



# Personal status law of Iraq: An overview

## Introduction\ Context

The Ja’afari personal status law amendment, rooted in the Shia Ja’afari school of Islamic jurisprudence, is a legal code in Iraq that lets Shia Muslims have their family matters, like marriage, divorce, and child custody, governed according to Shia religious rules instead of the general civil law.

Though the amendment was initially overruled after civil society opposition in 2014 and 2017, once again it resurfaced in January 2024, after an independent parliament member (Raed Hamdan Al-Maliki) reintroduced the “amendment” to the law that had been previously overruled.

The amendment basically added one section to Law No. 2 of the Personal Status Law 1959, stating **that “every Iraqi man and woman, when registering a marriage in a personal status court, may choose to have their marriage governed by Ja’afari law, and this choice cannot be changed later”**.

Subsequently, the Shiite Endowment Office codified this into the “Mudawana – unified codex”, which incorporated additional provisions and segments to comprehensively regulate personal status matters under the Ja’afari framework.

*\*Constitutional law = general framework for all laws, supreme authority*

*\*Mudawana = a specific set of laws about family and personal status, which must fit within the constitution but often reflects religious or traditional rules often known as unified code or codex.*

After the Shiite Endowment Office presented the “Mudawana” in August 2025.

It was passed in a suspicious and unofficial manner.

***“The amendment was presented and passed in one Hour! No votes were count and many members were denied participation”*** said, Shoxan Hamarashid, Director of Wola.

The manner in which the law was passed raised major concerns. According to local organizations and several members of parliament, the bill did not undergo the proper legislative process. Instead, it was reportedly the result of a political bargain among Iraq’s major groups: **Sunnis, Kurds, and Shias. As part of this deal, Sunnis secured amnesty for prisoners, Kurds received assurances regarding disputed lands in Kirkuk, and Shias succeeded in passing the Ja’afari law.**

However, after the law was passed, no lands were reimbursed to the Kurds and no proper contracts were made to assure that.

This development directly challenges Article 14 of the Iraqi constitution, which guarantees all Iraqis equality before the law.

By introducing a separate legal framework for Shia citizens, this has led to fears that Iraq is moving toward a fragmented legal order in which citizens’ rights and obligations depend on their religious identity rather than equal citizenship.

However, The Iraqi constitution includes a provision stating that **everyone is free to follow and live according to their religion of choice**. This clause has been manipulated to justify the creation of laws based on specific religious beliefs, raising concerns that any group could potentially draft a bill according to its own interpretation of religion. This highlights a fundamental issue with the constitutional framework.

***“The fact that such a law was passed in such manner, made people question the legitimacy of their parliament. And the whole justice system of Iraq”*** said Awezan Nuri from Pana Organization.

And According to an article from Kirkuknow: ***“The amendment that was discussed in 21 January 2024, and now is in use. Is Refined version from the first personal status code that was presented the first time in 2014 and 2017. Such as The sections regarding Sunna, because they didn’t want to comply”.***

Sunni scholars rejected the proposal to draft their own personal status code “mudawana”, leaving the Ja’afari school as the only sect to benefit from a dedicated legal system.

And this gave the Jaa’fari law supporters more excuses to prevent intervention from different members of society. They claim that they are working by their religion and this is their personal freedom, people who don’t like it can just not follow it. Directly disabling intervention from Sunni’s and Kurds.

***“The Suni mullahs said: they didn’t allow us to intervene, they said its simply not your business”*** said Tayba an activist from Bagdad who interviewed scholars during the campaign against the law.

## What changes were exactly made?

After the amendment was passed, activists, media, scholars, and critics were all collectively concerned, fearing that this would change the future of women in Iraq tremendously.

