

**List of Issues and Questions, by CEDAW Shadow Report Coalition of NGOs
CEDAW 57th Pre-session with the State of Iraq,**

Violence against women/ general recommendation (19)

1. Strategies and laws to combat violence against women

- a. **Strategy to Combat Violence Against Women** The federal government took a positive step, adopting the strategy in March 2013¹, co-written by CSOs. The strategy followed an approach exposing all kinds of violence against woman at all her life stages, the strategy framework relied on a number of international conventions including CEDAW Convention.

Strategy for the advancement of women the draft was prepared by local partners, through the past few years, with international support, but it has not been launched yet.

Protection from Domestic Violence Law drafted by a Committee of Experts with in partnership with CSOs, under the auspices of the Ministry of State for Women's Affairs, the draft is still lingering between Government, and Parliament.

We ask CEDAW Committee to:

- Urge the Iraqi government to adopt a mechanism for regular evaluation and qualitative and quantitative systematic progress in the implementation of the CVAW Strategy, and evaluate extends of violence against women in Iraq, allocating necessary gender budget. Committee Observation No. 185.
- Urge the government to launch the Protection from Domestic Violence Law and the implementation guidelines, in partnership with CSOs and media².
- We also recommend that the Committee encourages the government to launch the National strategy for Advancement of Women, allocating necessary resources for it

- b. The Kurdistan Regional Government passed the **Law on Combating Violence within Family, No. (8) of 2011**. The law prohibits (**female circumcision**), and criminalizes forced labor, child marriage, verbal, physical and psychological abuse of girls and women and child abuse, as well as child labor. It is a crucial step in eradicating the practice of female circumcision³. Despite the elapse of 2 years since the law passed, its implementation was faltered due to formation of the Reconciliation Committee that was stipulated by the law, hence it didn't create the expected legal protection for women⁴.

We recommend that the CEDAW Committee urges the Kurdistan Regional Government to:

¹ http://www.smwa.gov.iq/inside_page/239.html

² http://www.smwa.gov.iq/inside_page/239.html

³ In 2010, Wadi Society for Development Cooperation, German-Iraqi NGO, issued a study on the extent of this practice prevalence in Karmian/ Kirkuk, Sulia and Erbil, and found that the percentage is more than 40%

⁴ The study of IREX, American NGO in cooperation with local NGO "IAA", the goal of this study is to monitor the law enforcement by taking the opinion of local society, NGOs and the staff of concerned governmental institutions.

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- Complete the existing deficiencies in this law, issue regulations for the implementation of this law, form the competent court stipulated by this law, and to identify relevant ministries, to establish the Reconciliation Committee.
- Conduct broad awareness campaigns against the practice of female genital mutilation by identifying relevant stakeholders.

2. Widows and Divorcees: Widows in Iraq estimated 10% of the total Iraqi women population, around one million and half widows, widows and divorcees live under difficult conditions, discriminative social traditions⁵. The absence of accurate and official statistics made it difficult to draw/adopt clear policy to deal with the problem of widows and divorcees. In Aug 22nd, 2008, the government created the Department of Women Welfare.

Government report stated that the number of women beneficiaries of this service are around 83 Thousand widows, which is disproportionate to the real number of this category of women, as the Department of Women Welfare lacks rules of procedure with no allocated Budget, this Department didn't work on empowerment, capacity building, nor job placements for women, it only provided 90\$ monthly salary, where widows, in order to get it, have to deal with corruption over cost.

- We recommend for the Committee to urge the government to support the multi-purposes **program of the Department of Women Welfare**, by increasing the allocations in the annual budget of the Department and increasing the benefits for the widows and breadwinner women to **empower them economically**.
- We recommend to urge government to set up accurate and comprehensive **database for all widows and divorcees to support policy and program plans**
- We recommend that the Committee urges the government to take the necessary measures to issue the Social Security law, including widows and bread-winner women within this law in accordance with Article 30/Second in Iraqi constitution.

3. Forced Displacement: In 2013, around 1.1 million persons, continue to be internally displaced in Iraq (IDPs)⁶. The cause of displacement was the military operations; chaos and suicide bombs carried out by armed groups to intimidate Iraqis on the basis of sect, religion and ethnicity. The forced displacement led to the increase of closed population areas with one color (sect) threatens to change the national identity to a local or sectarian identity, and the absence of power the State and its institutions. The security is still witnessing deterioration, in addition to the deterioration of services and infrastructure. The displaced families suffered difficult living conditions as a result of the loss of employment opportunities.

