

# **Iraqi Women in Armed Conflict And post conflict Situation**

**Shadow Report submitted  
To the CEDAW committee  
at the 57<sup>th</sup> Session  
February 2014**

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Presented by NGO's Coalition of CEDAW Shadow Report  
consisting of:

1. Iraqi Women Network (IWN)
2. Rafidain Women Coalition (RWC)
3. Gathering of "No to violence Against Women in Kirkuk"

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# **CEDAW Shadow Report**

## **Iraqi Women in Armed Conflicts and post Conflict Situation**

- **Introduction:**

This report was submitted by the NGO coalition of CEDAW shadow report, which consists of several Iraqi women organizations' networks and coalitions, including the Iraqi Women Network (more than 80 organizations) and the Coalition of Al Rafidain Women (5 organizations), and the Gathering of : No To Violence Against Women in Kirkuk (more than 22 organizations), as well as other NGOs. This is the first shadow report submitted by civil society organizations in Iraq, since signing the agreement in 1986. The Chapters of the report were based on what was stated in the government's report, and on the conclusion notes of the CEDAW Committee in 1998, regarding the last government's report submitted to it. The report focuses on Iraqi women under armed conflict and its aftermath.

The report is addressed to the CEDAW Committee in order to update information, and to study and analyze policies and legislation aiming towards the progress of women, and to identify the weaknesses causing the widening gap of inequality and the absence of gender equality. The report consists of 13 major topics:

1. Iraq's reservations on CEDAW agreement.
2. To what extent do national legislations correspond with CEDAW.
3. Strategies and laws to reduce violence against women.
4. Achieving justice.
5. Violence against women in Iraqi society.
6. Trafficking in women and prostitution.
7. Political Participatio.
8. Personal status and marital relations.
9. Minorities.
10. Marginalized women
11. Rural Women.
12. Education
13. Health

The report provides a general and comprehensive evaluation of the thirteen chapters, according to the following areas:

1. Evaluation of laws and regulations and mechanisms based on reality and official procedures, and to what extent do they correspond with CEDAW.
2. Civil society organizations' activity in monitoring, control and advocacy campaigns carried out concerning Iraq's commitment to international conventions, in particular CEDAW and resolution 1325.
3. Proposed recommendations for the new Concluding Observations.

## **Executive Summary of the Shadow Report:**

- **Methodology:**

Despite the fact that Iraq has signed on CEDAW since 1986, yet this report is the first shadow report issued by independent Iraqi civil society organizations. It covers the period between 1998 to 2013, from the last governmental report submitted to the CEDAW Committee until the present time . A coordination team was formed between the organizations ‘ coalition, and a focus work group, to manage communications with the International Women's Rights Action Watch - Asia and the Pacific region (IWRAW), and to compile information and to select researchers and to arrange regular and training meetings and detailed seminars to monitor and collect information from all parts of Iraq .The group also depended on researches and reports of official institutions and periodic reports of international organizations and local studies centers .

a. **Forming a coalition of Iraqi organizations of the shadow report** : The formation of a coalition of Iraqi non-governmental women organizations, which included more than a network and a coalition of women's organizations , and another group of organizations from different parts of Iraq , including the Iraqi Women Network ( more than 80 organizations ) and Rafidain Women Coalition ( 5 organizations ), The Gathering of No to Violence Against Women in Kirkuk ( 22 organizations )<sup>1</sup> . And forming the drafting team of the shadow report :

- Amal Kabashi
- Basma Al Khatib
- Judge Hadi Aziz.
- Hanaa Edwar
- Hana Hamoud
- Manal Putrus

b. **Main activities** : The writing team of the first CEDAW shadow report, submitted by the civil society in Iraq , adopted an approach , according to which the report is national , comprehensive , participatory and voluntary , that covers reality with transparency and all that is related to CEDAW articles, and that establishes , in Iraq, for the sustainability of the process of submitting shadow reports, and follow-up with the CEDAW Committee in the future. We must praise the moral and material support provided by the Norwegian Foreign Ministry, to Iraqi civil society organizations in order to accomplish this report . It also, held for this purpose several extensive activities, namely:

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<sup>1</sup> Annex 1

1. Holding the first preparatory extensive meeting in Baghdad , on the first of December 2012 , to prepare for writing the shadow report concerning the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW ) , which was organized by the Iraqi Women Network , in cooperation with Iraqi Al-Amal Association and the Iraqi Forum for Female Journalists. It was agreed to be a shadow report that qualitatively examines the reality of Iraqi women in situations of armed conflict and its aftermath, by focusing on the convergence of axes of the Security Council resolution 1325 with the clauses of CEDAW.
2. Holding a Women's Empowerment Organization workshop from 17<sup>th</sup> to 19<sup>th</sup> of December 2012, in Erbil, to discuss the methods and mechanisms of shadow report writing. The workshop was attended by a group of organizations with expertise in this field of work. Through the working groups and discussions main axes of shadow report was determined.
3. In mid - May 2013 a focus and coordination group was trained in Beiru, in collaboration with the (IWRAW), and Iraqi Al-Amal Association, in a workshop on shadow report writing mechanisms and stages.
4. Submitting a list of issues and questions to the CEDAW Committee. A delegation from the Coalition attended the preparatory meeting of the 57<sup>th</sup> session held in Geneva on 29.07.2013.
5. Holding a national workshop by the Arab Center for the Rule of Law and Integrity in collaboration with the IAA in Baghdad on the 2<sup>nd</sup> of November 2013, to discuss the legal study evaluation on Iraqi legislation and the extent of its correspondence with CEDAW, prepared by the judge and legal scholar Hadi Aziz - member of a working group to prepare the CEDAW shadow report.
6. On the 5<sup>th</sup> of December 2013, several organizations were invited to a national workshop to discuss the final draft of the shadow report, and to introduce the organizations', researchers', and activists' observations on the report before its submission<sup>2</sup>.