## A comparison

Personal status law (188) - 1959	Personal status law (188) - 2025
One law for all religious schools	A Flexible law adapting to each religious school. Whether it goes against the Constitution or not.
Women are allowed to ask for divorce for many different reasons, including cheating if proved	Women are allowed to ask for divorce only for the following reasons (Abandonment, cutting financial support, and repetitive physical violence), which the Shia school has to approve. <b>Section 73 of the Mudawana.</b>
The law applies to currently married couples, previously divorced couples, and future marriages, meaning it covers past, present, and future contracts.	New Addition

The husband, even without divorce and during an ongoing marriage, has the right to request the court to apply Ja'afari personal status law, even if the wife objects. Her objection is not considered.	New Addition
Custody directly goes to mothers until the child reaches 10, then it can be stretched to 15 years by the court.	Custody directly goes to the mother until the child reaches (7), then immediately transfers to the father. <b>Section 83.</b>
Mothers have the right to ask for custody even if they remarry.	Mothers will automatically lose custody when they remarry.
Women have the right to ask for Custody or Financial support as long as they are married and not divorced, even if they leave their home due to marital problems.	If the wife is living at her family's house (meaning estranged or upset with her husband), she loses custody and all forms of financial support. She is then given the choice before the religious court either to return to her husband or proceed with divorce.
The "Disobedience" period, where the wife or husband fails to fulfil their marital duties, is two years. After the two years they can take it to court. During this period, she has the right to her alimony.	The "Disobedience" period, where the wife or husband fails to fulfil their marital duties is (7) years. After two years they can take it to court. And during this period, alimony will be revoked. <b>Section 65-68</b>
Wives have the right to her husband's inheritance	Wives have no rights in her husband's inheritance. And if the wife is the only remaining family member of the husband, then she gets a quarter of the inheritance, and the rest goes back to the Shiite Endowment office. <b>Section 308 – 314.</b>

## Misconceptions

After the law passed, many Media campaigns were launched against it, causing some misconceptions that sparked an understandable outrage.

<b>correction</b>	<b>Rummers</b>
Legal age of marriage is 18, in some cases 15, if necessary, by court order.	Legal age is 18, in some cases 15, if necessary, by court order. However, citizens have the right to marry according to their religious beliefs. So, according to the Ja'afari law, girls as young as 9 are allowed to marry. Not proved*
The wife's family will not face legal consequences if they interfere in their daughter's marital life.	A new clause will be legislated to "protect the Iraqi family," stating that if the wife's family interferes in her marital life, a strict law will be enforced to prevent such interference in the future.
A Daughter's Guardianship belongs to the father until (18 years old); after 18-years-old she has the freedom to make her own decisions, hence, Marrying without parental approval.	Compulsory guardianship of the father: A daughter has no right to disobey her father under any circumstances, regardless of her age. Her custody is not lifted from the father except upon her marriage, at which point guardianship transfers to the husband.
New addition -	Women can write in their contracts, that they are not obligated to do any house chores.

New addition	Women can demand money for breastfeeding in their contracts.
Husband has to have consent from the first wife in order to marry a second wife.	The husband has the right to marry a second wife without the consent of the first wife.

## How does this affect women in Iraq and Kurdistan?

In practice, the law is expected to have significant consequences for issues such as marriage, divorce, inheritance, and child custody. Critics warn that it will particularly affect women and children, weakening legal protections that were previously provided under Iraq's unified personal status law of 1959.

According to Awezan nuri ***“people have already started going to the court in masses to adapt the new Jaafari law, and this resulted in increased level divorces in just one month after the law passed”***

Awezan is an activist from Kirkuk who is a victim of child marriage, and has been advocating against it through her organization Pana.

Awezan also said, ***“Public opinion in Kirkuk is largely against the Ja’afari law. Local activists are now leading media campaigns to raise awareness, including efforts with “Murtaza Mayahy”, who explained the details of the law and the principals of the Jaffari law through a detailed YouTube series, he is currently hiding due to threats from the supporters of the law. At the same time, supporters of the law have launched their own campaigns, sponsoring women parliament members that promise and collect votes from men by saying “We will give you back your children.”***

The main concern for mothers and women organization activists is section **No. 83**, that deprives mothers from their children and forces them to give it back to the fathers. Who are possibly abusive and inattentive.