The proportion of widows increased as a result of the forced displacement and acts of violence which led that the widow becomes the breadwinner for the family and these women face many challenges such as the instability of the security situation and the loss of jobs in addition to the social conditions with a stereotypical view on

⁵ Government Report CEDAW

⁶http://unami.unmissions.org/LinkClick.aspx?link=Documents%2fNewsletter%2fNewsletter_March2013_en.pdf&tabid=2790&mid=5913&language=en-US

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widows. The women of minorities, in particular, suffered from threats and assaults against their life, privacy and personal freedoms in their clothes and movement⁷. Government programmes are still unable to address the volume of problem or to deal with its negative impacts.

- We ask the Committee to direct a question to the government about **what are their programs of psychological and social rehabilitation for victims of displacement, particularly women and children?**
- We ask the Committee to direct a question to the government about what are their **measures and actions regarding the involvement of displaced women, in conflict zones, in the process of national reconciliation and peace-building?**
- We hope that the Committee urges the government to **adopt the recommendations of the report of the UPR:**
- To promote policies and continue to seek international cooperation to ensure the human rights of IDPs, including measures relating to their return or resettlement. Observation No. 125
- To urge the government to guarantee the rights of migrants and ethnic and religious minorities. Concluded Observation No. 122.
- To encourage the mass return of Iraqi refugees, and guarantee their rights and their reintegration into Iraqi unified society. Observation No. 123
- To adopt measures aimed at ensuring full respect for international law, human rights and international humanitarian law with regard to all refugees. Observation No. 124

4. UN Security Council Resolution No. 1325: over four decades, women in Iraq have been prominent victims of armed conflicts starting from the Iraqi-Iranian war 1980-1988, the Gulf War in 1991, the U.S. invasion in 2003 and the subsequent armed conflicts, this reflected negatively on the status of women in decision-making positions, especially in **excluding them from negotiations in the process of resolving disputes, national reconciliation and government formation. Many women faced cases of assassination, kidnapping and threats, in addition to the increase of sexual harassment of women.** the UN Security Council Resolution No.1483 on Iraq, issued on 22/05/2003 has stressed on the necessity of activating the Resolution No. 1325 in order to ensure equal rights and justice for all citizens without discrimination, despite the elapse of a decade of that decision but until now the Iraqi government has not fulfilled its obligations in terms of this Resolution as it did not adopt a national plan on this

We recommend that the Committee urges the Iraqi government to adopt a national plan to specify its priorities and coordinate for the implementation of Resolution No. 1325 at the local level, and subsequent related resolutions: 1612 / 2005, 1674 / 2006, 1820 / 2008, 1882 / 2009, 1888 / 2009, 1889/2009 , 1894/2009, 1960/2010.

⁷ "The number of widows is increasing and exceeded one million women according to various studies of UN and research centers, they live under forced displacement and social changes due to sectarian violence and instability" Iraqi woman MP: Woman rights in Iraq are declining, we live humanitarian disaster, Safia Al-Suhail, Baghdad, Noman Al-Haimas, "Middle East", 25/05/2006

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5. Death penalty: Today, Iraq is at the forefront of countries that have death penalty. The majority of those convicted of death penalty are men. According to the annual report of the Ministry of Human Rights on the situation of prisons and detention centers in Iraq in 2012, as the cases of execution cases during 2005 to 11/11/2012 reached to 447 persons, including 13 women. Five of those women were executed during 2012. There are 32 female inmates, awaiting execution, many of them awaiting execution since years⁸. These continuing executions in Iraq raised widespread concern at the local and international levels. **The United Nations Assistance Mission in Iraq (UNAMI), the UNHCR and the UN Special Rapporteur on extrajudicial expressed their concern about cases of arbitrary executions, and drew repeated calls to freeze the implementation of the death penalty in Iraq.**

The Iraq had supported the following recommendations of the UPR in 2010, first No. 47 states **(the pledge to abolish the death penalty, in the absence of cancellation, respect for the standards that restrict the scope of its application),**

Also, Iraqi Government pledged to come up with an action plan of the National Plan for Human Rights in Iraq, to take measures, including, harmonization with international agreements, and set a timetable for the completion of 15 months. (Human Rights Council UPR)

- We, kindly, request from the Committee to ask the Iraqi government about the measures undertaken, with regard to reducing the number of crimes covered by the provisions of Death penalty?

