



# IRAQ

by Huda Ahmed

POPULATION: 30,047,000

GNI PER CAPITA: US\$2,406

<b>COUNTRY RATINGS</b>	<b>2004</b>	<b>2009</b>
NONDISCRIMINATION AND ACCESS TO JUSTICE:	2.7	2.7
AUTONOMY, SECURITY, AND FREEDOM OF THE PERSON:	2.6	1.9
ECONOMIC RIGHTS AND EQUAL OPPORTUNITY:	2.8	2.6
POLITICAL RIGHTS AND CIVIC VOICE:	2.2	2.6
SOCIAL AND CULTURAL RIGHTS:	2.1	2.3

(COUNTRY RATINGS ARE BASED ON A SCALE OF 1 TO 5, WITH 1 REPRESENTING THE LOWEST AND 5 THE HIGHEST LEVEL OF FREEDOM WOMEN HAVE TO EXERCISE THEIR RIGHTS)

## INTRODUCTION

Iraqi women's rights advocates, men and women alike, began their struggle for equality at the beginning of the last century. They formed organizations and mounted rallies and demonstrations to demand political, social, and economic rights from the turbulent country's successive regimes. Women managed to secure some of these rights after General Abdel-Karim Qassim seized power in 1958 and passed a new personal status law in 1959.<sup>1</sup>

The new law gave Iraqi women what were considered progressive rights regarding marriage, inheritance, polygamy, and child custody. However, any legal guarantees remained tenuous given Iraq's unstable political situation. In 1963, Qassim was overthrown and killed by his erstwhile comrade, Abdel-Salam Arif, with the help of the Ba'ath Party. Arif later reversed Qassim's personal status code and reintroduced rules based on Shari'a (Islamic law). He also turned against the Ba'ath Party, leading to a feud that ended with his death in a helicopter crash. He was succeeded by his brother, Abdel-Rahman Arif, until the Ba'ath Party took power in 1968.

The constitution implemented by the Ba'ath Party in 1970 barred gender discrimination and provided women with additional rights in the areas of education and employment, among others. To strengthen secularism and gain the support of women, the Ba'ath Party established the General

Federation of Iraqi Women (GFIW) on March 4, 1969. It was the only official women's organization and became a model for the Arab world. The federation was financed and supported by the regime, serving as a tool to promote the party's revolutionary and socialist principles, as well as Arab national unity against Zionism and imperialism. It had branches in every neighborhood, province, and rural area in the country. Besides promoting the regime's agenda, the GFIW opened literacy centers, held driving workshops, and offered classes in art, music, sewing, cooking, and crafts to help women become more independent and capable of supporting their families. Meanwhile, successful government-sponsored literacy campaigns helped Iraq to achieve one of the region's lowest illiteracy rates.<sup>2</sup> Finally, under the Ba'athist regime's new leader, Saddam Hussein, Iraqi women received the right to vote in 1980.

The Iran-Iraq war of 1980–88 had a huge impact on the women and children of Iraq, leaving many of them widows and orphans. Between 160,000 and 240,000 Iraqi soldiers died, though the figure could be higher, as many went missing. Also uncertain is the number of civilian victims executed or “disappeared” by the Ba'athist regime because of suspected connections to Iran or differing political ideologies. The government tried in the first years of the war to compensate soldiers' widows with a sum of money or the continued salary of the husband, and paid for the school supplies of orphans through college. The government also built modern villages for the slain soldiers' families and for disabled soldiers and officers, and distributed land to many officers. However, these efforts decreased dramatically toward the end of the war in light of Iraq's huge debts and devastated economy.

The trauma of war, isolation from the world due to a government ban on travel for most Iraqis, and the changing policies of the regime strongly influenced Iraqi morals and ethics, creating a more conservative society. In the early 1980s, the regime used financial incentives and maternity leave policies to encourage increased birth rates and make up for the significant loss of life on the battlefield. The authorities also cracked down on liberal styles of dress, first painting the legs of women found on the streets wearing short skirts, then banning such skirts, attacking women who wore them, and questioning the relationship of their male escorts. By contrast, until the mid-1970s, intellectual women had regularly attended mixed-gender cultural events or social gatherings without a related male escort.

At the same time, due to the war-related manpower shortage, the regime urged women to fill empty positions in the government, schools, universities, farms, and factories. It pushed women to seek education in every field considered helpful to the country, even traditional male domains like the military and various mechanical, electrical, and other technical fields, although once they had worked for 15 years they were encouraged to retire. Despite all the progress women achieved because of the war, many suffered greatly. Those suspected of disloyalty—and often their extended families and associates—were imprisoned, exposed to torture, raped in front of male relatives, or executed. Others were released from prison with chronic illnesses.

A new constitution in 1990 retained the previous charter's nondiscrimination clause, but in the subsequent years the government made a number of legal changes that disadvantaged women, including the repeal of certain provisions from the 1959 personal status code.<sup>3</sup> Among other things, these changes allowed men to practice polygamy without the first wife's consent and afforded leniency to men who committed so-called "honor crimes," allowing them to receive as little as six months in prison for killing female relatives suspected of sexual transgressions. The government also established and encouraged students to study at colleges for Islamic studies. This assortment of reactionary changes were part of Saddam's attempt to gain the support of tribal and religious leaders after the 1991 Shiite uprising, which led to the deaths of thousands of Iraqi men, women, and children and shook the regime after its defeat in the Persian Gulf War.

The UN sanctions imposed on Iraq following that war had a corrosive effect on Iraqi society and contributed to the deterioration of women's rights, health, and nutrition. There was increased discrimination against women in government offices as well in the private sector. Women, including female students, endured sexual exploitation and harassment to provide food and clothing for themselves or their families. Many families were forced to marry off or effectively sell their young daughters for money. Inflation exacerbated the economic and social breakdown, as did corruption that infected every government entity.

After the U.S.-led invasion of Iraq in 2003, the Coalition Provisional Authority (CPA) dismantled the Iraqi military and carried out a rigorous "de-Ba'athification" policy to purge the ruling party from the state apparatus. The invasion and its aftermath caused chaos in the country,

leaving ordinary Iraqis as well as the courts and other official bodies unsure as to which laws they should follow. These conditions, combined with deep-rooted patriarchal attitudes that deem women unequal to men, dramatically exacerbated the challenges facing women. Nonetheless, women's rights advocates were able to achieve some success in pushing for reforms and lobbying against measures that would further institutionalize gender discrimination.

In 2004, as the CPA-backed Iraqi Governing Council (IGC) was drafting a Transitional Administrative Law for the country, women's rights advocates demanded a female quota of 40 percent in the Iraqi parliament and the abolition of the proposed Resolution 137, which would rely exclusively on Shari'a for personal status issues. The CPA ultimately granted women a 25 percent parliamentary quota that year, which was considered a good start. However, many of the women who have gained seats in the parliament are conservative and have not attempted to push for change. Instead, they follow instructions from their party leaders and tend to vote against the expansion of women's rights.

On October 15, 2005, Iraqis voted in a referendum to approve a new constitution to replace the transitional law. Some groups objected to certain articles, including Article 41,<sup>4</sup> which covered personal status law. The provision allows each religious group to govern its own personal status matters, potentially strengthening the roots of Iraq's sectarian strife and giving male religious authorities an opportunity to infringe on women's rights. For example, the article could legalize and encourage *mut'ah* marriage, a form of temporary union that grants women no legal protections. The work of a constitutional amendment committee has been very slow, and there is little time left for the parliament to review its proposals before elections that are scheduled for January 2010. In the meantime, some Sunni and Shiite religious authorities have been vocal in calling for compulsory veiling for women, facing strong resistance by women's rights activists.

The sectarian violence that escalated from 2005 to mid-2007 claimed the lives of many families, and women, as well as men, were killed for political, ethnic, sectarian, and economic reasons. There is no accurate number of casualties, since the government in 2005 barred the Health Ministry from releasing this information to the press.<sup>5</sup> Estimates of the death toll from violence since 2003 range from 100,000 to one million people, and there are an estimated 740,000 widows in the country.<sup>6</sup> Amid volatile security situation, violence against women has increased—particularly the

instances of honor killings, rapes, and kidnapping—forcing women to stay at home and limiting their employment and educational opportunities.

It is difficult to predict when or whether the Iraqi parliament will be able to finish and approve the many disputed articles of the constitution, but the outcome of the effort will determine the country's adherence to the rule of law and to basic women's rights principles in particular. It is similarly unclear what will happen to existing women's rights after U.S. troops leave Iraq. Only consistent vigilance by state and nongovernmental actors both within Iraq and abroad will ensure that the rights women have gained to date survive on paper as well as in practice.

## **NONDISCRIMINATION AND ACCESS TO JUSTICE**

Despite enacting the nondiscriminatory 1970 constitution and signing major international conventions that protect human rights, the Ba'athist regime (1968–2003) invested little effort to create an institutional framework that would make these obligations enforceable. In fact, divergence from their principles actually increased under Saddam Hussein. The post-Saddam leadership has attempted to create an equitable democratic system, but there are many obstacles in the way, especially with respect to women's rights. For instance, most of the lawmakers who participated in drafting the 2005 constitution are members of Islamic fundamentalist political parties, whether Sunni or Shiite. As a result, the charter prohibits any laws that contradict Islam, which is designated as the official religion and the foundation of legislation, opening door to discriminatory treatment of women rooted in conservative interpretations of Shari'a. Another major barrier to progress has been the ongoing violence in the country, which hampers the operation of the legal system in general and raises the risks involved in any open political disagreement, including the subject of women in the society.