- **Overview of the status of women and the role of CSOs:**

1. Iraqi women are trying to gather their strength after years of war and economic sanctions, yet the current security situation, the legal framework, economic marginalization, and the damage to the education sector and the increase in the levels of illiteracy, all impose major obstacles. There is great fear from the coming days in Iraq as a result of a growing sectarian strife and militancy, and the absence of a political will concerning women's issues, and the restriction of the freedom of expression and assembly. A decade of economic sanctions and three decades of war has lead to a

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<sup>2</sup> Annex 2

significant deterioration in the economic and social conditions of the country. Despite the billions of dollars allocated for reconstruction, the Iraqi governmental establishments still suffer from poor management and corruption, which are worse than they used to be before 2003.

2. The security situation in Iraq has improved, compared to the period between 2006 and 2009, where violence reached its peak. However, the return of violence to levels comparable to the mentioned peak period has been recorded since the end of 2012 till our present day. Also, the violence of the past, before 2003, still casts its shadows. The former regime adopted a marginalizing policy in relation to many social and legal women's rights. The former regime mobilized conservative tribal and religious leaders for support during the time of economic sanctions, and launched the so-called faith campaign in 1997, and formed militias, such as Fedayeen Saddam.
3. These factors have led to the increase of violence and the **growth of militancy and extremism**, which made women a target for extremists. The U.S. invasion of Iraq in 2003 reinforced sectarian and ethnic divisions, and the dominance of Islamic political parties. Neither the Iraqi or the U.S. leaderships opted to install the basic principles of equality, which in its turn allowed tribal traditions and customs and religious conservative and extreme elements to exploit the law to strengthen their conservative positions towards women's rights, and to focus only on the reproductive role of women in service of family and subordination to men.
4. **Women's freedom of movement in public places is severely restricted.** The main reason is due to the deterioration of the security situation and the criminal operations of the militias on one hand, and the poor qualification of the security services, despite their large numbers, on the other hand. When women are subjected to violence and assault, the majority of them avoid reporting the incident, fearing a scandal and blame and accusation from their families and society in general. In many cases, the victims were killed by their families under the pretext of "honor." Such practices occur in many parts of Iraq.
5. Many women face threats on sectarian basis, and threats on basis of gender. Also, women suffer from stress on both a **domestic** and a national level. Often, **displaced women** from ethnic and religious minorities are the most vulnerable.. At least one woman in every eight is the head of the household, despite the fact that 71 % of women are unemployed. On a national level, many women from minorities, who are in prominent positions in the media, politics or business face double threats, ranging from discrimination in the workplace to death threats and assassination.
6. Increasing cases of impunity and corruption: despite the fact that many non-governmental organizations are working on capacity development in security and justice sectors, the results still remain disappointing. Many women still fear to sue the police when subjected to harassment or assault. Women are still experiencing harassment and abuse by police and security

officers and the judiciary organ. Women are used to silence out of fear of punishment. These concerns and fears still exist out of prevalent tribal and traditional reasons.

7. A decade of economic sanctions and security threats related to the war and occupation, led to high levels of violence. And led to the increase in categories of women such as abandoned wives and children and widows. This also made families in central and southern regions to force their daughters into early marriage, as a way to reduce spending on the family, arguing that the goal is to provide security and stability to those girls. These practices continue and worsen; the age of marriage in some areas reaches the age of ten years old.
8. Many civil society organizations promote national reconciliation, despite the lack of substantial support from political leaders. These organizations have conducted several initiatives to reach the various religious and ethnic and groups of both sexes, to remind them of the importance of living together, and encourage the principles of peaceful coexistence and tolerance in the areas experiencing high levels of sectarian violence. The organizations have carried out training in the fields of conflict resolution, dialogue and development programs.
9. The presence of effective and sustainable local organizations represents a positive reality in Iraq after 2003. Iraqi Women Network was founded, which is a gathering of more than eighty organizations from different parts of Iraq. It is funded by the members themselves. The fraction in the political sphere did not affect their collective efforts. This Democratic, civil, independent non- affiliated gathering believes that the progress of women is the true measure of the progress of society. The network aims to coordinate the efforts of women's NGOs and gatherings, towards the building of democracy and the rule of law and human rights, and achieving the elimination of violence and all forms of discrimination against women in the new Iraq.
10. Women have achieved significant gains, for example, among the significant results achieved successfully by the women's movement, was that the Iraqi constitution adopted the quota system to insure the participation of women by not less than 25% . This quota was also adopted in the provincial elections of 2009. Women persisted to participate actively in the elections and the referendum on the constitution, in spite of security threats and the escalation of conflicts, although there is a minimization in their active participation in negotiations between political forces to resolve conflicts and the restoration of security and peace.
11. It is worth mentioning here, the Iraqi Women's Movement Conference : " Iraqi Women's Cry : Stop the humanitarian disaster " , organized by the IAA in cooperation with (UNIFEM) in Baghdad in January 2008 , which addressed several topics , including displacement , violent crimes against women, trafficking in women and prostitution, and the suffering of juvenile

detainees and their families .The conference was attended by more than 300 people, including 23 members of the parliament , including the Speaker, the Minister of Human rights, and many representatives of official bodies , international organizations and the diplomatic corps and the media .

12. Also, local NGOs have led successful campaigns to prevent violence against women in Kirkuk and for the empowerment of illiterate women, based on Security Council resolution 1325, which states that women are to participate in peace and security operations. They have organized non-violent campaigns by collecting signatures and organizing sit-ins. And in spite of these limited activities, they show the ability of the civil society to work so as to build bridges of trust between citizens to reduce sectarian divisions fostered by politicians, they also have had an obvious impact on the government adopting the concepts of gender and violence based on gender, and the budget that corresponds to gender, and its realization in strategies and national plans and legislation.
13. Although the international community (the United Nations organizations and international development funds) shows interest in supporting programs and projects that empower women, the application and funding is often weak, nevertheless the attention and participation of the international community is essential in pushing for action in accordance with the standards of international human rights in Iraq .The suggestions and voices of local peace activists , especially women's, must be taken into account. Also, ways of cooperation must be stressed between the civil society and the Iraqi government on the one hand, and the international community on the other hand, along with the enhancement of accountability and transparency . Therefore, there must be respect and support to the civil society's efforts and its commitment to promoting peace despite the challenges. We should refer here to UN Security Council Resolution 2061(2012), concerning extending the mandate of UNAMI in Iraq for one year , and what this will secure regarding the mission's commitment to provide support and assistance to the civil society, along with the government, to consolidate the building of democracy and protection of human rights and gender equality and achieving judicial and legislative reforms in Iraq . This was that the results of the action of the delegation of the Iraqi Women Network to New York in the summer of 2012, with the support of NGOs team devoted to Women, Peace and Security (NGOWG), and the meetings with a number of diplomatic missions in the Security Council and the United Nations and representatives of the United Nations, and recommendations made by them.
14. **The sustainability of civil society organizations and their independence is very important**, and the withdrawal of intensive international presence in Iraq may have a positive and negative effect on these organizations. On the one hand, it may push for domestic partnership and full control and