6. Women in detention centers and prisons: The annual report of the Ministry of Human Rights on the situation of prisons and detention centers ⁹in Iraq in 2012 indicates that there is a large overcrowding in prisons above its capacity¹⁰. report. The total number of detainees, as the report indicated, was 1165 until the end of 2012 across the prisons and detention centers in Iraq.

Recommendations to the CEDAW Committee to urge the Iraqi government to:

- **Follow-up allegations of crimes of torture and rape, calling for extreme punishment for such crimes, bring the perpetrators to justice, and activation of judicial oversight at all stages of investigation and trial.**
- **Female detainees: hurry investigation procedures in the presence of female cadres, and the release of those without charges, immediately, or transfer them to a fair and impartial trial.**

⁸Ms. Summer Saad Abdullah, who was convicted with death penalty in 2005, after she confessed of killing a number of her relatives, but she alleged later on that she was forced to confess after she was tortured during the interrogation.

⁹<http://www.humanrights.gov.iq/uploads/ali%20pdf/final2012.pdf>

¹⁰ The women prison in Baghdad has the capacity of 250 inmates, whereas the actual number of inmates is 421, and the girls reform school in Baghdad has the capacity of 30, whereas the actual number of girls in the school is 60 girls (table 16 of the said report), this has a negative impact on the psychological and health conditions and the level of services there. There is an increasing number of cases of leprosy in the central women prison (site 4) from 15 cases in 2011 to 39 cases in 2012, including 7 cases of their children, due to the negligence in the sanitary and precautions aspects.

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- **Establishment of prisons for women, with compatible measures of faculty to respond to human rights of convicted women.**

Article 2: Equality in National Legislations

7. Personal Status: Article 41 of the Constitution of 2005: Article 41 of the Iraqi Constitution of 2005 stated that (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). This is disputable article **contradict with article 14 of constitution that states " Iraqis are equal before the law without discrimination based on gender, race, ethnicity, origin, color, religion, creed, belief or opinion, or economic and social status"**, it also entrenches sectarianism concept within the community vs. citizenship, and targets the cancellation of the Personal Status Law No. 188 of 1959 that preserves many rights for women such as marriage, divorce, alimony and guardianship. The Constitutional Revision Committee responded to CSOs lobby, to enlist **Article 41** among the few **disputable Articles**, the report of Constitutional Revision Committee was not submitted to the Council of Representatives, and the Committee stopped its work since summer 2009. We recommend that the CEDAW Committee:

- **Urges the government to cancel article 41** from 2005 Constitution and make amendments to the valid Personal Status Law in consistence with the amendments made by Kurdistan Region Government on the law itself (Law No 15 of 2008),₂ and to consider any amendments in the constitution to be consistent with the provisions of CEDAW and human rights agreements signed by Iraq.

8. National penal provisions which constitute discrimination against women: Women in Iraq did not enjoy fully the equality as stipulated in the 2005 **Constitution - Article 14** thereof, as still they continue to **suffer from discrimination** in some penal provisions contained in the **Penal Code No. 111 of 1969, especially in articles (41, 377, 38, 398, 409, 427)**, and these **articles address: Husband's right to discipline wife, crimes of rape, adultery and so called honor crimes** Ministry of Human Rights suggested to Government to amend/cancel these articles based on the Constitution, but inefficient state institutions and lack of political will, disrupted the procedure. **Honor crimes in the Kurdistan region, Article 409 of the Iraqi Penal Code 111 of 1969 was halted; it is now considered as an ordinary punishable murder approved in Article 405 of the same law, and its amendments, which is life imprisonment¹¹.**

- We ask the government, through the Committee, to declare its position on **legislations that perpetuate gender inequality and discrimination before the law, in particular, the Penal Code and the Criminal Procedure Law No. 23 of 1971?**
- We recommend to the CEDAW Committee to **encourage Iraq to ratify the Optional Protocol to CEDAW to ensure and provide protection for women rights, and the harmonization of national legislations with the existing standards in**

