# PIONEERING NEW FORMS OF COOPERATION BETWEEN PUBLIC AUTHORITIES AND CIVIL SOCIETY

**EuropeAid**

## *Case study: Developing policies for cooperation between public authorities and civil society for the benefit of Iraqi citizens*

The European Commission policy *The Roots of Democracy and Sustainable Development: Europe's Engagement with Civil Society in External Relations*[1] declares the promotion of a conducive environment for civil society organisations (CSOs) as one of the three priorities for EU support in partner countries. By examining the development of CSO-government cooperation policy in Iraq, this case study aims to identify good practices for contributing to this priority. The case study has been developed to inspire staff in EU Delegations and at the headquarters implementing this EU policy priority. The case study has been developed for the European Commission by the European Center for Not-for-Profit Law (ECNL), who served as key expert in both of the processes described in this case study.[2]

### Introduction

The Iraqi state guarantees in its Constitution that it will strengthen the role of civil society in the country, supporting its development and respecting its independence. The first step to ensure this was the adoption of laws on non-governmental organisations (NGOs).[3] These laws are considered to be among the most enabling laws of the Middle East region, enshrining the right of individuals to freely form organizations and receive funding and other support both at home and abroad without improper government interference.

Subsequently, public authorities and NGOs started discussing the need for a mechanism to increase mutual cooperation and strengthen civil society involvement in political life.[4] Together with international actors, two parallel processes were launched: one at the Federal level and one in the Kurdistan Region of Iraq. They aimed to jointly produce documents detailing collaboration between the two sectors. After over a year of intensive work, the *Compact on*

> **Why do countries adopt policy documents for cooperation?**
> Policy documents promoting cooperation between and NGOs are especially important for emerging democracies because they can be a tool of confidence building between the authorities (Parliament and government) and civil society. In general, these policy documents aim to strengthen civil society's voice in democratic developments and engage them in delivery of services. They typically list commitments and tasks necessary to support civil society, as well as mechanisms to increase communication and cooperation between the parties and to encourage civic engagement. They were first developed in Europe in the 1990s and became increasingly popular since. They may contain specific commitments for public authorities (strategies, charters), as well as for NGOs (agreements, compact memoranda, concepts). They may cover issues relevant for the entire civil society, or a particular area (development cooperation, volunteering).

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[1] Adopted in September 2012 and endorsed by the Council of the European Union in October 2012; http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0492:FIN:EN:PDF Council Conclusions: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/132870.pdf

[2] ECNL consulted with Mr Kareem Elbayar (UNOPS), Mr Jamal Mohammed Ali Al-Jawahiri, (Iraqi Al-Amal Association) and Mr Adam Styp-Rekowski, (former UNOPS Project Manager). The case was coordinated with the EC Directorate General for Development and Cooperation.

[3] Iraq is a federation, and the Iraqi Kurdistan is the only legally defined region with its own government. The NGO law in Iraq was adopted in 2010, and in the Kurdistan region in 2011.

[4] Roundtable : "Developing Relationship between the Iraqi Council of Representatives and Civil Society Organisations, Press release, Baghdad, June 20, 2011

*Partnership and Development between Public Authorities and NGOs in the Kurdistan Region of Iraq* ("Kurdistan Region Compact") was adopted in 2013. In parallel, the Iraqi public authorities continue to draft the first federal policy for cooperation with all NGOs in Iraq ("draft Iraqi Charter")[5]. Both projects are led by the United Nations Office of Project Services (UNOPS), with Danish support for the regional and EU support for the federal document.

### Laying the groundwork for cooperation policy in Iraq[6]

The process for developing the 2010 and 2011 NGO laws was an important foundation for subsequent work on the cooperation policies. The process included leaders from civil society, Parliament, and government, beginning a culture of inter-sectoral dialogue and increasing cooperation among these various players. The process provided a positive example of participatory decision-making and generated the momentum for creating a policy for cooperation with civil society. Indeed, the civil society and public authority leaders involved in the NGO law process were the drivers behind the idea of drafting cooperation documents.

Another critical factor making the cooperation policies possible was timing. Work on the policy documents began when civil society in Iraq started to strive for a more influential presence, realizing the role they can play in shaping policy including contributing to development of the National Development Plan for 2013-2017. CSOs therefore demanded inclusion. At the same time they understood that they need to rely on domestic policies to increase their sustainability. State authorities in turn started to realize how they can benefit from CSOs. In consequence, the National Development Plan was developed through a process that involved close collaboration between authorities and civil society.

Initially, both the Federal level and Kurdistan processes focused on building cooperation with parliaments. This strategy was chosen because of parliaments' commitment to ensuring that the freedom of association is observed. Still, later on the range of stakeholders was expanded to include representation from government

### Formalizing cooperation in Iraq: An agreement and a policy document

The two cooperation documents in Iraq have a critical difference: the Kurdistan Region Compact[7] is a type of an *agreement* between the public authorities, represented by the legislative and executive powers, and the NGOs from the region that endorsed the document. [8] This means that it contains specific commitments for all parties, and that parties had to negotiate and agree on the obligations, and consequently assume equal responsibility for implementing the prescribed tasks.