monitoring in a neutral professional way. On the other hand, it raises concerns, with the majority, regarding the inability to sustain their efforts because of a lack of funding. The existence of the NGOs Law in Kurdistan region – Iraq No. 1 (2011), has contributed to providing financial support for organizations. At the level of the federal government, the Federal Law No. 12 (2010), has not allocated any resources to support non-governmental organizations, and there is a proposal submitted by the non-governmental organizations, in collaboration with the parliamentary committee for civil society institutions to create a fund to support non-governmental organizations. In addition, there is another initiative \, which achieved good strides in the discussion of the final draft of the Cooperation Treaty between the public authorities and non-governmental organizations , which aims to open new horizons of partnership between the legislative and executive branches with civil society organizations .

## **Report Summary**

### **Chapter I / Reservations**

1. Iraq still has reservation concerning Article 2 of CEDAW , with both its clauses (f - g) , even though the 2005 Iraqi Constitution approved the principle of equality before the law and ensured equal opportunities without discrimination in articles 14 and 16 . It is worth mentioning, that there is also a provision similar to those clauses in the International Covenant on Civil and Political Rights , ratified by Iraq without reservation , in Law No. 193 (1970) which is still in force, as it has not been amended and not canceled , and is protected by Article 130 of the Constitution .
2. Iraq has legislated Law No. 33 (2011), which includes lifting the reservation of the Republic of Iraq on Article ( 9) of the Convention on the Elimination of All Forms of Discrimination against Women, set forth in Article II of the law on the ratification of Convention No. 66 (1986) . The government should send details of the cancelation of the reservation to the CEDAW Committee, and demand that the executive authorities enforce the law, and take necessary measures to assure its implementation at all relevant departments.
3. The Iraqi government still has reservations on Article 16, under the pretext that they are incompatible with the provisions of Islamic Sharia law. We believe that there is no reason to keep the reservations because the article agrees with the acting Personal Status Law No. 188 (1959) as amended. And what confirms our claim is that Iraq had already ratified in 1971 the International Covenant on Civil and Political Rights, without reservation, which is considered to be part of the Iraqi legal system, and provides in Article 23 the same content of article 16 of CEDAW.

### **Chapter II / Harmonization of CEDAW into National legislation**

## **A. Article 41 contradiction with Article 14 of the 2005 Constitution**

1. Article 41 of the Constitution sets legal grounds for inequality, and is completely inconsistent with the text of Article 14 of the Constitution, which emphasizes equality before law with no discrimination based on gender. It also poses a threat to the unity of national legislation and the rule of law, and law enforcement institutions, and threatens the unity of the social fabric of Iraqi society, which is based on mixed marriages of different creeds, nationalities and races, and dedicates sectarian discrimination and the dominance of the clergy in regulating personal status, and the resulting cancellation of the Personal Status Law in force No. 188 (1959), as amended, that insure many rights for women in marriage, divorce, alimony, custody and inheritance.
2. As a result of pressure and advocacy campaigns carried out by CSOs, the Committee on Constitutional Amendments in 2006, responded and listed it under the controversial articles for amendment. However, the efforts of religious political parties continued, in order to impose Article 41. In this regard, we should refer to the initiative of the Ministry of Justice, in October 2013, where the Minister's initiative personally, submitted the drafts of both: **Jafari personal status laws and Jafari judiciary law**, based on Jaafari doctrine, which permits marriage of girls aged 9 years, temporary marriages, polygamy, and perpetuates the stereotype of women and the control of tribal customs and traditions, and promotes sectarian religious thought in regulating personal status. The government has taken a decision to postpone considering it until after the elections, and after consultations with religious authorities, which means both of the drafts are to be reconsidered in the event of the religious political parties winning in the upcoming elections in April 2014.
3. In turn, CSOs have confirmed their total rejection of these two drafts, and the threat they impose on women's rights already endangered in Iraq, as well as to the stability and unity of society and the rights of citizenship and building a civil state in Iraq. The CSOs will continue their pressure campaigns so the two drafts will not pass.

## **B. Discriminatory articles in Penal Code No. 111 (1969)**

1. There are a number of discriminatory Articles in the penal provisions of the Penal Law No. 111 (1969) that are in force in Iraqi courts, where the punishment is not equal for the same act for men and women, as some offenders are able to get away and escape punishment despite committing a crime. It is contrary to the principle of equality before the law affirmed in Article 14 of the Constitution, this is also incompatible with Article 29 of the Constitution: (The family is the basis of society and the state shall maintain its entity and religious and moral and national values). The most important part is conceivably the contents of the Fourth Clause of the same Article that stipulates: (All forms of violence and abuse in the family, school and community are prohibited). Also, this text does not conform with the general provisions included in the International Covenant on Civil and Political Rights, and provisions stated in (CEDAW), which obligate the legal protection of women equally

with men, and ensure her effective protection through courts of jurisdiction as national laws after their ratification in 1970 and 1986 .

