Article No. (22) of the current Iraqi Constitution of 2005.

6. The presence of trade unions in Iraq has a profound impact on building and flourishing the society and safeguarding the rights of workers.

## **II. Recommendations**

1. The researcher advises scholars from all disciplines to pay greater attention and explore the issue of trade unions by examining provisions, features, applications, and perceptions.
2. The researcher suggests that trade unions improve their activities and raise their efficacy in compliance with Shariah norms in order to elevate the dignity of members and protect their rights.
3. The need to establish full-time and robust bodies within trade union organizations in Iraq to manage and safeguard workers' rights.
4. Provide legitimate entities for trade unions to supervise legislation, events, and actions to achieve their goals.
5. Activate self-efforts to enhance the integrity of Iraqi trade unions by consulting experienced members and implementing democratic processes to ensure successful participation in trade union elections, which will represent the strength of members and leadership.

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