Article 14 of the 2005 constitution states that Iraqis are equal before the law and bars discrimination based on “gender, race, ethnicity, nationality, color, origin, sect, belief or opinion, or economic or social status.” Unfortunately, there is no practical enforcement of this principle at present. The various parties of the government and parliament hold different views on women's rights, and many are firmly attached to traditional views that oppose the empowerment of women. Even if some factions support women's rights to a certain degree, they are often unable or unwilling to assert their views and antagonize those who differ.

The Ba'athist-era labor code of 1987 and penal code of 1969 remain in effect, and the parliament has amended only a few of their provisions. These laws ostensibly protect women from gender-based discrimination at work, in the courts, and in public, though not in their private or family lives. The previous regime did not properly enforce the laws, and the current government does little to implement what protections they provide. In some cases, the new constitution contradicts itself or other laws that are in force. For example, the personal status provision in Article 41 of the constitution emphasizes the role of religion and sect in establishing rules on marriage rights, divorce, child custody, inheritance, and other issues. This effectively conflicts with Article 14's call for equality before the law. Article 41, which has not been put into effect pending possible revisions, raised significant concerns among women's advocates as it threatens to strip women of many of their previous legal rights and place them under the control of religious authorities and tribal customs.

Iraq now has one of the most progressive laws regarding citizenship rights in the Arab world, although the law falls short from guaranteeing full gender equality. Article 18 of the constitution guarantees that every child born to an Iraqi father or mother has the right to Iraqi nationality, and Article 3(a) of the Nationality Law (No. 26 of 2006) reflects this principle. The subsequent provisions, however, place some gender-based limitations on conferral of nationality from mother to child. For example, according to Article 4, persons born outside Iraq to an Iraqi mother and unknown father—or a father with no nationality—can obtain Iraqi nationality upon petitioning the Ministry of Interior, provided that they fulfill certain residency and age requirements. No such conditions are placed on children born to Iraqi fathers.

The new Nationality Law provides for the naturalization of the husband of an Iraqi woman as well as the wife of an Iraqi man; in the past this right was restricted to an Iraqi man married to a foreign woman. In addition, an Iraqi woman can now confer her property on her non-Iraqi husband and children after they become Iraqis. However, foreign husbands of Iraqi women need to reside at least 10 years in Iraq before they may apply for citizenship (Article 6), whereas foreign wives of Iraqi men qualify after five years (Article 11).

Iraqi women are rarely familiar with their right to access justice, unless their work brings them into contact with the judicial system or they have a case in court. Media outlets broadcast talk shows and other programs with

lawmakers, judges, and lawyers to explain the legal system to the people, including personal status law. These programs existed during the former regime and continue to air, but poverty, violence, and a lack of electricity has isolated many citizens from such information sources. The situation is worse in rural areas, where women live within patriarchal families and communities and have little contact with outsiders. Nongovernmental organizations (NGOs) traveled among the villages to help raise awareness of the laws and women's rights after 2003, but the insurgency seriously restricted the movements of aid workers after 2004. Women are legally permitted to file lawsuits in court without the permission of their husbands or male guardians. In more conservative rural areas, however, men typically carry out all such functions, and the courts sometimes ask female litigants to appoint male relatives to pursue the case on their behalf.

The justice system does not always treat women and men equally, notably in the issues related to honor killings, rape, and personal status law. Article 409 of the penal code offers leniency in honor killing cases, setting a maximum penalty of three years in prison for a man who kills his wife or close female relative and her partner after catching them in an act of adultery. It also deprives the victims of the legal right to self-defense in such situations. Article 130 of the penal code allows penalties of as little as six months in prison for the killing of a wife or female relative for honor-related reasons. Revolutionary Command Council (RCC) Order No. 6 of 2001 extended the application of such mitigated sentences to those who kill third parties for "making reference" to the dishonorable act by the slain woman, and prohibited acts of revenge against the killer.<sup>7</sup>

After 2003, the instances of gender-based violence, including honor killings, soared throughout Iraq. In the southern city of Basra, authorities had recorded a 70 percent increase in such murders in 2008, with 81 reported by late November, resulting in only five convictions.<sup>8</sup> Lawyers who represent the victims of rape and other violence against women receive death threats. Most honor crimes go unreported by the family members, who bury the victims themselves and attribute the deaths to militia violence or other causes. Such families often receive sympathy and tolerance from the police, if not encouragement for doing what they see as the right thing. Perpetrators are released without investigation or charges, and the government remains silent, treating the cases as private matters. This response leaves women paralyzed with fear and vulnerable to daily domestic violence, sexual harassment, and killings. A deep feeling of injustice

and powerlessness sometimes leads women to believe that the only escape is suicide.

In 2000, the Kurdish regional government revoked the laws on mitigated sentences for honor crimes and, a year later, made them punishable by up to 15 years in prison. These measures, however, did not apply in the rest of Iraq. In 2008, Narmin Othman, the current Minister of Environment and one-time acting minister of state for women's affairs, led a campaign to make honor killings throughout the country punishable by life imprisonment or death. Although many parliamentarians supported the proposal, they faced opposition from the Shiite-led United Iraqi Alliance and the Sunni-led Iraqi Accord Front. Party members claimed that such killings of women are permitted under Shari'a.<sup>9</sup>

Articles 19 and 37 of the constitution prohibit arbitrary arrest and unlawful detention, as well as all forms of torture or inhumane acts. But many Iraqi women, as well as men, have been unlawfully arrested and detained in crowded prisons for months or years without trial or access to a lawyer. Prisons allow women to keep their children with them if there is no extended family, especially if the child is an infant, and childcare supplies are provided. There are separate prisons for males, juveniles, and females. Still, some female inmates allege that they are sexually assaulted, tortured, beaten, and raped by Ministry of Interior guards and police investigators seeking confessions. According to one report, the women's prison of Kadhamiya in Baghdad was infiltrated by Jaish al-Mahdi (JAM), the Shiite militia, and operated as a brothel at night. Its 174 female inmates and 17 children were later relocated to a new women's prison.<sup>10</sup>

Iraqi law considers women to be adults at age 18. However, the courts draw many of their rules from Shari'a, which requires two female witnesses for their testimony to be considered, whereas a man can stand as a sole witness. The uncorroborated testimony of a woman is acceptable for certain documents like marital contracts, although in the Kurdish region a woman needs a supporting witness for her testimony to be acceptable in these cases. Iraqi courts treat women as equal to men in compensation for wrongful death. Sometimes the court allows the two parties to agree on the compensation, but in other cases the court will decide the appropriate amount.

Iraq acceded to the international Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1986, but with reservations exempting it from conformity to Article 2 (f) and (g), which call on states to modify or abolish existing laws and penal codes that



discriminate against women; Article 9, which requires equal rights regarding changes and transfers of nationality; and Article 16, which concerns the elimination of discrimination in marriage and family relations. Iraq also filed a reservation on Article 29, paragraph 1, with regard to the principle of international arbitration on the interpretation or application of the convention.<sup>11</sup> In practice, the former regime disregarded CEDAW at will. The current government has not discussed ratifying CEDAW or revoking the existing reservations.

The work of Iraqi women's NGOs had been assisted by foreign and international organizations like the U.S. Agency for International Development (USAID), the UN Development Programme (UNDP), the UN Assistance Mission for Iraq (UNAMI), the UN Development Fund for Women, WADI, Women for Women International, the UN High Commissioner for Refugees (UNHCR), and the U.S. military. However, most foreign civilian aid workers left Iraq after violence began to soar, and at least 94 aid workers were killed between 2003 and late 2007.<sup>12</sup> Only local NGOs remained active in most areas outside the relatively peaceful Kurdish region, and these lack support and protection from the government despite a constitutional provision seeking to strengthen, support, develop, and preserve the independence of civil society (Article 45).

### *Recommendations*

- ❖ The parliament should expedite the process of reforming and replacing Ba'athist-era labor and penal codes, drawing on the advice of international experts and the experience of foreign legal systems to develop laws that will best serve the Iraqi people. Particular attention should be paid to eliminating penal code provisions that provide leniency in honor-related cases.
- ❖ The parliament should revise Article 41 of the constitution to ensure that personal status issues will be governed by a unified legal code and will not be left in the hands of unaccountable religious authorities and tribal leaders. Lawmakers should consult with scholars and experts to develop a personal status code that draws on the best elements of different religious traditions, meets international standards, and protects women's rights.
- ❖ The government, in cooperation with international bodies, should develop mechanisms to protect local women's rights activists who work in conflict zones.

- ❖ The government must ratify CEDAW without reservations, implement its provisions in practice, and raise public awareness about the legal rights it entails. International organizations should establish training programs for lawyers and judges focusing on the mechanisms of dealing with international conventions such as CEDAW.