2. Although the Ministry of Human Rights submitted proposals to amend or cancel these articles, based on the provisions of Article 14 of the Constitution , yet the political will and the customs and traditions , in addition to the weakness of state institutions, have all contributed to obstruct the amendment of these articles. The CSOs advocated a continuous campaign under the title: "Equitable Legislation for Women's Rights", and submitted the amendments draft of a number of these provisions . We summarize below the most important discriminatory provisions in the Penal Code :
  - Article (41) : Permits the husband to discipline his wife , and this act is considered a " right " even if this act leads to spousal abuse and causes her harm , whether emotionally or physically , and without regard to the social position of those women in the family or community or in the workplace . The text exceeds in humiliation when this matter is classified along with minor children, where parents and teachers are permitted to discipline their minor children.
  - Article 128 , which stipulates : ( legal excuses shall either be exempted from punishment or shall reduce the sentence ... and it is considered a mitigating excuse if a crime is committed out of motives related to honor or on the basis of serious provocation from the victim unjustly ) . The judicial practice has settled on the application of legal mitigating excuses in relation to the so-called crimes of honor. The legislation and jurisprudence and the judiciary are all united in granting the offender the authority to execute the verdict on the victim. The penalty imposed is reduced from death penalty or life imprisonment to six months in prison in many cases.
  - Article (377): This legal text adopts a different legal stance for men and women, when committing adultery. According to this provision the act of adultery committed by the husband is not subject to legal accountability, unless committed in the marital house, which means that the legislator gives the husband a license to commit adultery outside the marital house.
  - Article (380): (A husband that incites his wife to commit adultery, and she committed the act based on this incitement is punishable by imprisonment). In other words if the material element of the crime was not established, meaning the act did not actually happen, the incitement in itself does not constitute a crime. But if the wife commits adultery on the basis of incitement, and the husband filed a complaint in accordance with Article (377), and the wife failed to prove this incitement, she will receive the punishment stated for the offense of adultery. This is prejudice to her right and an insult to her dignity.
  - Article (398) : The provisions go as far as to give the offender a legal excuse with reduced sentence if a valid marriage is conducted between the perpetrator of an act of rape and the victim on basis of Articles ( 130 ) and ( 131 ) Penal Law . Here the victim is faced with another coercion added to the act of rape; a forced marriage, and the culprit escapes punishment despite committing a crime.
  - Article ( 409 ) : Gives men a mitigating excuse : " If a husband caught his wife or a female kin in the act of adultery, or if she is in bed with her partner, if he kills them

both or one of them , the husband is punished by imprisonment, ." This article in its current state constitutes discrimination against women, as it is a legal excuse for a reduced sentence, for men who kill defending their honor. This does not apply to a woman who surprises her husband and partner in the marital bed and kills them.

- Article ( 427 ) : This text stipulates that if a valid marriage is conducted between the perpetrator of the crime of detaining or kidnapping a woman and his victim , the investigation and other procedures shall be suspended , which allows the offender to escape punishment

### C. **Instructions concerning passports**

1. Iraqi women, married, unmarried, as well as widows and divorced, still cannot obtain a passport without the consent of her guardian, or his authorized legal representative, according to the instructions of the Ministry of Interior.
2. Authorities did not comply with the decisions of the board of ministers, ordering to lift the restriction on women travelling without a male relative (Mahrem).

## **Chapter III / Strategies and laws to combat violence against women**

1. The Government has taken a positive step, ratifying the **National Strategy to combat violence against women** in March 2013, written with the participation of CSOs, but it did not allocate the necessary resources in the budget for 2013 so far.
2. For several years elaborations have been ongoing in order to develop a **National Strategy for the Advancement of women**. The draft has been prepared with international support, and has yet to be launched.
3. Despite the completion of the Law draft on Protection from Domestic Violence, in October 2012, the government is still late in forwarding it to the parliament for legislation, despite the demands of civil society to legislate it as soon as possible due to the urgent need.
4. **Kurdistan Regional Government approved the law against domestic violence, No. 8 (2011)**, but its application is still facing obstructions, and it did not achieve its intended purpose in creating the legal protection of women, due to the absence of issued guideline instructions regarding the implementation of the law, and the failure to complete the formation of the reconciliation committees stipulated by the law.

## **Chapter IV / Access to Justice**

### A. **The death penalty**

According to the annual report of the Ministry of Human Rights on the situation of prisons and detention centers in Iraq in 2012, 447 persons have been executed during the years 2005 till 11/11/2012, including 13 women. Five women have been executed during the year 2013. There are 32 women prisoners awaiting execution, and a number of them have been waiting execution for years.

### B. **Women in detention centers and prisons**

1. The report points out that, those prisons are extremely overcrowded and exceed their capacity. There are 1165 women prisoners being held until the end of 2012 in prisons and detention centers throughout Iraq. There are recorded cases of torture of women

detainees and rape or the threat of rape, according to the reports of national and international organizations and UNAMI delegation and Parliamentary Human Rights Committee. There are cases of death of women detainees as a result of the negligence of the prison administration. The prisons lack nurseries for children who are with their mothers, as is the situation in Baghdad and Hilla prisons for women. Also the prisons are totally lacking any facilities or special equipment for prisoners with special needs.

2. The report of UNAMI concerning human rights in Iraq for the second half of 2012 states " the mission is also concerned in regarding the extreme cruelty of some of the sentences: 15 per cent of those convicted were sentenced to prison terms ranging from 15 years to life in prison in charges related to adultery or prostitution, and two-thirds of the women who were convicted were sentenced to death."
3. We point out that the absence of protection mechanisms for state institutions, supporting the justice system, make the lives of many women, who have completed their sentence or are released, exposed to danger and violation because of society's customs and traditions and the inferior look towards them.

### **Chapter V / Violence against women**

1. Women are subjected to high levels of violence as a result of the accumulation of policies by the former regime and the wars and embargo these policies brought on the country. In addition to the effects brought by the post- 2003 terrorist attacks , the killings and displacement , which has led to high rates of unemployment , and increasing levels of poverty among members of the community , as indicated by the Comprehensive Survey of Social Conditions and Health of Iraqi Women (I-WISH 2011).
2. One of the challenges faced by the official institutions and CSOs, in addressing this issue, is a lack of a database and statistics and the lack of studies and researches in this area.
3. The Summary of the shadow report addressed: domestic violence, female genital mutilation, so-called honor killings, child marriage, temporary marriage, and armed violence as a result of the U.S. occupation and sectarian violence, and campaigns of civil society organizations.