> *"By passing the Compact, the legislative and executive branches in the Kurdistan Region commit to treating civil society as a complementary and equally important partner in development…"*
> *- Dr. Dana Said Sofi, Chair of the Civil Society Committee of the Kurdistan Region Parliament.*

The draft Iraqi Charter[9] is a *strategic policy document* of the state that outlines principles, areas and obligations for public authorities to support NGOs. The draft Iraqi Charter applies to all Iraq. The drafters chose to develop a policy vs an agreement, because they realized that it would be hard to ensure that all NGOs agree to obligations prescribed for them. Hence, the current draft contains commitments only for the public authorities, while NGOs are only

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[5] This case discusses the draft Charter as of September 2013; changes may occur in the upcoming consultations.

[6] The following section is developed based on discussions with Mr Adam Styp-Rekowski, former UNOPS Project Manager

[7] http://www.icnl.org/research/library/files/Iraq/compact.pdf

[8] At the signing ceremony of the document, 75 civil society leaders endorsed the document http://www.unops.org/SiteCollectionDocuments/press%20releases/Press%20Release%20-%20English.pdf

[9] Web site dedicated to the draft Iraqi Charter: http://www.iraqicharter.org/en/

encouraged to accept the principles and join the implementation of the document.

The goal of the **Kurdistan Region Compact** is to promote partnership for a stronger democracy, civil society, social stability, and good governance for the benefit of the region, its communities, and citizens. The document defines the: (1) roles of public authorities and NGOs; (2) principles, objectives, and mechanisms of cooperation; (3) priorities for cooperation; and (4) implementation and monitoring mechanisms. It was ratified by the Parliament of the Kurdistan Region on June 12, 2013 (thus becoming a legally binding document) and signed by NGOs on September 4, 2013. Assistance is now launched to support implementation and monitoring.



*Working group meeting on the draft Iraqi Charter*
*Photo credit: Caroline Hammarberg/UNOPS.*

The **draft Iraqi Charter** aims to: (1) highlight the public authorities' commitment to comply with the best practices of cooperation, (2) incorporate the best practices in the institutional policies to be developed and implemented, (3) open new horizons for cooperation. It is currently envisioned to be adopted by both the Parliament and the Government and implemented with NGOs.

### Developing the documents through inclusive, flexible processes

The processes of developing the documents for cooperation in Iraq were an inspiring and trust building journey. The processes were different in three ways:

(1)  In drafting of the Kurdistan Region Compact NGOs were consulted with the aim to ensure their agreement on the obligations, so that they would sign the document and implement it. In the case of the Iraqi Charter, they were consulted on the needs of the sector and the commitments of the Government to address those.

(2)  The government was not represented through high level participation in drafting the Kurdistan Region Compact, and so it raised concerns at the time of adoption. The drafting group of the Iraqi Charter learnt from this experience, and increased representation of the government in the drafting process. This is important as the federal and regional government, respectively, have main responsibility for implementation of the documents.

(3)  The drafting of the Iraqi Charter faced more challenges which delayed the process. First, the political situation and cooperation between political blocks deteriorated, so members of Parliament were focusing on other priorities. The security measures in Baghdad made it difficult at times for all stakeholders to meet in one place, which was necessary to continue dialogue. Lastly, NGOs had internal disagreements over the process.

In both cases the process relied on consultation, flexibility and ownership. The following key elements of the methodology have contributed to the success of both processes so far:

(1)  **Feasibility check:** The initiators of the process (NGOs, UNOPS) held numerous consultations about the benefits, prospects, challenges, and methodology. Hence, they secured agreement from the public authorities and other NGOs about the key elements of the processes from the beginning.

(2)  **Methodology check:** The process allowed for revisions of the approaches and plans. As noted above, increased participation of the government was included in drafting the Iraqi Charter even though this was not initially planned.

(3) **Ownership** was maintained by setting up drafting groups of all parties who in turn was consulted on the content and methodology; it drafted the document and took part in consultations. Knowledge-sharing sessions were held to increase their understanding about the topic, and to facilitate consensus building about the proposed solutions. As a result, the documents responded to the local context, needs, and realities.



(4) **Participation:** The drafting in both cases was based on a highly participatory process, with a tailored consultation methodology. Consultation meetings were facilitated by local leaders selected through agreed criteria and specifically trained by the EU and regional experts for these consultations. As a result, at least 500 NGOs were consulted on the Kurdistan Region Compact. The preliminary draft Iraqi Charter was consulted with over 1000 NGOs, public authorities, academia, and media, and more consultations are planned for the upcoming drafts.[10]

*Drafting group develops Kurdistan Region Compact/ Photo credit: Caroline Hammarberg/UNOPS.*

(5) The project facilitated **experience exchange** between the two local processes. Representatives of the Kurdistan Region met with the Iraqi Charter drafting group to highlight issues which were helpful or challenging in their own process. The lessons learned were integrated to improve the process of drafting the Iraqi Charter.

(6) **Awareness-raising:** Awareness-raising sessions were organised for members of the KR Parliament, which increased understanding and garnered the support necessary for ratification. In addition, the media was invited to consultations and public events, which also helped with gathering wider support for the documents.