## **AUTONOMY, SECURITY, AND FREEDOM OF THE PERSON**

Although some of the laws enacted by Iraq's successive 20th-century governments were relatively ambitious and progressive with respect to women's rights, the prevailing instability and frequent policy reversals—particularly under Saddam Hussein—often put women in severe danger. Iraqi women seized the opportunity after 2003 to form NGOs and demand protection from the violence, tribal traditions, and social norms that constrained their lives and prevented them from contributing to their country's development. Women have succeeded in blocking implementation of a potentially harmful constitutional provision on personal status issues, but the last five years have largely been characterized by a stark contrast between constitutional guarantees and women's inability to exercise these rights in the face of widespread violence. Under the pressures of displacement and poverty, women have increasingly fallen victim to human trafficking, sexual exploitation, and a controversial form of temporary marriage.

Iraq has long been home to a variety of religious groups, including Sunni and Shiite Muslims, Christians, Jews, Mandaeans, and Yazidis. The current and previous Iraqi constitutions granted the right of religious freedom, and Articles 37 and 43 of the 2005 charter also prohibit religious coercion and protect religious sites, respectively. To convert from one religion to another, however, is very difficult if not impossible in practice, because each religion enforces its own restrictions or prohibition on conversion. Both Muslim and Christian women are subject to social ostracism or even murder if they convert to another faith. Moreover, the law does not allow Muslim women to marry non-Muslim men, but Muslim men can marry Christian or Jewish women.<sup>13</sup>

From 2004 to 2007, Iraq's sectarian civil war stoked religious extremism and brought serious hardships to women. Various Islamist militias and gangs harassed, threatened, mutilated, or killed women if they did not adhere to a harsh interpretation of Islamic behavior. Those living in an area dominated by another sect were forced to flee their homes in

large numbers. Non-Muslim minorities were targeted for selling alcohol or refusing to convert to Islam, and mass emigration has reduced the Christian population to well under one million, from almost 2.5 million in 2003. The Kurdish region was the only relatively safe haven for all religions within Iraq.

In Islam, children traditionally follow the father's religion. But because the country is home to two major Islamic sects—Shiite and Sunni—and a significant number of mixed marriages, parents try not to allow sectarian differences to divide the family. During the past five years of violence, however, some mixed couples were forced to separate under family pressure, and many parents gave their babies neutral names to avoid identification with any particular sect in the future. There were some signs that mixed marriages were becoming more common and open after security improved in 2008.<sup>14</sup>

Article 44 of the constitution guarantees freedom of movement, travel, and residence inside and outside of Iraq, but certain laws contradict this constitutional provision. Following the Gulf war, in an effort to gain tribal and religious support, the Ba'athist regime restricted women's movement outside the country, generally refusing to issue passports to women under 45 unless they would be traveling with a male guardian. After 2003, the CPA issued a law guaranteeing all Iraqis age seven and older the right to obtain passports (through a guardian for children) and all adult women the right to travel without a male guardian. However, the Iraqi government changed the law in 2004; as a result, women are now again required a guardian's approval to obtain a passport. The poor security situation has also impacted the ability of citizens to move freely and dissuaded many women from traveling by land without a male escort for protection.

The original version of the 1959 personal status code granted Iraqi women progressive rights that were advanced for the Arab region at the time. It provided women with inheritance rights equal to those of men; restricted polygamy; and protected divorced wives, giving them custody over their children, child support payments from the father, and related housing rights. Women's rights in these areas shifted over the subsequent years, as the code was altered, eclipsed by executive decrees, or poorly enforced under different governments.

In December 2003, the governing council established by the CPA proposed Resolution 137, which would have fully repealed the 1959 code and placed decisions about family matters in hands of religious authorities.

Though this measure was canceled after women's rights advocates raised objections, a similar provision appeared in the 2005 constitution as Article 41, which gives Iraqis the right to choose what personal status rules they want to follow based on their "religions, sects, beliefs, or choices." Article 41, however, is currently suspended after women's advocates, NGOs, members of parliament, legal professionals, and the judiciary protested against the provision, viewing it as a way to increase sectarian divisions and impose undue restrictions on women. Until the dispute over Article 41 is resolved, the unified system based on the 1959 code remains in effect. In practice, a woman's ability to defend her rights often depends on decisions by her family, tribal authorities, or the officials of her religious sect, as personal status disputes are commonly settled without recourse to a civil court.

The law sets the minimum marriage age for both sexes at 18, though courts can permit juveniles as young as 15 to marry with a guardian's approval or as a matter of urgent necessity. Unauthorized, underage marriages are potentially punishable by imprisonment, but such marriages do take place, conducted by religious leaders with little regard to women's well being.

During marriage, a husband is legally obliged to support his wife financially, and there is an implied obligation for the wife to obey her husband, so long as it does not conflict with Islam. Shari'a, as commonly interpreted in Iraq, holds that a husband is free to have sex with his wife unless she is ill or has a compelling reason to refuse. There is no law against spousal rape, as it is considered a private matter. Paragraph 41 of the 1969 penal code considers a husband's punishment of his wife to be a legitimate private right. While this is consistent with prevailing interpretations of Shari'a, it contradicts Article 29 of the constitution, which prohibits all forms of violence and abuse in the family.

Polygamy is permitted under the law if a court finds that the husband can financially support more than one wife and treat them equally, but Ba'athist-era amendments allow men to evade even these restrictions if the new wife is a widow or if the husband initiates a divorce, marries, and then reconciles with his first wife. Previously, a valid polygamous marriage required the consent of the first wife, but this restriction was also removed over time. Polygamy is relatively common in practice and rarely faces obstacles in the courts.<sup>15</sup>

After 2003, the Shiite practice of mut'ah marriage grew more popular, having been banned under Saddam Hussein.<sup>16</sup> Women's NGOs reported

in 2006 that there were some 300 temporary marriages occurring daily in the major cities of the Shiite-dominated south.<sup>17</sup> In *mut'ah* marriages, an unmarried woman can temporarily marry a man whether or not he is already married, often for a fixed amount of time and in exchange for a certain amount of money. The time period can range from an hour to years, and only the man has the right to dissolve the marriage, unless there was a prior agreement between them. Women have no right to support if they become pregnant. Most of these marriages are carried out secretly without the knowledge of the participants' families, and women who resort to them often do so out of poverty. Shiite clerics who encourage the practice argue that it prevents fornication and adultery while helping widows and other impoverished women, but critics view it as a form of prostitution.<sup>18</sup>

A legal marriage entails a freely entered contract between the bride and groom, and the law allows a wife to revoke the contract if the husband fails to fulfill its conditions. However, divorce procedures greatly favor the husband.<sup>19</sup> The law allows men to unilaterally divorce their wives, though a court can award damages worth up to two years of financial maintenance if it finds that the repudiation was unjust. Either spouse can also file for divorce based on one of several causes, including an unspecified "conflict" between them, and the wife can file based on various forms of neglect or infirmity on the husband's part. If the wife is deemed responsible for a conflict, she can be required to return all or part of her dowry. Another option available to women is *khula*, a form of divorce in which she compensates the husband financially in exchange for ending the marriage. In practice, many women are not aware of their legal options regarding divorce. Those who would assert their rights face obstacles including family or social pressure, domestic violence, and sometimes inefficient or unsympathetic courts.

Article 57 of the personal status code grants divorced women custody of their children up to age 10, during which time the father must pay child support. Custody can be extended by the court to age 15 if it is in the child's interest; after that point the child can choose his custodian. If the divorced mother remarries, her custody is not revoked unless it is in the child's interest.

Article 37 of the 2005 constitution prohibits "forced labor, slavery, the slave trade, trafficking in women or children, and the sex trade," but the law offers little protection in practice. Instead, women are seen as responsible for their circumstances and may be punished or ignored rather than

granted the right to seek punishment for their exploiters' abuses. Iraq became a country of origin for women and girls trafficked to nearby countries for the purposes of sexual and labor exploitation during the Iran-Iraq war, and the pace of this trade increased amid the sanctions and economic difficulties of the 1990s. The trafficking often took the form of false marriages, in which perpetrators effectively bought the women from their impoverished families, while others were lured with promises of legitimate work. Internal and cross-border sex trafficking continued after 2003, and the displacement of millions of people due to sectarian warfare exacerbated the situation.<sup>20</sup> Thousands of Iraqi women have been forced to work as prostitutes in countries like Syria, Jordan, and the United Arab Emirates.<sup>21</sup> However, due to the security circumstances in Iraq, it is difficult to accurately gauge the scope of human trafficking, and the government has done little to monitor or address the problem.

Although Article 29 of the constitution bars violence in the family, schools, and society, in a contradictory manner, Paragraph 41 of the penal code allows husbands to punish their wives. Domestic violence is a growing problem, and it is generally considered a private matter, to be dealt with through the intervention of relatives or tribal sheikhs. In these cases, even if the decision is in the woman's favor, reconciliation does not stop men from repeating their crimes. A woman is punished and resented if she tries to defend herself. Moreover, in the context of Iraq's ongoing insurgency, women have suffered torture, mutilation, rape, and other forms of inhuman treatment at the hands of Iraqi and American forces, sectarian militias, terrorists, and their own tribes and families. There are no exact statistics on any of these forms of abuse, as the victims risk further harm if they speak out or seek justice. Depending on the nature of the crime, victims may even face honor killings by their families.