#### **A. Domestic violence**

1. Domestic violence is still a taboo. Cases of abusing women by insulting, beating and mutilations are justified by customs, traditions and religion, and covered legally within the framework of Article 41 of the Penal Law, and deeply rooted in the erroneous awareness and social upbringing, and it extends to the state's institutions and decision-makers.
2. The fight against domestic violence is a priority for the activity and demands of Women's movement in Iraq, and the international organizations post- 2003, by focusing on the importance of the government adopting a national strategy to combat violence against women, and to create mechanisms to protect battered women. At the same time it determined the challenges and obstacles to be overcome , including: the

long delay in the issuance of the Law on Protection from Domestic Violence , and the absence of the political will to open shelters for battered women, and their small numbers in Kurdistan region , and the poor qualifications of the staff working in family protection establishments , and the inadequate preparation of social workers, and the lack of resources and financial allocations , and the lack of infrastructure for these establishments which are normally annexed to police stations , the lack of an integrated system of referral and rehabilitation programs for survivors of violence , lack of awareness on the issue of violence against women and lack of rehabilitation programs for workers in the security judiciary organ

### **B . The so-called honor crimes**

1. The deterioration of the security situation, and the emergence of armed groups and religious extremism and entrenchment of customs and tribal traditions in the community, as well as the weakness of the security institutions and justice, and the offender escaping punishment covered by law (Article 128 - a) of the Penal Law 111 (1969), all contributed to the high rates of so-called honor crimes, which are socially justified, and are increasing more in rural areas than in the city.
2. The cases files show that most cases of killing women are registered against an unknown person, or as accidents. These crimes are registered either as accidentally being burned to death or suicide.

### **C. Female genital mutilation**

1. Girls are subjected to Female genital mutilation, especially in the areas of Kurdistan region in the province of Kirkuk, but they are rare in central and southern Iraq. The poll, conducted by Wadi German Organization in 2007 and 2009, which included the cities of Sulaimaniyah, Erbil and the Garmian region, in more than 700 villages and districts, indicates that about 72% of females may have been subjected to genital mutilation, and most of the girls who have undergone female genital mutilation were aged between 4 - 9 years. Also, 38% of girls in Kirkuk may have undergone female genital mutilation. This procedure is conducted by old women with no medical expertise.
2. Women's organizations succeeded in Kurdistan region in the inclusion of the prevention and criminalization of female genital mutilation in the law against domestic violence, No. 8 (2011) Although the law was passed but procedures to activate it by the government are still slow , as the indicators of the phenomenon are still high .

### **D. Minor Girls' marriage**

1. The phenomenon of marrying girls at an early age has increased dramatically after 2003, because of the deteriorating economic and security conditions, and the increase of ignorance and illiteracy, and the domination of customs and traditions in promoting the stereotypical role of women.

2. Statistics show that women in the south have been subjected to underage marriage by 19 % between the age group ( 15-19 ), while in Kurdistan region the rate does not exceed 10% for the same age group ,
3. Cases of marriage under the age of 15 have increased, in some cases it reaches the age of 10 years old. And this marriage takes place outside court by a cleric, which leads to women losing their rights and the difficulty of establishing paternity of their children. In addition to the mentioned, the divorce cases, that takes place outside the court because serious social effects, especially on children.

#### **E. Temporary Marriage**

1. This marriage has become a phenomenon, and significantly in recent years. Women mostly resort to it because of destitution, more than out of religious freedom and sexual needs. Another reason is the increase in the number of widows. And many young people prefer, including the unemployed, temporary marriages to permanent marriages.
2. Temporary marriage is not legally recognized and is socially unacceptable, but there is a disturbing increase in cases of temporary marriage in universities. There are no statistics on such marriages, because they are often done secretly.
3. This type of marriage is an exploitation of women, especially the marginalized and vulnerable groups unprotected by law, and who are dominated by customs and traditions, and especially after extremist religious groups have gained strength and growing influence in Iraq. Here, we refer to forcing many women in areas of combat, particularly in Diyala province, to temporarily marry persons with unknown identity belonging to armed groups like al-Qaeda, who leave or are killed, leaving behind a whole group of children without identity, and wives who do not know anything about their rights, and how to address the situation of their children identity legally.

#### **F. Violence due to Armed manifestation by ( the U.S. occupation , and sectarianism )**

1. Violence caused by armed manifestations contributed to the society restricting women's and girl's freedom in all provinces, which had a negative impact on their education, and the spread of the phenomenon of early marriage under the pretext of protection. Iraqi women also bore the burden of immigration and forced displacement, and endured the hardship of being widowed and orphaned, moreover exposed to kidnapping and rape.
2. American occupation forces practiced direct violence against Iraqi women, manifested in intimidation raids and arresting her and her family, and being subjected to threats of weapons. Women were also raped by the occupation's soldiers. Under the cover of the fight against armed groups from al-Qaeda, these forces committed arbitrary killings of civilians mostly women and children. For example, the retaliatory operation carried out by U.S. forces in the town of Haditha in November 19, 2005, where they attacked a number of houses and killed 24 civilians, including ten women and children. The accident of breaking into the house of a 14 year old Iraqi girl , named Abeer Qassim al-Janabi , and raping and killing her along with her father

Qasim Hamza al-Janabi and her mother and her sister Hadeel (5) years in the area of Mahmudiya on March 12 , 2006.

3. The Forum of Iraqi female journalists has documented the names of 28 Iraqi female journalists who were assassinated since 2003 until the end of 2013, not counting the cases of assault , intimidation and forced displacement experienced by many women journalists . According to statistics of the Ministry of Interior, the abduction of girls has increased through the years 2003 to 2006 , 732 cases of abduction of women were registered in all the provinces of Iraq , while 197 cases of abduction of women were recorded in 2009.
4. It is important to note the emergence of the phenomenon of suicide bombers. Armed groups recruit women to carry out terrorist acts, or to exploit women for logistics and financing.