¹¹ Despite that, there are many cases of honor killings in the Kurdistan region, according to local and international CSOs reports, stating many cases of women killing under honor pretexts, covered with the pretext of accidental death or suicide of women, The project of Strategy for Combating Violence against Women in Kurdistan Region

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- international conventions on human rights ratified by Iraq, and the application should include the Kurdistan region as well.
- **Recommendation No. 70 of the UPR, "strengthens measures to address the alleged acts of violence against women and girls, especially crimes of honor, as one of the worst forms of violence against women and girls, and put an end to impunity.**
 - **We recommend to the CEDAW Committee to urge the Kurdistan Regional Government to disband all the illegal sections with regard to murders and conflicts among individuals, with the activation of the amended text (409) by strengthening the investigating agencies to detect cases of murdering women, and chasing criminals to bring them to justice.**
 - **Urge Kurdistan parliament not to ratify the laws of a general amnesty for crimes of honor killings, even if there is a conciliation between the parties, as well as to withdraw the authority from the presidency of the region in terms of pardon in such crimes.**

9. Legal discrimination in personal and civil cases against non-Muslim women

Freedom of Religion: According to article 21 / third of the Civil Status Law No. 65 of 1972, a minor child, is registered as Muslim, following a conversion of any of the parents to Islam, this to be logged in their civil records without the minor awareness. The Court of Cassation in Iraq, and since 1976, agreed on the principle of that a minor, who was registered a Muslim, following the faith of one of his parents, upon maturity, be given the right to choose/return to the religion of one of his/her parents before conversion to Islam, to file a claiming to Family Court requesting the return to his former religion (the rule of the Court of Cassation No. 2.1 / second public body / 1976, on 25/12/1976). But the Court of Cassation lately issued its ruling No. 285 / first personality / 2008 dated on 31/12/2008 that contradicts with previous rulings in this regard, where it prevents the defendant who became a Muslim to return to its previous religion and considered it as apostasy which is prevented by Islam. This decision contradicts with the rule of legality in Islam, which states that "no compulsion in religion," and contradicts with the provisions set out in the Iraqi constitution on the State guarantee to protect the individual from intellectual, political and religious coercion (article 37 / Second) and freedom of thought, conscience and religion (Article 42). It is a problem faced by many Christian, Mendaiis, Azdians and non-Muslims families in general.

- **We recommend the CEDAW Committee to encourage the Iraqi government to comply with the rule of the Court of Cassation No. 2.1 / second public body / 1976, on 25/12/1976 granting a minor, the right to return to its original religion upon reaching the age of maturity.**

Marriage and inheritance provisions: Article 17 of the acting Personal Status Law stipulates "It is permissible for Muslim man to marry a woman follower of Biblical religion, yet this is not allowed for a Muslim woman", in article 18 of the said law, stipulates "If any of the spouses Converted to Islam, before the other, to stay married or separated will then be decided by Islamic Sharia, accordingly."¹² **Which contradicts the Iraqi Constitutional provisions, and in particular the provisions of the article (14).**

¹² Which means: when the husband converts to Islam, it is permissible for his wife not to, if she is a follower of Biblical religion, i.e. Azdians are not considered biblical, and therefore an Azdian woman needs to convert to Islam before marrying a Muslim. If one of the

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- We recommend that government reviews **discriminatory legislative provisions, to take the necessary measures, and TSM, designed to create an environment where women are not exposed to the de jure and de facto discrimination according to Concluded Observation No. 181.**
- **Recommendation 41 of the Universal Periodic Report (UPR)**, to achieve progress in promoting equality and gender justice, and to consider the necessary legislative reforms to comply with international standards such as CEDAW

Article 5: Impact of the social and cultural patterns on women

10. Customs and Traditions: The Government report admits, of the impact of the customs and traditions on women empowerment and inability to change the legislations and decisions in favor of the status of women, which led to negative impact on the economic status, access to decision-making positions, declining educational level. In addition, the phenomenon of **child marriage**¹³ at age of 9 years old, **polygamy, temporary marriage** outside court with no legal protection, **female genital mutilation** (in Kurdistan and Kirkuk), **honor killings** which is rooted in the culture and social structure, and tribal traditions that encourages **forced marriages**.