This sparked great concern for all mothers who are divorced years ago, or getting divorced now.

***“The fathers ask for custody just to torture the wife that left them due to their abuse, and children are forced to live through the consequences”*** said Ms.Taiba.

She also said, ***“the law is clearly in the favor of men, and it also allows men to write the contract according to the Jaffari law with or without the wives approval, so not only it allows men to be completely in control, it prevents women from doing anything about it”***

In Kurdistan, fortunately, the law does not affect marriage contracts that were signed in Kurdish provinces, even if the husband moves to an Iraqi province.

This doesn't mean that Kurdish women are also not at risk of being complied to such a law in the future.

## **The Jaa'fari law claims some sections are in favor of women**

Though not clearly stated in the law, they claim that women also have the right to condition her husband in her marriage contract to (demand **breastfeeding money, not do house chores, and ask for the right to divorce her husband**)

However, activist and civil society believes this is a tactic to manipulate women to comply to the law, because none of what was mentioned is realistic in the Iraqi society. And judges often dismiss women when ever they want to set conditions in their contracts.

## **what does the shia community think?**

Not long after the law was passed, the shia women formed an alliance called (devoted mothers against law 188) and protested against the law.

Any many other activists and lawyers stood against it. However, the government simply tells them to not chose it in their contracts.

According to Ms. Taiba ***“in the Jaa'fari law school women have the right to alimony after divorce, the law contradicts the Jaa'fari school by itself”***

in the surrounding areas, Qatar, yaman, Egypt, Algeria, Syria and even in the **Jamia al azhar**, legal age of marriage is 18 and women have proper constitutional law. And it's getting better every year. Only in Iran the legal age is 9.

Bashdar hasan, director of international rights institute, said, "Iran itself is not going by the Jaafari law, Iran's personal status law is very progressive and favors women and children, such law only exists here"

## **International and Local pressure**

as mentioned above, international and local pressure is what paused the passing of this law back in 2014 and 2017. Many attempts were made like the

"188 alliance" which heavily worked against this amendment.

***"Despite extensive efforts by NGOs, their work often reached a dead end, as decision-makers refused to listen. Before the law was presented, a strong campaign was launched against NGOs, targeting them on gender issues and turning public opinion against them. Meanwhile, the law itself was advanced in a highly strategic and calculated way,"*** said Ms. Taiba

Iraq signed the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** to show its commitment to protecting women's rights.

Since Iraq has passed the **Ja'afari personal status law**, it is now in clear conflict with its obligations under the **CEDAW treaty**, which requires the elimination of child marriage, male guardianship, and all forms of discrimination against women. While CEDAW cannot directly overturn the law, the **CEDAW Committee** will likely criticize Iraq in its next review and issue strong recommendations for change. Civil society organizations can also submit shadow reports to highlight the harm caused by the law, using CEDAW as an international tool to increase pressure on the Iraqi government. In practice, CEDAW's role is to provide **global visibility, political pressure, and advocacy support**, helping activists demand reforms even if it cannot legally force Iraq to cancel the law.

Last year European parliament, requested immediate retraction of the amendments regarding personal status law. And the Amnesty international and



human rights watch send separate reports and expressed their concerns regarding the amendments.

According to a research data by Iraq's higher committee, 28% of women are married under the age 18, and 22% of unregistered marriages are under 14. And this is only the apparent data, the rates are expected to be significantly higher.

In conclusion, the Ja'afari personal status law represents a major setback for women's rights and legal equality in Iraq. Pushed through parliament under questionable circumstances, it introduces sectarian rules that weaken protections for women in matters of custody, divorce, and inheritance, while granting men greater power. Supporters frame it as religious freedom, but critics argue it undermines constitutional guarantees of equality.

The law has sparked widespread opposition from civil society, activists, and even many within the Shia community, who fear it will deepen social divisions and erode trust in Iraq's democratic institutions.

<p>"They ask you for a ruling concerning women. Say, Allah gives you a ruling about them ..." <b>Surah An-Nisa (4:127)</b>.</p>
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