

108TH CONGRESS
2D SESSION

H. RES. 545

Expressing the sense of the House of Representatives that a specific statement should be included in the Iraqi Transitional Administrative Law guaranteeing the people of Iraq the right to freedom of thought, conscience, and religion, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2004

Mr. ROHRABACHER (for himself and Mrs. MALONEY) submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Expressing the sense of the House of Representatives that a specific statement should be included in the Iraqi Transitional Administrative Law guaranteeing the people of Iraq the right to freedom of thought, conscience, and religion, and for other purposes.

Whereas President George W. Bush stated: “Iraqi democracy will succeed—and that success will send forth the news, from Damascus to Teheran—that freedom can be the future of every nation. The establishment of a free Iraq at the heart of the Middle East will be a watershed event in the global democratic revolution.”;

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to

which Iraq is a party, provide that “everyone” has “the right to freedom of thought, conscience, and religion”;

Whereas recent opinion polls in Iraq show that the vast majority of Iraqis desire human rights protections, including the right to freedom of thought, conscience, and religion;

Whereas the November 15, 2003, agreement between the Coalition Provisional Authority (CPA) and the Iraqi Governing Council obliges the Council to approve a Transitional Administrative Law (TAL) that will be a “guarantee of basic rights” and “will also respect the Islamic identity of the majority of the Iraqi people, while providing guarantees of religious freedom for all Iraqis”;

Whereas the Iraqi Governing Council is currently considering a draft Transitional Administrative Law;

Whereas drafts of the Transitional Administrative Law that have been made available to the public have not contained provisions that explicitly guarantee to every Iraqi the right to freedom of thought, conscience, and religion, as well as other fundamental rights and freedoms;

Whereas in publicly available drafts of the Transitional Administrative Law, “Islam,” without further definition, is the only specifically recognized source of legislation;

Whereas the Transitional Administrative Law must be approved by the Administrator of the Coalition Provisional Authority;

Whereas in December 2003 the Iraqi Governing Council passed Resolution 137 which would have, had the Administrator of the Coalition Provisional Authority approved it, placed matters of personal status and family law under the jurisdiction of religious bodies applying reli-

gious law, displacing the existing civil code which applies equally to all Iraqis, regardless of their religion;

Whereas the current Administrator of the Coalition Provisional Authority, Ambassador L. Paul Bremer, recently publicly stated that the Transitional Administrative Law “should recognize the Islamic character of the majority of the Iraqi people and that there should be freedom of religion, freedom of religious practices, [and] equality before the law for all individuals”;

Whereas Mohsen Abdel-Hamid, the current rotating head of the Iraqi Governing Council and a member of the committee drafting the Transitional Administrative Law, has proposed making Islamic law the “principal basis” of legislation;

Whereas without a guarantee of the right to freedom of religion for each Iraqi, the fundamental rights and freedoms of all Muslims in Iraq, in particular Muslim women, could be determined by clerics, undermining democracy and the rule of law;

Whereas despite the provision in the draft Transitional Administrative Law guaranteeing gender equality, without a guarantee of the right to freedom of religion for each Iraqi, Iraqi Muslim women may be subject to discriminatory laws regarding inheritance, marriage, and child custody, among other things;

Whereas in some Islamic countries where the right to freedom of religion for each individual is denied, charges of blasphemy made by public officials and others have been used to stifle public debate and impede democratic reforms;

Whereas the provision of rights to groups alone could, for members of religious minorities, limit the protection of freedom of religion to worship and exclude other individual manifestations of religion or belief such as the possession of religious literature, the operation of schools for religious education, and the carrying out of charitable activities; and

Whereas effective guarantees of the rights of each individual, including the right of each individual to freedom of thought, conscience, and religion, is central to ensuring freedom and democracy and is the cornerstone of the international human rights system: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that—

3 (1) a specific statement should be included in
4 the Iraqi Transitional Administrative Law guaran-
5 teeing “everyone” in Iraq with “the right to freedom
6 of thought, conscience, and religion” as affirmed in
7 the Universal Declaration of Human Rights and
8 specified in the International Covenant on Civil and
9 Political Rights, to which Iraq is a party;

10 (2) a statement should be included in the Tran-
11 sitional Administrative Law specifically identifying
12 the principles of democracy, pluralism, rule of law,
13 and Iraq’s international obligations as fundamental
14 sources for legislation, in addition to the mention of
15 Islam that is alone currently cited in publicly avail-

1 able drafts of the Transitional Administrative Law;
2 and

3 (3) an explicit commitment should be made in
4 the Transitional Administrative Law that Iraq will
5 respect and ensure the rights guaranteed by the
6 international treaties and conventions to which it is
7 a party, including the International Covenant on
8 Civil and Political Rights, as well as the Universal
9 Declaration of Human Rights.

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