#### **G. Civil society organizations campaigns**

1. Many workshops, seminars and conferences have been held on issues of violence against women and the discrimination they face. It is worth noting here, the National Conference on violence against women in Iraq, convened by Iraqi Women Network on 8 March 2012, which was marked by the participation of more than 400 delegates from across the country, where six topics were discussed, including: domestic violence, legal and sexual harassment and the impact of customs and traditions in the increasing phenomenon of violence against women.
2. Many CSOs, in most of the Iraqi provinces, are in charge of family counseling Centers, or as they are also called; centers of legal support, offering social, psychological and legal consulting, which is free for victims of domestic and community violence. These centers have played a significant role in breaking the silence barrier of women, and in the monitoring and documenting of the violations they experience. As well as awareness and education among women in communities and official institutions about violence and discrimination against women in the context of (CEDAW ) and the UN Security Council Resolution 1325 in particular. Also, programs were carried out, to empower employees in the judiciary and in the institutions of law enforcement and social workers in the education, health and social care sectors.
3. Women's organizations' initiative to open a number of shelters for survivors of domestic and community violence in the provinces of Sulaimaniyah , Erbil and Dohuk , has provided important services to save many women's lives , and their reintegration with their families , and contributed to the mobilization of public opinion against crimes of violence against women . Due to the lack of funding and the difficulty of sustaining centers by women's organizations, most of these centers have been handed over to the governmental authorities to manage.

#### **Chapter VI / Trafficking in women and prostitution**

1. The roots of the problem go back to the years of international economic sanctions since 1990 - 2003, which led to the weakness of state institutions and the destruction of infrastructures, and the exploitation of women in prostitution and trafficking. This

phenomenon has increased due to forced displacement and sectarian violence during (2006-2009). The CSOs , particularly women's organization s' initiative to shed light on white slave trade and the importance of combating it

2. Despite the issuance of anti-trafficking law No. 28 ( 2012) , it has serious gaps that do not meet with international standards , for example, in the definition, listing the acts constituting the offense , and lifting two important cases of exploitation ; ( enslavement ) and ( practices similar to slavery ) included in the international definition , despite being among the most serious cases of human exploitation suffered by the Iraqi society such as tribal marriage as a form of compensation , marriages where the man offers a female relative in exchange to giving him a wife .
3. Government procedures are characterized by the slow application of the law, where the committee on human trafficking has still not finished the instruction set for it. Also, the sub-committees set forth in the law have not work effectively yet. There is weakness in the process of documentation and monitoring. Despite the Ministry of Labour and Social Affairs in Baghdad, opening a home to shelter victims, but information is not available on cases coming into the home, and the home lacks a clear action plan and has no programs of rehabilitation and reintegration of victims.

## **Chapter VII / Political Participation**

### **A. Female representation in parliament**

1. Women' representation in parliament , with its outstanding size , did not achieve an active role on behalf of women's issues , towards the achievement of the objectives of equality , development and peace , for several reasons , including the motives of the list of nomination of the blocs and political parties for most of the candidates were on national, sectarian , tribal and regional basis . Most of them do not have a background of political and feminist activity, and the majority of the female deputies do not believe in the issue of women's rights and equality.
2. There is discrimination at the level of female representation in the parliament for its 2005 session Women were not represented in the Presidency, and their representation in the monitoring, political and legislative committees was much less than her representation in the committees of family and service and civil interests. Also, women were not represented in six, out of 24 Committees, which are committees of security and defense, oil and natural wealth, agriculture, water and marshes.
3. In spite of the parliament presidency obligatory decision to the blocs to have 25% of the parliament committees headed by women parliamentarians, we find in the current 2010 parliament session, three parliamentary committees have no female representation at all, they are; security and defense and reconciliation and tribes committees.
4. There was also a decline in the role of women in the drafting of the constitutional amendments, due to her poor representation in the Committee on Constitutional Amendments (2006-2009), as female representation was limited to two out of 30 members.

5. The performance of the Committee on Women, Family and Children, for the parliamentary sessions (2005 and 2010), was weak in supporting the laws drafts and amendments of the laws on the rights of women referred to by the Constitution, which is consistent with international agreements and conventions signed by Iraq, because of the conflicting views of its members on the situation of women's rights. Many of them do not believe in the cause of gender equality, since they are subjected to religious ideology of their parties.
6. Women's issues were not a priority for Parliament, as the Parliament had legislated about 1,000 laws in the 2005 and 2010 sessions, among which there was no law related to women.
7. A women's block was formed in the parliament to activate the role of women in political decision-making, and to promote national reconciliation. However, the women's bloc has failed to achieve its objectives for several reasons including ; lack of coordination , a lack of strategy and program of action , the lack of a legal framework that defines the powers , in addition to the absence of an independent decision from political blocs , as well as the rivalry between the deputies within the one bloc .

**B. Women Participation in provincial councils**

1. The situation of women in the provincial councils does not differ from the situation in the parliament, regarding the motives of the nomination of blocs and political parties for most of the candidates, based national, sectarian, tribal and regional basis, most of them do not have a background in political and feminist action.
2. Due to conflicts between the political blocs, till now, the final number of women's representation in the provincial councils in the current session of 2013, has not been announced, noting that the Electoral Commission has approved the system of allocating seats to ensure women's access to not less than 25% of the total seats in each council, and not on the basis of the total councils, as happened in the previous elections for provincial councils in 2009.

**C. Political participation in the executive authority**

1. Women's representation has declined at the level of ministries from 6 out of 36 ministry in 2004 to 4 Ministries in 2006 , and ended up to become one female in the government of 2010, due to sectarian quotas and discrimination against women . Also the decline reached the position of Deputy Minister, where it declined from 8 in 2005 to one in 2013, and the number of women ambassadors does not exceed 3.
2. There are no updates in the official database for the number of women in decision-making positions. The published numbers in the Government CEDAW Report goes back to the government of 2005; also the report does not show the percentage of women to men in this area, so as to determine the size of the gap between them.
3. The deliberate exclusion of women's representation at all decision-making positions, by marginalizing them in the negotiations to form a government of national partnership , and the works of Erbil's Conference for political leaders in 2010, and negotiations and meetings of national reconciliation . Women's representation has been excluded from the preparatory committees of the National Conference, which

was scheduled to take place during 2012. And the elimination applies to the Independent High Electoral Commission, IHEC, for the 2012 election, the participation was one woman out of nine members, and it combined the representation of gender and minorities. This demonstrates the lack of political will among decision-makers for the development of women's participation in decision-making positions.