The Kurdish authorities have said that they are trying to identify the best means of educating people about the wrongful nature of violence against women, and that the effort had produced a certain amount of backlash. They have helped to open shelters and support NGOs dedicated to women at risk of violence, honor killing, or rape in the Kurdish region. In addition, they have created special family protection units within the police through which women may file complaints and seek protection. Nonetheless, these units are not always effective and often fail to protect women. In one recent case, a girl seeking police protection after eloping with her boyfriend was turned over to her father, after the father allegedly

bribed the police officer. Soon after her release, the girl was stoned to death by her family, while the local authorities reportedly refused to intervene in what they perceived as a “tribal issue.”<sup>22</sup> Moreover, a report by the region’s Human Rights Ministry said that the number of women who committed suicide by burning themselves—an act that is often ordered by the family or otherwise associated with family pressure—increased from 36 in 2005 to 133 in 2006.<sup>23</sup>

Rape is treated as a private offense under the penal code, meaning the state cannot take action in a given case without the consent of the complainant or her legal guardian. The minimum penalty for various rape and sexual assault offenses is five years in prison, and the maximum ranges from 7 to 15 years depending on the nature of the crime and the age of the victim.<sup>24</sup> One of the most controversial provisions in the penal code is Paragraph 398, according to which a defendant is excused in cases of rape and sexual assault if he marries his victim. The law provides that the sentence will be reinstated or the prosecution will resume if the defendant divorces the victim without legal justification within three years. This law effectively sentences the victim to a minimum of three years with her rapist.

Women continue to be harassed or attacked by insurgents, militias, and Iraqi security forces for not wearing *hijab* (head covering) or otherwise failing to observe the perpetrators’ interpretation of proper Muslim attire. Women have also been victimized for driving and for walking or talking with unrelated males.<sup>25</sup> Iraqi police forces, who receive no training on these issues, have been at best indifferent and sometimes hostile to the victims. Even the few female members of the security forces are subject to sexual harassment from their colleagues. In a disturbing trend, Iraqi women have been increasingly used as suicide bombers. Some are desperate women seeking vengeance for a slain loved one or escape from poverty and abuse, while others—reportedly including women suffering from mental illness—are abducted by insurgents, raped, and then forced to become suicide bombers to save their honor. Between 2003 and mid-2008, 43 women carried out suicide bombings in Iraq, including 20 in the first half of 2008.<sup>26</sup>

Since the fall of the Ba’athist regime in 2003, dozens of NGOs have been active in spreading awareness of women’s personal status rights and the problem of gender-based violence, and in providing assistance to female victims. Local activists have received training and support from international NGOs, the World Bank, USAID, and the United Nations.



However, security problems have forced many NGOs to close down. In Basra, 9 of 12 volunteer organizations helping women have closed down since the U.S.-led invasion.<sup>27</sup> Death threats against NGOs that work on behalf of women have spread through the country. In Baghdad, female NGO workers have had to go undercover and chain their office doors.

Women's organizations also face bureaucratic hurdles. Those seeking to establish shelters for female victims of domestic violence, rape, and other abuse must obtain approval from four ministries and from the police. Among the NGOs that have continued to work on these issues are ASUDA Organization for Combating Violence against Women, the Amal Association, OWFI, the German charity WADI, and the Iraq Foundation, led by Rend al-Rahim, a former Iraqi ambassador to the United States. Currently, five women's shelters operate in Iraqi Kurdistan, including one run by ASUDA. Few shelters, if any, operate in Baghdad or Basra.

### *Recommendations*

- ❖ The government should reverse the 2004 change in passport rules and grant adult women the unrestricted right to obtain and use passports autonomously.
- ❖ The parliament should update the penal code to eliminate leniency for rape and sexual assault defendants who agree to marry their victims.
- ❖ The parliament should ban the practice of mut'ah marriage, imposing fines for violations and harsher penalties if coercion or fraud is involved. Indigent women involved in such arrangements should be treated as victims by the law, and should be referred to social welfare agencies for financial and other assistance. Women who become pregnant through mut'ah marriages should be entitled to child support.
- ❖ The government should provide extensive training programs for all security personnel on the international human rights standards. The police should also receive clear guidelines on how to deal with the instances of gender-based violence in an effective and sensitive manner.
- ❖ The government should remove unnecessary bureaucratic barriers to the establishment of shelters for abused women, and actively encourage the formation of such facilities in cooperation with local and international NGOs.
- ❖ The Iraqi government should investigate the commercial sexual exploitation of women and children within the country, and carefully distinguish between victims and perpetrators in their handling of these cases.



## ECONOMIC RIGHTS AND EQUAL OPPORTUNITY

Despite its enormous economic potential, Iraq has suffered from decades of Ba'athist misrule, warfare, and economic sanctions, and women have often borne the brunt of the consequences in terms of employment, property rights, and education. After the U.S.-led invasion in 2003, women's living conditions worsened on a variety of levels, particularly because the daily violence left many women widowed, displaced, or unemployed. The security situation has interrupted many girls' schooling, adding to the gender gap in educational attainment, and the distribution of government ministries to Islamist parties has made it more difficult for women to obtain public-sector jobs.

The constitution of 1970 encouraged women to enter diverse professions, and Article 22 of the 2005 constitution guarantees the right of work for all Iraqis. However, women have long been seen by the government as an auxiliary force that could meet the country's labor needs during crises and return to their homes when the need had passed. The 1970s and 80s featured a large increase in women working in the public sector, especially during the Iran-Iraq war, when Saddam Hussein urged women to fill men's places in schools, universities, hospitals, factories, the army, and the police. But women's employment subsequently decreased as they were encouraged to make way for returning soldiers in the late 1980s and the 1990s. After 2003, women hoped to secure equal opportunities to obtain employment in their chosen professions. However, the various government ministries were divided among political and sectarian groups, which in most cases favored male employees and would not employ women unless they belonged to the right party and sect and wore hijab. This screening process led to massive unemployment among women of all ranks and ages.

Iraqi women were early pioneers in the competitive and male-dominated world of commerce, but the country's long isolation from international trade and innovation severely limited the opportunities available to such entrepreneurs. After the fall of the Ba'athist regime, U.S. and international organizations launched extensive programs to support small and medium-sized businesses run by women, including water treatment facilities, textile factories, and construction businesses.<sup>28</sup> While some businesses have succeeded, others have failed or stalled due to escalating violence against the women who run them, and these women will face even greater risks once American forces withdraw from Iraq.

Sanja Kelly and Julia Breslin, eds., *Women's Rights in the Middle East and North Africa* (New York, NY: Freedom House; Lanham, MD: Rowman & Littlefield, 2010). Available in paperback, as a CD-ROM, and online at <http://www.freedomhouse.org>.

The lack of security has had a profoundly negative impact on women's economic participation, as many female professionals including doctors, engineers, politicians, teachers, and civil servants were exposed to violence. Growing killings and kidnappings have been orchestrated by extreme religious militias in an effort to dissuade women from working. In some instances, women were allegedly attacked out of envy or hatred by their male counterparts, who would hire gangs to carry out the crimes.<sup>29</sup> The more general violence in the streets caused many people, both men and women, to flee to safer areas at the cost of their livelihoods.

According to the UN, only 17 percent of women were participating in the labor market in 2007. Of those, 23 percent were unemployed and looking for work. Workforce participation was strongly associated with education levels; about 80 percent of women with a university education were seeking work or employed, compared with 30 percent of those with a secondary-level education and just 10 percent of those with only a primary-level education. The report noted the outsized role of the state in the economy, with public-sector workers almost doubling in number since 2005 and accounting for 43 percent of employed Iraqis (and nearly 60 percent of full-time employment). At the same time, full-time private-sector employment fell from 25 percent in 2003 to 17 percent in 2008. Iraq was consequently hit hard in 2008 when oil prices dropped sharply, causing a similar decline in the government's oil-dependent income.<sup>30</sup>

Iraqi female employees are allowed to work nightshifts in a small number of settings—such as public hospitals or university dorms—but not in factories or government offices, limiting their ability to compete in the job market. After 2003, at the urging of U.S.-led coalition forces, some Iraqi women enlisted in the military, joining their male colleagues in combat and raids on insurgents and criminal gangs. From 2004 to 2008, when attacks by female suicide bombers increased, the Iraqi government recruited women for the police force to search female civilians at checkpoints. In that respect, women's entry into the security field was essentially an accommodation of existing cultural sensitivities rather than an acceptance of gender equality.

Though Article 22 of the 2005 constitution stipulates that labor regulations would observe “the rules of social justice,” no new labor rules have been enacted, and both male and female employees are vulnerable to summary dismissal. The constitution's Article 14 and the 1987 labor code's Article 2 prohibit gender discrimination, and the code's Article 4

calls for equal pay and benefits. However, under the 1969 Worker's Social Security and Retirement Law, women can receive retirement benefits five years earlier than men, encouraging them to leave the workforce sooner. Women also face discrimination in promotions, and working women must adapt themselves to what are sometimes hostile, male-dominated working environments.