- Urge the Iraqi government to provide non-discriminatory legislative foundation that would prevent the impact of customs, traditions and its prevalence on law, the abolition of legal articles, which legitimate the practice of so called “honor killings” protecting the offender. Encourage the implementation of awareness-raising campaigns to change stereotypical and discriminatory view on women and girls. CO, No. 192 and 193.
- To Provide Information and data encourage the Iraqi government to conduct the National Census.

Article 6: Women Trafficking

11. The phenomenon of women trafficking, that was emerged and worsened under the deteriorating security situation, weakness of the rule of law, and forced displacement, particularly for the period of 2005 - 2008, as the abduction of girls and women was increased to exploit them in prostitution and trafficking. The government enacted a law to combat human trafficking No.28 of 2012, but it did not undergo fully the international standards, and did not provide adequate protection to victims of trafficking.

- We ask the Committee to urge the government to speed up the procedures and mechanisms to implement the law, development of databases, provide training for border officers on monitoring and control mechanisms, and follow-up on early

spouses becomes Muslim, he/she should ask the other spouse to choose to become Muslim as this status decide if they stay married or be separated, at this case Sharia Rules on heredity, where a Muslim is allowed to inherit a non-Muslim, and not visa-versa,

¹³Report, Fatima House Charity Foundation for Women, 4/1/2011, a young girl of 9 years old, who was forced to marry twice by her family.

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identification of victims to protect them and involve them in rehabilitation programs, pursuant to the **Protocol to Prevent, Suppress and Punish Trafficking in persons, especially Women and Children** which was signed by Iraq in 2009.

Article 7: Political Participation

12. Political Participation: The government report clarified (that the failure of women in political participation is due to their lack of political experience), as well as those selected personnel lack the faith in women rights and equality, the report stated that there is a decline in the percentage of women's representation in the executive and legislative authorities due to sectarian quota, and gender based discrimination against women.

- We, kindly ask your Committee to direct question to the government about the delay in the implementation of the **Supreme Federal Court decision No 42 of 2012, which states to make the women representation in the Board of Commissioners of the Higher Commission for Human Rights with no less than one third of the total number of the members,** which is 14 members, according to the article 8/Fourth of the Higher Commission for Human Rights law No 53 of 2008?
- We emphasize on the CO, No. 195 of the CEDAW Committee that show the growing concern of the continuing low representation of women in public life, so **we call for increased representation by at least one-third in legislative and executive authorities and independent bodies.**
- We recommend the Committee to urge the **government to approve the law of political parties while ensuring the quota of women in the leadership of political parties, before the next general election in mid 2014,** to ensure political participation in mid 2014, in accordance with the provisions of Article 20 and Article 49 Fourth of the 2005 Constitution,
- We also recommend to sustain **women quota within election law.**

Article 10 : Women and Education

13. Education and Illiteracy: government report pointed to a range of challenges that face the level of education in general, especially girls' education: Customs and traditions, poverty and the unwillingness of family to send their girls to school, violence, far distance from school to home. In addition we add the following:

- The deterioration of the infrastructure of education system. Small number of schools, especially in rural areas.
- Lack of training programs for educational staff.
- Lack of financial allocations for Education relative to huge **Iraq national budget.**
- Weak authorities of local governments and lack of coordination to manage the Education process.
- Increase in administrative and financial corruption in the education institutions.

The government has approved the National Plan for Development 2010 -2014, which diagnosed the causes of the deterioration of education, but the plan failed due to the lack of the necessary financial allocations with no action plan for implementation according to the planned timetable.

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Although the government worked to reduce the gap in illiteracy between men and women through the issuance of the law to combat illiteracy, No.32 of 2011 and started the national literacy campaign but still the indicators shows increasing number of illiterate women and girls. According to the estimations of UNESCO office in Iraq in 2013, the percentage of illiteracy among young girls in rural areas, between 15 to 24 years old, reached to 50%.

- We request from your Committee to ask the government: what are the necessary measures for sustainable law enforcement and national campaign mechanisms to eradicate the illiteracy, noting that there are an increasing number of girls dropping out of schools and high levels of illiteracy?
- With reference to CO, No.198 to urge the government to strengthen efforts to eliminate illiteracy and the access for girls to primary and secondary education by preventing the dropout and urge the government to increase education and training opportunities for girls at secondary school and college levels, and in technical fields. The UPR in its Recommendation No.107 to allocate more resources for education sector.
- According to Recommendation 106 of the UPR report, we recommend to urge the government to strengthen efforts to achieve the Millennium Development Goals with regard to education at all levels, especially for women.
- We ask the Committee to urge the government to take the necessary measures to achieve the compulsory education at least at the primary school level, with free access to education in all its levels.