4. The government's report has neglected the issue of forming the Higher Commission for Human Rights, and civil society's efforts concerning the necessity of women's representation in the Board of Commissioners by 30%, according to the Commission Act No. 53 (2008). The parliament voted on the members of the Higher Commission for Human Rights in its session No. (34) 9/4/2012, four women were chosen from the 14 members. The civil society organizations filed a law suit at the Supreme Federal Court , which issued its decision No. 42 / federal / 2012 , which stated that women's representation in the Board of Commissioners , must be not less than one-third of the members of the fourteen members in accordance with Article 8 / IV of the Commission's Law. Despite passing the law for more than a year by the Federal Court's decision, it has not been implemented so far , although it is inconsistent with the constitutional article 94 , which stipulates that the Federal Supreme Court's decisions are final and binding for all authorities .

#### D. **Women's participation in Kurdistan region**

1. Despite the positive change in political participation of women in leadership, where it increased during the two parliament elections of the region in 2005 and 2012 from 27% to 33 %. Also, occupying the leadership of the largest political bloc in parliament, yet male domination still appears evidently in the government's performance, and the distribution of ministerial portfolios as leadership and superior positions. This is reflected as well in the disproportionate distribution when compared to men in terms of official representation at the level of institutions or the government, and at conferences, courses, and supervisory departments outside the region.
2. There is a weakness in the professional, technical and administrative, institutional capacities of government institutions and civil society organizations, both quantitatively and qualitatively, in terms of addressing the issues of discrimination against women, in addition to the weakness of knowledge and awareness by the staff involved in the field of national laws and international conventions and women's human rights.

#### E. **The Supreme Council for Women in Kurdistan Region – Iraq**

1. The regional government's decision to establish the Council, in 14/12/2009, is a positive step, to improve the involvement of the government in the development of women in the region, but the council still suffers from the absence of a law of its own, with weakness in the human and financial capacity specializing in gender.

2. Also, most of the programs and projects of the strategies, which are prepared by the Council, and adopted by the Presidency of the Council of Ministers in the region, do not enter into force, due to the absence of budget allocation, and for this reason the Council did not achieve the tangible impact for the empowerment of women, and to convey the commitments of the region's Government in this area.

F. **Women's participation in the judicial authority**

After 2003 women participated more distinctly in the judicial authority, but is still at a low level not exceeding 6% of the total workers. It is worth mentioning that the instructions of the Judicial Institute, which specializes in preparing of judges, did not include the principle of quota for women's participation.

G. **Female representation in political parties and trade unions**

1. Male domination is prevalent in the structure of political parties and programs, as there is no clear vision for the participation of women, and parties do not have a clear party program to develop their female cadres, or involve them in leadership positions within the party, which resulted in the exclusion of women from contributing to the decisions of their party or bloc. We have not yet seen a woman party leader or second-in-command. There is a severe lack of women's representation in the leadership of political parties, and the parties do not announce the percentage of women's representation in its membership.
2. Concerning trade unions and professional associations, till now we have not witnessed that a woman became chairman of union or syndicate. These positions remain exclusively for men, which is related to the fear of men from women competing for their leadership positions, and a lack of interest or expertise of trade unions and professional associations in the field of development and gender and human rights,. Their interest is concentrated mainly in professional and trade union rights. Also, women themselves are reluctant to reach decision-making positions because of their social and cultural background, and family responsibilities they have to do, also, the unstable security situation forces them to stay away from assuming leadership responsibilities that require constant movement and communication.

H. **UN Security Council Resolution 1325**

1. For four decades , women in Iraq have been main victims of armed conflict , starting with the Iraq war with Iran in 1980 – 1988, the Gulf War in 1991 and the U.S. invasion in 2003 and the subsequent internal armed conflicts , which reflected negatively on the situation of women resulting in reducing the number of women in decision-making positions , and excluding them from the negotiations in the process of conflict resolution and national reconciliation and the formation of the government . All the political blocs of all directions both liberal and religious were involved in the exclusion of women from occupying leadership positions " ... and women were blocked from the presidencies of the three governing bodies (the Presidential Council, the Presidency of the Council of Ministers and the Presidency of the Council of parliament) as well as in the Supreme Judicial Council and Supreme Courts (Supreme Federal Court and Federal Court of Cassation)."

2. Also large numbers of women were victims of murder, kidnapping and threats, and wide spread of sexual harassment. The weakness of law enforcement organs lead to the perpetrators escaping punishment. Note that the Security Council resolution regarding Iraq No. 1483, issued on 22/5/2003, emphasized the necessity of activating the resolution 1325 in order to ensure equal rights and justice for all citizens without discrimination. Despite a decade passing on the resolution, the Iraqi government has not fulfilled their obligations towards it, and did not adopt a national plan concerning the decision as called for in the Security Council resolution No. 1889/2009.
3. On the other hand, many civil society women's organizations have adopted a variety of activities to introduce the importance of the resolution among women in particular, as well as among different social and political circles.
4. Since 2012 a number of local civil society organizations along with the European Feminist Initiative (EFI), in a framework of a gathering called (INAP) joined to formulate a plan of action of Iraqi (NAP) for the resolution1325. The gathering also includes a number of parliament and government members, on the level of federal and Kurdistan region - Iraq, as well as specialists in law and gender. The gathering acts as a work team, among the various sectors within the framework of three committees (drafting, legal and financial). It is hoped that the team finishes its work in the near future, and present the results of its work to the Federal Government and the Regional Government, for the ratification of the National Action Plan for 1325.

#### **I. Committees of National Reconciliation**

1. It was Initiated by the government on 25<sup>th</sup> of June 2006, to proceed with national reconciliation to promote the values of tolerance and non-violence and the rule of law within the community, on the basis of national agreement between the political and community parties, within the framework of democratic as a content that supports participation in political and social life, and equality in rights and duties. The committee was formed under the supervision of the Council of Ministers, with a budget provided by it, based on the implementation of a national plan for reconciliation.
2. The National Reconciliation Committee did not initiate to involve civil society in its programs and activities, making it far from the reality and needs of the society for the benefit of national reconciliation.
3. Despite the existence of a special office for women in the Committee, there is no real program to activate the role of women in national reconciliation in accordance with Security Council Resolution 1325 and Security Council resolution on Iraq 1483. The office's programs are limited to temporary activities and focused on the stereotypical role of women. And include specific activities, like visiting holy shrines and Koran recital competitions. Also, there is no role for women in the Reconciliation Commission offices (Office al Sahwa and the Office of tribal support and services office).