Under the Maternal Law of 1971, women in the public sector receive six months' paid maternity leave and may take a further six months of leave at half-pay. Private-sector workers are entitled to 72 days of paid maternity leave, and medical officials can extend that to a maximum of nine months if necessary, in which case the mother would receive social security payments rather than salary. The 1987 labor code states that pregnant women may not be assigned extra work that may cause harm to them or their pregnancy (Article 82), but these protections do not apply to women working informally in the agricultural sector. The code also grants nursing women one hour per day to feed their children (Article 87). Working women with children under six years old are allowed three days of unpaid leave at a time to care for a sick child. Women working in the private sector are generally more vulnerable than state employees, as they are not as well protected by the law and most private employers can violate their rights with impunity.

The labor code of 1987 and the penal code of 1969 protect working women from sexual harassment in the workplace, but in practice these laws are not enforced, and most women lack any knowledge of their labor rights. They are reluctant to come forward with complaints or charges, fearing humiliation, threats of violence, or social consequences. The country's fragile security situation exposes women to attacks or murder by the men they have accused of harassment, since the crimes can be attributed to the insurgency.

Article 23 of the 2005 constitution guarantees the protection of private property without distinction based on gender, stating that the owner "shall have the right to benefit, exploit and dispose" of it within the limits of the law. Consequently, Iraqi women are legally permitted to buy and hold property under their own names, although due to the current social and political situation, fewer women are able to exercise that right. Women also have full legal freedom to use their income and assets. They can open bank accounts in their name and receive bank loans or mortgages without the involvement of their husbands or male relatives. In practice, however, women are socially obligated to give up some or all of their income to help

support their unemployed husbands and relatives. Women are also legally able to bid for and sign contracts without male involvement, and they can enter into business partnerships with men without major social restrictions. Still, they face obstacles including the societal perception that men are better at running businesses, making critical decisions under pressure, and taking on the risk necessary to succeed.

The 1959 personal status code guaranteed equal inheritance rights to men and women in most cases, but subsequent amendments restored Shari'a-based rules by which daughters and wives typically receive half the share of sons and husbands. Women frequently face pressure to give up their inheritance to brothers or other family members, and in some cases male relatives will forge a woman's signature or otherwise deceive the court to obtain her share. Even in cases where women are aware of their legal rights, they are often reluctant to bring the matter to the courts rather than resolving the dispute privately.

Education is free for both girls and boys at all levels, and Article 34 of the 2005 constitution identifies it as a right guaranteed by the state. Primary schooling is compulsory. Education boomed after the Ba'ath Party took power in 1968 and announced free education and a literacy campaign across Iraq. However, conditions deteriorated in the 1980s and 90s, in part because war and economic sanctions compelled many women to leave school and either obtain low-paying jobs or get married to ease the economic burden on their families. After the U.S.-led invasion in 2003, many schools and universities were looted and burned. The U.S. government, NGOs, and international organizations including the World Bank helped to shore up the educational infrastructure, but the daily violence between 2003 and 2008 kept some schools closed for weeks at a time, and parents were often hesitant to send their daughters to school. There was a huge drop in female enrollment due to the fear of violence or abduction.

Schools for younger children and most universities are mixed gender, but schools for children at the middle and secondary stages are segregated. Male and female students study the same materials with a few exceptions; for example, biology books for female students are slightly different, especially on sexual subjects. Female students also have little access to vocational schools or technical universities, due in part to social and cultural changes and the rise of Islamist political parties after 2003. Some families have a substantial influence over whether, what, and where their daughters

will study. They may send their girls to an all-female college, determine their field, or compel them to marry rather than pursue higher education. In rural areas, most girls attend school only through the primary level, after which they stay home to help in the fields or marry.

Educational attainment for girls has consistently lagged behind that of boys. According to the 2006–07 WHO survey, 26.8 percent of women in all age groups had never attended primary school, compared with 14.6 percent of men; similarly, 13.7 percent of women had completed secondary school, compared with 21.9 percent of men. The survey also found that 17.3 percent of women aged 15 to 49 had no education; the remainder had attended at least primary school, with 22.5 percent reaching the secondary level and 11.7 percent attending higher education. Overall, 65.7 percent of women in this age group were literate.<sup>31</sup> Another household survey conducted by Iraqi and Kurdish statistics agencies in cooperation with the World Bank found that 88.4 percent of men and 73.6 percent of women over age 10 were literate.<sup>32</sup>

After 2003, women's rights groups—with the help of international actors—worked effectively under very difficult circumstances to educate women about their economic rights and encourage female participation in the economy. For example, the U.S. Army's Project and Contracting Office promoted the use of female-owned businesses in the reconstruction effort. As of February 2006, over 250 contracts worth a total of more than \$250 million had gone to such businesses.<sup>33</sup> By about the same time, USAID had awarded nearly 60 percent of its small-business grants to women.<sup>34</sup> Many women remain unfamiliar with their economic rights, but there are some signs that NGO education and advice programs, along with television and radio campaigns, are reaching growing numbers of women.

### *Recommendations*

- ❖ The parliament should enact new laws regulating employment and business activity, with specific language emphasizing women's rights as workers, managers, entrepreneurs, and retirees. These protections should include effective complaint and enforcement mechanisms, particularly for the neglected private sector.
- ❖ The parliament should restore equality in inheritance rights for men and women, and establish more rigorous court procedures to ensure that women receive their fair share in practice.

- ❖ The government should offer financial incentives that encourage poor families to keep their daughters in primary and secondary school, and special stipends to help women pursue higher education.
- ❖ The government, state banks, and private banks should adopt measures designed to provide women with business loans, and NGOs should help educate female business owners on the means of marketing and profiting from their skills and products.
- ❖ The government should actively pursue the hiring and promotion of women in all fields of the public sector. Instances of political, religious, or gender bias against women in personnel decisions should be methodically investigated and punished.
- ❖ The parliament must draft and enact laws to regulate the activities of foreign companies and provide basic labor protections for foreign workers in Iraq.

## POLITICAL RIGHTS AND CIVIC VOICE

Iraqi women were actively involved in the movement against British occupation in the early 20th century, and they organized political and cultural organizations to fight for women's rights in the 1940s and 50s. After the Ba'ath Party came to power and eliminated all independent groups, women's participation in politics was limited. Beginning in 2003, however, they gathered spontaneously and organized themselves to renew their involvement in political life. In 2004 and 2005, they mounted a successful campaign of rallies and lobbying to secure a 25 percent quota in the parliament and incorporate that rule into the new constitution. Still, electoral laws have been formulated in a way that allows female representation to fall below 25 percent in provincial councils, and women remain underrepresented in national government and the judiciary. Insurgent and other violence in recent years has prevented women from exercising their rights to free assembly and expression.

Article 20 of the 2005 constitution specifically grants the right to vote and run for office to both men and women. However, many female candidates who ran in elections over the past four years, beginning with January 2005 elections for a Transitional National Assembly (TNA), have faced significant obstacles, including having their campaign posters torn down. They also received threats or warnings not to campaign in conservative districts of Baghdad and other cities. Some female candidates decided

not to place their posters on the streets because of the lack of security. Female politicians generally face more barriers and dangers than their male counterparts, as they usually have less experience and need to counter the widespread belief that women are less capable in politics than men. They also tend to enjoy less financial independence and have fewer social or professional contacts than male candidates.

Voting patterns of Iraqi women often vary according to educational levels; social, tribal, and sectarian pressures; and support from male family members. During the January 2005 TNA and provincial council elections and the December 2005 elections for a permanent Council of Representatives (parliament), many men demanded that their wives, sisters, and mothers vote as they instructed. Even in the Kurdish region, women frequently followed their male family members' orders. When a group of women were asked for whom they would vote in the July 2009 Kurdish elections, they said they would support "the political entity which their husbands or parents vote for." Very few expressed personal interest in political party platforms, while most said that they only voted because of family pressure.<sup>35</sup> In part due to these cultural attitudes, important women's issues, such as unemployment, assistance for unmarried women over 30, and domestic violence are rarely addressed in election campaigns.

Article 49 of the 2005 constitution states that electoral laws should "aim to achieve" a 25 percent minimum quota for women in the parliament. That year's elections law called for women to occupy one out of every three names on a party's candidate list, and the rules ultimately succeeded in meeting the quota. However, women's numbers in the legislature declined from 87 of 275 after the January 2005 TNA elections to the current 70 of 275, partly because of party fragmentation.<sup>36</sup> As of the end of 2008, women chaired two of the parliament's 24 standing committees.