Article 14: Rural Women

14. Rural Women: Rural women suffer of problems of a social nature based on the discrimination that related to culture and stereotypical image that still affect their status. The countryside lacks the infrastructure, such as public services, with the lack of financial allocations for the agriculture sector along with climate changes that had negative impacts on the agriculture and animals wealth, According to the government report, empowering the rural women and their skills in agricultural work since 2005 through the establishment of a section for rural women in the provinces, but the report did not indicate the impact of these activities on the development of the status of rural women.

- We Ask the Committee reaffirmed the CO No.206 to submit a comprehensive report about the situation of women in rural areas with regard to education, health, employment and the impact of traditions and stereotypes, as this recommendation did not take its range within government programs plans for the previous period.

15. Iraq Reservations to CEDAW: Removing the reservation on Article 2, F and G

The Iraqi Constitution in Articles 14 and 16, stated on the principle of equality without discrimination, the State guarantee to achieve equal opportunities for all citizens without discrimination, which requires the existence of mechanisms and procedures to realize equity, and not to be incomplete, and that was included in F and G provisions of Article 2 of the CEDAW Convention, which requires taking the necessary measures to achieve

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equality and to abolish the all discriminatory laws that intersect with the terms of the Convention.

Removing the reservation on Article 16

The governmental report noted the reasons behind reservation to Article 16 on the basis of adherence to the principles of Islamic law, because this article deals with personal status that were addressed by **Personal Status Law No.188 of 1959 and its amendments** which shift the jurisprudence with all its various doctrines to legal rules that unify all Iraqi Muslims without any discrimination in sects, and preserve for non-Muslims their specific laws in this regard, the most prominent provisions of this law are:

- The marriage contract is consensual contract between the parties and this corresponds to Article 16/ A
- The law prevented the marriage among relatives and forcible marriage according to Article 16/B
- Iraqi Personal Status Law equated marital responsibilities as in Article 16/C
- Regulate the relationship with the children in a manner consistent with the provisions of Islamic law and consistent with 16/D, E
- Gave guardianship to mother provided that the child shall not be harmed by this guardianship and this is in line with Article 16 /F
- The wife is entitled to keep her family name and she is not bound to use the name of the husband family. 16 /G

Accordingly, we see there **is no justification to keep the reservation to article 16** because it corresponds to the Personal Status Law. This reinforces our claim that Iraq already ratified in 1971 the **International Covenant on Civil and Political Rights, without reservation**, which is part of the Iraqi legal system, as the Article 23 of this Covenant stipulates the same content of Article 16 of CEDAW.

It is worth mentioning that the Parliament of the Kurdistan region enacted Law No. 15 of 2008 to amend the application of the Personal Status Law No. 188 of 1959, as amended, in the Kurdistan Region - Iraq, which is deemed a quantum leap in the development of the personal status law on civil grounds. The law (its Article 3) included restrictions to **constrain polygamy**, which is conditional also by Judge Permission. But some citizens complete marriage contract procedures for second and third wives in Iraqi courts outside the Kurdistan region. Therefore we ask CEDAW Committee to:

- Urge government to adopt the two, COs No. 188 and No. 189 to remove the reservations on Article 2 / F - G as well as Article 16 of the Convention
- Urge the Kurdistan Regional Government to develop the necessary regulations and mechanisms for the implementation of Law No. 15 of 2008.
- Urge the Iraqi government to make amendments to the Personal Status Law No. 188 of 1959, as amended, in line with the amendments which occurred to the law by the Kurdistan Regional Government.

Terminology:

- Government Report: the government report submitted to the CEDAW Committee in 2011
- Committee: CEDAW Committee, TSM: Temporary Special Measures.
- Universal Periodic Report / fourteenth session 2010: UPR
- CO/The Concluded Observation: CEDAW Committee Concluding Observation as listed in document CEDAW/C/SR.468 and 469 (23rd CEDAW Session)