(7) A combination of **European and region-specific expertise** was an integral part. European expertise provided support in facilitating discussions, training the group and drafting the document; they identified challenges in the process and offered alternatives to lead to consensus. Coupled with facilitators from the Arab region, they helped build consensus and maintain cooperation in often dynamic meetings. Both groups were exposed directly to examples from European countries, as well as regional experiences which was an important element of building trust and confidence in the initiative.[11]

### The critical role of donors and international actors

Over the years, the EU has been supporting processes to create an enabling environment for CSOs in Iraq. The EU Delegation (EUD) provided crucial financial and political support to advance the adoption of the NGO law in Iraq, a role highly valued by the local partners.[12] Following up on this engagement, it remained in close contact with public authorities and NGOs on the Federal level and recognized the need to support cooperation building between civil society and government. It provided multi-year funding to the project, which is especially important for politically challenging contexts. Being aware of the local circumstances, the EUD showed continuous understanding of delays, flexibility regarding changes to the methodology,

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[10] In the Kurdistan Region the estimated number of NGOs is up to 800 (as of January 2013: http://www.icnl.org/research/monitor/iraq.html), while currently on federal there are over 1,770 NGOs http://www.ngoao.gov.iq/ArticleShow.aspx?ID=122 .

[11] Both groups went to Estonia for study visit. In addition, the experience of Lebanon was particularly shared in the beginning, as the most relevant to the Iraqi context.

[12] For example, the EU together with other foreign governments sent an international delegation to the Speaker of Parliament urging him to schedule a debate that lead to adoption of the law. Read more about it in *ECNL and UNDP, Elements for Successful CSO Law Reform Initiatives, the case studies of Honduras, Iraq and Macedonia, 2011*

and extensions necessary to meet the desired result.

The process in the Kurdistan region faced fewer challenges. Importantly, the Danish Government committed funding not only to the drafting process, but also to implementation. Implementation assistance is essential in a country where political challenges may delay the launch of the process and undermine reaching the desired result.

The role of UNOPS, as an international actor, was also critical. It was involved since the initial phases of both projects, contributing to feasibility mapping and planning, as well as implementation. It invested significantly in personal meetings but also maintained a neutral role. It also helped to overcome stalemates, negotiate, and bring different parties to the table. On the Federal level, it helped to address practical challenges by facilitating exchange among the local parties who were not always able to meet due to security measures.

> *"We believe that the draft Charter is very important to activate the role of civil society on one hand and to encourage public authorities to support NGOs on the other hand. We are working to approve it to increase the level of partnership in public policy-making between society and public authorities. EU and UNOPS had a leading role in supporting such pilot projects in the region, and we hope that they continue their support to involve civil society in decision-making."*
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> *- Jawad Kadhim Al-Jebbouri, Chair, Civil Society Committee, Council of Representatives of the Republic of Iraq.*

### Lessons to apply to similar reforms

For countries in transition and with politically challenging environments, the processes are often just as important as the documents themselves. A carefully planned process can increase awareness about the needs not only of the immediate parties involved but of the society; show how different perspectives can be relevant and build on each other; create culture of dialogue; and set the basis for future partnerships. The following are key elements that could be considered for similar reforms:

- Identify all stakeholders and work on fostering their **ownership** from the very beginning;
- **Consult** with relevant stakeholders and make sure that they agree with the substance, process, and approach;
- Plan the process very precisely to ensure consensus and transparency on details and **allow for review and flexibility** to adjust to emerging needs;
- **Train** the drafting group and facilitators of consultations and expose them to best international and regional practices on cooperation;
- **Include European and regional expertise**, as well as facilitation of local experts;
- Take time to respond to concerns and **invest in personal meetings**;
- **Raise awareness** broadly.

The EUDs and international donors can have an important role as funder and supporter. The following key principles have been instrumental to the intervention:

- **Understanding local context**, needs, and challenges;
- **Understanding the content of the initiative**, the relevance and the methodology;
- **Providing multi-year funding** to reforms;
- Maintaining regular contact with stakeholders and emphasising the need for their support to the process;
- **Taking a flexible and pragmatic approach**, allowing refinements and improvements to the methodology of the project;
- Providing **support for follow-up and implementation** of reforms.

### Further reading and references

- ECNL and UNDP, Elements for Successful CSO Law Reform Initiatives, the case studies of Honduras, Iraq and Macedonia, 2011; http://ecnl.org/dindocuments/353_ECNL%20Successful%20CSO%20Law%20Reforms%202011%20Final%20May%202011.pdf
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- *Compact on Partnership and Development between Public Authorities and NGOs in the Kurdistan Region of Iraq,* http://www.icnl.org/research/library/files/Iraq/compact.pdf
- Roundtable : *"Developing Relationship between the Iraqi Council of Representatives and Civil Society Organisations"*, Press release, Baghdad, June 20, 2011
- UNOPS Press releases regarding the two projects: http://www.unops.org/english/whatwedo/Locations/Europe/Pages/IraqOperationsCentre.aspx
- Web site dedicated to the draft Iraqi Charter: http://www.iraqicharter.org/en/