There are no women among the country's 18 governors. Although the constitution does not call for it, the electoral laws governing provincial elections have included provisions—similar to those for the national parliament but staying shy from the actual quota—to encourage female representation in provincial councils. In practice, however, the results have varied from place to place, often falling below 25 percent.<sup>37</sup>

Women are also underrepresented in the national government structures. They occupy only 4 of 36 posts in the cabinet: Environment, Housing and Construction, Minister of State for Women's Affairs, and Human Rights. In 2004, they held 6 of 28 posts. Women also head two of the



eight ministries of state, Women's Affairs and Tourism and Antiquities. The Ministry of Women's Affairs (MSWA) was established in 2003, but has been severely underfunded and has not implemented any major reform efforts. There are a handful of female ambassadors serving in Iraqi embassies around the world, an encouraging sign considering that high level diplomatic posts were previously assigned almost exclusively to men.

Women can organize and participate in political parties and processes at all levels, but due to societal attitudes, not many do so. After the fall of the Ba'athist regime, numerous political parties began to emerge or return from exile, all run entirely by men. To meet the election quotas, they deliberately chose obedient or conservative women as candidates on party lists. In general, many male party leaders view their female colleagues as too mentally and physically weak to handle high-level roles. In 2005, female intellectuals and advocates for women's rights attempted to establish their own parties, but they failed because they did not get the necessary financial support or encountered open hostility. Women have made somewhat more political progress in Iraqi Kurdistan, but they still face many obstacles.

The United Iraqi Alliance (UIA), an electoral bloc representing the main Shiite Islamist parties, secured a plurality of 41 percent in the December 2005 parliamentary elections and sent the largest number of women to the legislature. Women who joined the UIA had to abide by the Islamic clothing code and represent the conservative vision of their respective parties, applying their interpretations of Shari'a to all women's issues. Generally, male members of parliament hesitate to discuss any issue related to women, because power rests in the hands of hard-line Islamist leaders. Women's issues are seen as less of a priority than concerns about the country's devastated infrastructure, soaring unemployment, the insurgency, daily violence, and reforming the Ba'athist-era laws. Women in Kurdish parties, secular Arabs, and independent members of parliament have made a greater effort to push for women's rights.

Since the 1920s, women have participated in the judicial system as lawyers, legal advisers, criminal investigators, prosecutors, social workers, clerks, and crime lab assistants. Zakkiya Haqqi became Iraq's first female judge in 1959, a major advance in the Arab world at the time; she is now a member of the Iraqi parliament. In 1976, women were admitted to the Judicial Institute in Baghdad and were appointed as judges and prosecutors. Saddam Hussein forbade women from entering the Judicial Institute in 1984, and retained



only those who had been judges before the decree. He did not bar women from being lawyers, prosecutors, and clerks in the courts.

Since 2003, the Iraqi Higher Judicial Council has appointed former graduates of the Judicial Training Institute to the bench. Still, only 4 of 79 new judicial appointees in 2006 were women. As of late 2006, just 13 of the 738 judges outside Iraqi Kurdistan were female, while the Kurdish region itself had only three female judges, all in the juvenile courts. However, this number appears to have increased. The UNDP announced that 57 female judges received training regarding women's rights, international and Iraqi standards for the right to fair trial, and modern legal research tools during a workshop held in February 2009.<sup>38</sup>

Despite this training and other similar initiatives, the few women who have secured positions as judges have a limited role and reduced means of gaining judicial experience. They are excluded from the personal status courts and criminal courts, and are found only in the juvenile courts and the civil courts of first instance. There are no female judges in the Court of Cassation, the 18 provincial appellate courts, or the Federal Supreme Court appointed in 2004. Also as of late 2006, women comprised 16 of the 205 prosecutors in the central and southern regions of Iraq; roughly 150 were employed by the Office of the Prosecutor General in Iraqi Kurdistan.<sup>39</sup> Some female lawyers run private offices. Female lawyers are generally hired to address personal status cases involving divorce, marriage, and inheritance, as well as some business contracts and criminal cases.

Some conservative provinces strongly resist admitting women into the judicial system. In mid-2003, a U.S. military administrator in Najaf abandoned his attempt to appoint the city's first female judge after Shiite religious authorities—including Grand Ayatollah Ali al-Sistani—issued edicts that tacitly or openly opposed the move.<sup>40</sup> With the exceptions of Baghdad and Kurdistan, female lawyers face discrimination from their colleagues and sit in separate waiting chambers in courts. Many of them have been urged by their brothers, spouses, or fathers to stay home because of family obligations or to avoid conflict with males that could endanger their security. Female lawyers have also received death threats urging them to stay home, and some have been killed by their clients' opponents, though the death toll in recent years remains unclear.

Article 38 of the 2005 constitution guarantees the freedoms of expression, the press, and peaceful assembly, provided they do not violate public

order or morality. But women took to the streets to defend their interests as early as 2004, demonstrating against the proposed Resolution 137 of the Transitional Administrative Law, which would have repealed the 1959 personal status code and placed decisions over family matters in the hands of religious authorities. At the same time, women demanded a firm quota for representation in the parliament. After a series of peaceful rallies and related media coverage, Resolution 137 was withdrawn and women were granted the 25 percent parliamentary quota. Many Iraqi women considered that victory a first step in demanding more rights. Since no women were included on the committee drafting the 2005 constitution, activists and NGOs organized lectures, workshops, and meetings across the country to raise awareness of the importance of women's rights.

When Resolution 137 returned in the new constitution in the form of Article 41, women went to the streets again, successfully demanding the article's suspension. The deterioration of Iraq's security situation—particularly after the February 2006 bombing of the Golden Dome, an important Shiite shrine in Samarra, triggered an escalation in sectarian violence—prevented further peaceful demonstrations on behalf of women's rights. Yet activists and NGOs have continued to arrange meetings and workshops inside and outside the country, training women in leadership, debating, and organizational skills.

Women similarly used media outlets to promote their interests after the fall of the Ba'athist regime in 2003, only to face violence and regression as security worsened. Many members of NGOs were threatened or killed for appearing on television or radio, or for criticizing Islamist rules imposed on women. In the autonomous Kurdish region, journalists who wrote unfavorable articles about the government and security forces were arrested, and some were killed. In other parts of Iraq, both male and female journalists were beaten, arrested, and killed for their writing on insurgents, the government, or political parties. The authorities did very little to investigate such cases, and to make matters worse, the government proposed new laws that would tighten its control over political parties, NGOs, and the media. The government also put media outlets under close scrutiny to encourage self-censorship, and at one point barred journalists from covering sessions of the parliament.

In February 2004, Yanar Mohamed, a prominent women's rights activist and founder of OWFI, received death threats for campaigning to repeal Resolution 137; she went into hiding but kept working. Another leading

activist was not so lucky. Nahla Hussein, leader of the Kurdish Communist Party's women's league, was found beheaded in her home in the northern city of Kirkuk in December 2008.<sup>41</sup> Most cases of threats and attacks on activists, including those with male victims, go unreported and are not investigated by the authorities.

All Iraqis, including women, have unrestricted access to online information, but this access has been hampered by the country's weak infrastructure and the lack of basic services like electricity. Many women cannot afford computers or face other financial barriers. Though women's NGOs and international partners such as USAID and UNDP have provided computer training centers, the priority has been to get women involved in politics, the economy, health care, and human rights issues. Iraqi women's NGOs are trying their best to organize workshops for that purpose, but the hardships of life in Iraq, and the inability of the government to protect women from kidnapping, rape, and murder, has led many women to stay at home.

In general, the daily need to secure electricity, water, food, and health has made most women in the suburbs and provinces indifferent to political participation—even if they have acquired political knowledge through the broadcast media or discussions with male family members. Most have lost faith in their female representatives and the government, which has failed to fulfill its promises to improve their lives. Women in rural areas are more isolated and unaware of their civil and political rights, living in closed, conservative communities dominated by family and tribe.

### *Recommendations*

- ❖ The government should take concrete steps to systematically train and recruit female judges for service at all levels of the judiciary and in all parts of the country.
- ❖ The government should elevate the MWSA to a full ministry with an independent budget and a clear mandate developed in consultation with women's NGOs. Its functions should include monitoring other state entities and vetting proposed laws and constitutional amendments for possible violations of women's rights.
- ❖ The government, in cooperation with local and international NGOs, should integrate the idea of women's participation in politics through awareness campaigns and provide capacity-building training for emerging female leaders.

- ❖ The Iraqi government and the Kurdish regional government must lift all restrictions on free expression and the media. Journalists and other media workers must be given wide latitude to do their jobs in accordance with their constitutional rights.
- ❖ The government should create standing task forces—including police, prosecutors, and representatives of other security agencies—to investigate and punish crimes against journalists and civil society activists.

## SOCIAL AND CULTURAL RIGHTS

The dire security situation that prevailed in the years after the U.S.-led invasion severely hampered women's full and equal access to health care. Civilians attempting to travel to hospitals—particularly in Baghdad—had to avoid false checkpoints erected by insurgents and sectarian death squads, who targeted individuals based on their apparent ethnic or religious affiliations. Several sick and pregnant women were killed by U.S. soldiers looking to ward off insurgent attacks, or by the attacks and bombings themselves. Because of these hazards, women are often forced to wait until they face a real health emergency before seeking professional care, and summoning an ambulance has become nearly impossible in some areas, as the vehicles risk being ambushed by insurgents or militias. Even if patients are able to reach a hospital, they could encounter armed groups inside, and medical staff are often swamped by the victims of bombings and shootings. Many women choose to give birth at home despite the lack of sanitation and medical expertise, leading to reports of death in childbirth.

Women are legally free to make independent decisions about their health and reproductive rights, but they are less able to exercise this freedom outside large cities. In rural areas and smaller, more conservative towns, contraceptives are not as readily available, and a woman's family members are more likely to control her health care choices. The custom in rural districts is to have many children to help support the family's farming efforts. Furthermore, greater poverty and ignorance about women's health issues leads many families in these areas to resort to folk remedies and informally trained midwives.

In small towns and villages, women generally cannot seek medical advice without the permission of their husbands or male guardians, and unmarried women especially are escorted to doctor's visits by male

guardians. This is less of a problem in urban areas, but it is still considerable. According to the 2006–07 WHO household survey, 72.4 percent of women in rural areas and 64.1 percent of those in cities reported having to ask permission to visit a health facility.<sup>42</sup> The breakdown in security after 2003 added to the difficulty of obtaining medical care. A male escort was seen as more of a necessity, and men were more likely to demand to be informed of women's whereabouts.

Abortion is generally allowed only in cases of rape, fatal defects in the fetus, or when continuing the pregnancy would endanger the mother's life. Illegal abortions are punishable by up to one year in prison under the 1969 penal code, which also states that shame as a motive is considered a mitigating factor when unmarried women or their family members induce miscarriages. Those who induce a miscarriage without the woman's consent face up to 10 years in prison.

Some Iraqi women continue to be subjected to harmful traditional practices like genital mutilation, as well as honor killings and forced marriages. Female genital mutilation (FGM) occurs almost exclusively in the Kurdistan region, where more than 60 percent of women have undergone the procedure, according to a study conducted in 2008 by the German charity WADI.<sup>43</sup> Legislation aimed at outlawing FGM has stalled in the Kurdish regional parliament, as government officials do not consider it a priority. However, women's rights groups in Kurdistan work relentlessly to change the perception that the practice is harmless and required by Islam.

Social norms generally prevent women from living without a husband or male relatives, as they would be considered vulnerable to robbery, rape, or assault, and the authorities would regard them as partly responsible for any such occurrence. In divorce cases, the disposition of the marital home is decided by the court based on the law and the husband's financial condition. If the divorced woman has custody of the children, the court will grant her the marital home for up to three years. Aside from child support, she is not entitled to any alimony from her former husband once the divorce is finalized, contributing to rising poverty among female-headed households. The Ministry of Labor and Social Services provides small monthly payments to divorced, widowed, disabled, and elderly women who prove that they have no male supporter or are very poor. However, many such women were displaced by the sectarian violence, disrupting their access to state benefits. Only about one in six widows, many of whom are homeless, are believed to receive state aid.<sup>44</sup>

Iraqi women have long been pioneers in social and community services. After the 2003 invasion, many female retirees and those who had been forced to leave their jobs for political or economic reasons began to participate in school boards, parent-teacher associations, and neighborhood associations, exercising a positive influence on life in their communities. However, the subsequent rise in violence forced many to return to their homes. Schools and other civic buildings became regular targets or sites for armed encampments; in 2006 alone, more than 300 teachers and Education Ministry employees were killed.<sup>45</sup>

There are no accurate statistics on how many women work in the numerous local media outlets that were opened after 2003 by the government, various political parties, and other interests. Most outlets are directed by men, but women manage to participate as broadcasters, talk-show hosts, announcers, print journalists, and even newspaper owners. Iraqi women journalists have proven that they can handle one of the most difficult professions in one of the most dangerous places in the world. Many have dared to criticize government dysfunction, official corruption, and abuses by both security forces and illegal armed groups, all despite death threats, harassment, abductions, and murders. According to the Committee to Protect Journalists, more than 130 journalists have been killed in Iraq since March 2003, and 11 of the victims were women.<sup>46</sup>

Depending on their political affiliations, media outlets either fight for women's rights, claim to espouse women's interests for political ends, or denounce the core concepts of women's rights as foreign and un-Islamic. Some women's issues like honor killings, FGM, and domestic abuse have been addressed—at least on the surface—by the Iraqi media. However, these and other such topics are still considered to be minor or prohibitively complicated problems, and the government has subordinated them to its broader security interests. In 2007, after a woman appeared on the satellite television station Al-Jazeera and claimed that she had been raped by police officers, Prime Minister Nuri al-Maliki quickly denounced the account as a fabrication designed to discredit the security forces. The accused officers were promised promotions, and the woman was ultimately arrested.<sup>47</sup>

Iraqi and Arab periodicals deal with general subjects involving women, including beauty, cooking, home management, and family health care, but there are few articles on more sensitive subjects. Stories on domestic abuse sometimes excuse men's behavior as a result of trauma and harsh economic conditions, and advise women to be patient and defer to their husbands to

protect the family union. This is consistent with the stereotypical view that Muslim women should obey their husbands except when doing so would contradict Islam. Despite such counterproductive content, periodicals also include articles calling for tolerance, understanding, and promotion of women's interests.

Iraqi women's rights activists and NGOs continued to work while maintaining a low profile during the worst of the violence in the country. Many NGOs workers were targeted by security forces, militias, insurgents, and gangs, either because of their progressive ideas or clothing, or for simple criminal reasons. Few cases were investigated, and the government did not provide any protection or support for these NGOs. Although the violence has abated considerably in the last two years, attacks on female activists continue, and the affected NGOs have maintained their security precautions. Even so, they have managed to remain active, creating shelters for victims of violence and setting up training centers to combat illiteracy, provide handicraft and computer skills, offer civil rights instruction, disseminate health information, and help women open small businesses.

### *Recommendations*

- ❖ The government should encourage or sponsor independent media outlets and programs dedicated to educating women about their own worth as well as the skills of debate and constructive criticism, human rights, legal and religious rights, and free expression—all within the context of the positive values of Iraqi society and religion. This will help to confirm that these values are not imported from abroad, making it easier to confront the opponents of women's rights using their own language and terms.
- ❖ The government should reopen community recreational and educational centers where men and women of all ages can pursue their interests in sports, science, literature, and social development.
- ❖ The Kurdish regional parliament should decisively outlaw FGM and authorize an information campaign designed to discourage the practice. The regional government should work with NGOs to monitor the incidence of FGM in Iraqi Kurdistan over time.
- ❖ The government should set the levels of state aid to widows and other vulnerable women so as to match the cost of living in the country, and reduce bureaucratic hurdles that prevent potential recipients from benefiting. The government should sponsor shelters for homeless women

and children that provide rehabilitation services and assistance in locating permanent housing.

- ❖ International and domestic NGOs should organize training workshops for the media on how to report on events in a gender-sensitive manner, without perpetuating stereotypes against women.

## AUTHOR

**Huda Ahmed**, an Iraqi journalist, served in Baghdad as a special correspondent and translator for the *Washington Post* from 2003 to 2004, and for McClatchy Newspapers from 2004 to 2006. She has reported on and provided translation for a wide range of breaking news and feature stories, and was recognized by Knight Ridder's Washington bureau for "extraordinary" bravery in covering combat during the siege of Najaf in 2004. Ahmed received the International Women's Media Foundation Courage in Journalism Award for 2007, as well as the foundation's Elizabeth Neuffer Fellowship. Also in 2007, she received a joint fellowship at the Center for International Security and Cooperation and the Center for Democracy, Development, and the Rule of Law—both parts of the Freeman Spogli Institute for International Studies at Stanford University. Currently, Ahmed is a graduate student at the University of California at Berkeley, studying both journalism and international and area studies. She hopes to return to the Middle East to continue her work as a journalist.

## NOTES

- <sup>1</sup> An English translation of the law, with subsequent amendments, is available on the American Bar Association's website at [http://www.abanet.org/rol/publications/iraq\\_personal\\_status\\_law\\_1959\\_english\\_translation.pdf](http://www.abanet.org/rol/publications/iraq_personal_status_law_1959_english_translation.pdf).
- <sup>2</sup> Judith Colp Rubin, "Women in the New Iraq," *Middle East Review of International Affairs* 12, no. 3 (September 2008), <http://www.merajournal.com/en/asp/journal/2008/september/rubin/3.pdf>.
- <sup>3</sup> Iraq Legal Development Project, *The Status of Women in Iraq: Update to the Assessment of Iraq's De Jure and De Facto Compliance with International Legal Standards* (Washington, DC: American Bar Association, December 2006), [http://www.abanet.org/rol/publications/iraq\\_status\\_of\\_women\\_update\\_2006.pdf](http://www.abanet.org/rol/publications/iraq_status_of_women_update_2006.pdf).
- <sup>4</sup> The article states: "Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law." An English version of the constitution can be found at [http://www.uniraq.org/documents/iraqi\\_constitution.pdf](http://www.uniraq.org/documents/iraqi_constitution.pdf).



- <sup>5</sup> In 2006, Prime Minister Nuri al-Maliki instructed the ministry to stop providing mortality figures to the United Nations as well. See Colum Lynch, "Iraq Aims to Limit Mortality Data," *Washington Post*, October 20, 2006.
- <sup>6</sup> Timothy Williams, "Iraq's War Widows Face Dire Need with Little Aid," *New York Times*, February 22, 2009.
- <sup>7</sup> Iraq Legal Development Project, *The Status of Women in Iraq*, 62.
- <sup>8</sup> Afif Sarhan, "Hitmen Charge \$100 a Victim," *The Observer*, November 30, 2008.
- <sup>9</sup> Basim al-Shara, "Honor Killings Remain Above the Law in Iraq," *Kuwait Times*, April 9, 2008, [http://www.kuwaittimes.net/read\\_news.php?newsid=MTIyNzM4ODE3Ng==](http://www.kuwaittimes.net/read_news.php?newsid=MTIyNzM4ODE3Ng==).
- <sup>10</sup> Bureau of Democracy, Human Rights, and Labor, *2008 Human Rights Report: Iraq* (Washington, DC: U.S. Department of State, February 25, 2009).
- <sup>11</sup> Division for the Advancement of Women, "Declarations, Reservations and Objections to CEDAW," UN Department of Economic and Social Affairs, <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>.
- <sup>12</sup> Missy Ryan, "War-Weary Aid Groups Weigh Risk, Need in Iraq," Reuters, November 21, 2007, <http://www.reuters.com/article/middleeastCrisis/idUSRYA739414>; Inter-Agency Information and Analysis Unit, "The Humanitarian Situation in Iraq: Inter-Agency Fact Sheet," UN Office for the Coordination of Humanitarian Affairs, August 2009, <http://www.uniraq.org/documents/Factsheet-EnglishR190809.pdf>.
- <sup>13</sup> Article 17 of the 1959 personal status code.
- <sup>14</sup> Alexandra Zavis, "Iraq Marriages Are a Casualty of War," *Los Angeles Times*, April 13, 2008; Hazim al-Shara, "Mixed Marriages Survive Conflict," Institute for War and Peace Reporting, September 24, 2008.
- <sup>15</sup> Iraq Legal Development Project, *The Status of Women in Iraq*, 96–97, 108.
- <sup>16</sup> Mut'ah marriages are not specifically addressed in the 1959 personal status code.
- <sup>17</sup> Judith Colp Rubin, "Women in the New Iraq," 44; "Iraq: Women's Groups Blast 'Temporary' Marriages," IRIN, January 23, 2006, <http://www.irinnews.org/report.aspx?reportid=26074>; Isobel Coleman, "Women, Islam, and the New Iraq," *Foreign Affairs* (January/February 2006).
- <sup>18</sup> Judith Colp Rubin, "Women in the New Iraq," 44.
- <sup>19</sup> Divorce procedures are covered in Articles 34–50 of the 1959 personal status code.
- <sup>20</sup> "Iraq-Syria: Sex Traffickers Target Women in War-Torn Iraq," IRIN, October 26, 2006.
- <sup>21</sup> Rania Abouzeid "Iraq's Unspeakable Crime: Mothers Pimping Their Daughters," *Time*, March 7, 2009, <http://www.time.com/time/world/article/0,8599,1883696,00.html?xid=rss-world#ixzz0WVVVISIA>.
- <sup>22</sup> "Kurdistan Aziz: Another Victim of Stoning," IKWRO, June 6, 2008, [http://www.ikwro.org.uk/index.php?option=com\\_content&task=view&id=298&Itemid=26](http://www.ikwro.org.uk/index.php?option=com_content&task=view&id=298&Itemid=26).
- <sup>23</sup> "Iraq: 'Honour Killings' Persist in Kurdish North," Integrated Regional Information Networks (IRIN), December 6, 2007, <http://www.irinnews.org/Report.aspx?ReportId=75714>.
- <sup>24</sup> Revolutionary Command Council Decision No. 488 of 1978 introduced the death penalty for certain cases of incest. Such offenses would now result in a penalty of life imprisonment under subsequent revisions to the laws pertaining to the death penalty.

- <sup>25</sup> Silvia Spring and Larry Kaplow, "Sacrificed to the Surge," *Newsweek*, April 14, 2008, <http://www.newsweek.com/id/130602/page/1>.
- <sup>26</sup> Alissa J. Rubin, "Despair Drives Suicide Attacks by Iraqi Women," *New York Times*, July 5, 2008, [http://www.nytimes.com/2008/07/05/world/middleeast/05diyala.html?\\_r=1](http://www.nytimes.com/2008/07/05/world/middleeast/05diyala.html?_r=1).
- <sup>27</sup> Afif Sarhan, "Hitmen Charge \$100 a Victim."
- <sup>28</sup> See, for example, "Capacity Building for Women in Business: The Example of Iraq," *PSD Gender Notes* 1, no. 1 (May 2004), [http://www.ifc.org/ifcext/economics.nsf/AttachmentsByTitle/GI-PSDGenderNotes11.pdf/\\$FILE/GI-PSDGenderNotes11.pdf](http://www.ifc.org/ifcext/economics.nsf/AttachmentsByTitle/GI-PSDGenderNotes11.pdf/$FILE/GI-PSDGenderNotes11.pdf); "Women-Run Iraqi Firms Worry About US Departure" by Deborah Amos, National Public Radio, August 28, 2009, <http://www.npr.org/templates/storystoryphp?storyId=112304714>.
- <sup>29</sup> Deborah Amos, "Women-Run Iraqi Firms Worry About US Departure."
- <sup>30</sup> Inter-Agency Information and Analysis Unit, "Iraq Labour Force Analysis 2003–2008," UN Office for the Coordination of Humanitarian Affairs, January 2009, [http://www.iauiraq.org/reports/Iraq\\_Labour\\_Force\\_Analysis.pdf](http://www.iauiraq.org/reports/Iraq_Labour_Force_Analysis.pdf).
- <sup>31</sup> World Health Organization (WHO), *Iraq Family Health Survey 2006/7* (Amman: WHO, 2008), 13, 17, [http://www.emro.who.int/iraq/pdf/ifhs\\_report\\_en.pdf](http://www.emro.who.int/iraq/pdf/ifhs_report_en.pdf).
- <sup>32</sup> World Bank, Central Organization for Statistics and Information Technology (COSIT), and Kurdistan Region Statistics Organization (KRSO), *Iraq Household Socio-Economic Survey (IHSES)—2007* (Amman: National Press, 2008), <http://go.worldbank.org/CBZHBK9N00>.
- <sup>33</sup> Ylli Bajraktari, "Economic Empowerment of Women in Iraq: The Way Forward," United States Institute of Peace Briefing, May 2006, <http://www.usip.org/resources/economic-empowerment-women-iraq-way-forward>.
- <sup>34</sup> USAID, "USAID Support to Iraqi Women," fact sheet, March 2006, [http://www.usaid.gov/iraq/updates/mar06/iraq\\_fs19\\_031006.pdf](http://www.usaid.gov/iraq/updates/mar06/iraq_fs19_031006.pdf).
- <sup>35</sup> Qassimk Khidhir Hamad, "Kurdish Women Political Voice Unheard," Iraq Oil Report, July 8, 2009, <http://www.iraqoilreport.com/life/kurdish-women-political-voice-unheard-1929>.
- <sup>36</sup> A proliferation of smaller parties can lead to lower female representation. If each party secures seats only for its top one or two candidates, the women occupying the third position on the party lists will be excluded.
- <sup>37</sup> Alissa J. Rubin and Sam Dagher, "Changes in Iraq Election Law Weaken Quota for Women," *New York Times*, January 13, 2009, <http://www.nytimes.com/2009/01/14/world/middleeast/14iraq.html>.
- <sup>38</sup> "Footprints," UNDP Iraq Quarterly E-Magazine, no. 5 (October 2009), [http://www.uniraq.org/documents/Footprint5\\_211009.pdf](http://www.uniraq.org/documents/Footprint5_211009.pdf).
- <sup>39</sup> Iraq Legal Development Project, *The Status of Women in Iraq*, 24–25, 163.
- <sup>40</sup> Neil MacFarquhar, "In Najaf, Justice Can Be Blind but Not Female," *New York Times*, July 31, 2003.
- <sup>41</sup> "Women's Rights Activist Beheaded in Iraq," CNN, December 18, 2008, <http://edition.cnn.com/2008/WORLD/meast/12/18/iraq.arrests/index.html>.
- <sup>42</sup> WHO, *Iraq Family Health Survey 2006/7*, 24.

- <sup>43</sup> Amit R. Paley, "For Kurdish Girls, a Painful Ancient Ritual," *Washington Post*, December 29, 2008.
- <sup>44</sup> Timothy Williams, "Iraq's War Widows."
- <sup>45</sup> Nancy Trejos, "Women Lose Ground in the New Iraq," *Washington Post*, December 16, 2006.
- <sup>46</sup> Committee to Protect Journalists, "Iraq: Journalists in Danger," <http://cpj.org/reports/2008/07/journalists-killed-in-iraq.php> (accessed September 3, 2009).
- <sup>47</sup> Ned Parker, "Woman Arrested Over Police Rape Claims," *Times* (of London), March 13, 2007.