### **Chapter VIII : Personal status and marital relations**

#### **A. Personal Status Law No. 188 (1959) , as amended**

1. Personal Status Law applies to Iraqi Muslims. The regulations of other religion are taken into account, regarding Iraqis who are not Muslims; Christians and Jews, and the provisions of personal status articles are applied when primary courts are the venue of jurisdiction. The Mandaeans and Yazidis are not covered by the jurisdiction of the law, despite the fact that they do have their own religion with its own personal status provisions suitable to be adopted in accordance with the legal provisions based on their recognized religion in Iraq.
2. The law has insured many rights for women in marriage, divorce, alimony, custody and inheritance. And after 2003 , and because of the fragility of the security situation and the weakness of the rule of law and the dominance of tribal customs and religious edicts , women's organizations have documented breaches of the Personal Status Law No. 188 (1959) , due to violating the law by citizens out of lack of awareness , and the reluctance of judicial authorities to apply the law on the pretext of religion and customs and traditions , particularly in ignoring the punishment of coercion to marry , and permitting polygamy , and rescinding a woman's right to seek judicial separation from her husband , and the penalty imposed on a marriage outside the court .

**B. Law No. 15 ( 2008) in the Kurdistan Region – Iraq**

1. The parliament of Kurdistan region legislated this law under the title "The Amendment of the Application of Personal Status Law No. 188 (1959), as amended", which is a quantum leap in the development of the personal status law on civic basis. The law included, in Article III, strict restrictions, which limits the practice, which is also conditioned by the consent of the judge.
2. In spite of this amendment, it is possible to find a way around it. Citizens of the region complete the procedures of marrying a second and a third wife in Iraqi courts outside Kurdistan region, which is valid in the region, which leads ultimately to undermining the content of the amendment regarding the practice polygamy in the province.

**C. Regulations of marriage and inheritance**

1. Article 17 of the Personal Status Law in force stipulates: " A Muslim may marry a Christian or Jewish or Sabian) yet a Muslim woman's marriage to a non-Muslim man is not valid." Also, article 18 of the mentioned law states: "The conversion of one of the spouses to Islam follows the provisions of Sharia law on whether to stay in the marriage, or to separate the spouses." Meaning that if the husband converts to Islam , for example , it is permissible for a woman to remain faithful to her religion , if she is a Christian , Jew or Sabian , The Yazidis are not considered according to the law as (people of the book, i.e. followers of biblical religions) , therefore a Yazidi woman must converts to Islam before her marriage to a Muslim .
2. If one of the spouses converts to Islam, the other spouse has the choice of separation or converting to Islam. Inheritance and how to divide it follows the provisions of Islamic law , which allows inheritance from a non Muslim to a Muslim while the opposite is inadmissible , which is contrary to the Constitution , and in particular the provisions of Article 14 .

#### **D. Converting minors to Islam and the freedom of belief**

1. Article 21, clause 3, of the Civil Status Law No. 65 (1972) as amended states: if the husband or a wife converts to Islam, the minor children are considered to be Muslims, and the Secretary of the civil registry officer shall register this in their civil records without the knowledge of minors. The children often do not realize that their religion has been changed, and are surprised when they get married, or renew the ID cards, as a result of damage or loss, to discover that they have been converted to another religion.
2. Court of Cassation, has settled, and for many decades, on a principle that gives the right to the individual, which was considered a Muslim because of the conversion of one of the parents, to return to the religion of one of his parents before his/her conversion to Islam, by filing a lawsuit to the Personal Status Court requesting to return to the former religion of one of the parents before conversion to Islam (the rule of the Court of Appeal No. 2.1 / second public committee / 1976 dated 12/25/1976).
3. However, the Court of Appeal in recent years issued its ruling No. 285 / first personal / 2008 dated 31/12/2008, that contradicts with previous rulings in this regard, which prevents the defendant's return, who became a Muslim by subordination, and this return is considered as an apostasy, which is forbidden in Islam and is punishable. This decision contradicts the religious laws of Islam, which states that there is to be "no coercion in religion". This also contradicts the provisions in the constitution stating, that the state is to insure the protection of the individual from intellectual, political and religious coercion article 37 / II) and freedom of thought, conscience and belief article 42. As well as 29 - first, which states that "the family is the basis of society, and the state should preserve its entity and religious, moral and national values". It is a problem plaguing many Christian, Yazidis, Sabeans families and non-Muslims in general.

#### **Chapter IX / Minorities**

1. Individuals of minorities (Christians, Yazidis, and Sabeans, Shabak, and Turkmen), are still leaving their homes in many areas because of insecurity and violence committed against their communities, in addition to the lack of basic services, and the lack of economic opportunities.
2. Women from minority groups were often, as the other women, subjected to all acts of violence, such as murder, kidnapping and internal and external forced displacement. There is a rise in killings and kidnappings among the Yazidis and the Shabak, especially among women and adolescents, according to the report of the UN Mission to Iraq (UNAMI) for the second half of 2012.
3. Minority women also suffer from harassment, in terms of the imposition of the veil in the Muslim-majority areas. There are still numbers of non-Muslim women in different parts of Baghdad, Diyala, Basra and Mosul who wear the veil to avoid harassment.
4. In many government departments pressures is exercised indirectly, by implication or using provocative language against women who do not wear the veil. Also, there are

cases where Christian women employees were transferred from their departments to other departments.

## **Chapter X / Marginalized women**

### **A. Widows as breadwinners**

1. Wars experienced by Iraq and terrorist attacks that followed after the 2003, produced violence and displacement, large numbers of women who lost the breadwinner to death or imprisonment, the percentage reaches, according to the report of the Ministry of Human Rights on the situation of Iraqi women, 10.7% of households are headed by women in Iraq. According to an unofficial estimate, there are one million and a half widows, in addition to the number of divorcees. The absence of accurate and official statistics rendered the task of the executive institutions, complicated for drawing a clear policy to address the problem of widows and heads of families.
2. The category of widows and divorced women in particular face harsh social challenges and difficult discriminatory traditions, and often are at risk of sexual exploitation, prostitution and temporary marriages. The households headed by women live in miserable economic conditions, due to the low income.
3. The government established the Social Welfare Department for Women on 22/8/2008, which is aimed at women (widows, divorcees and wives of missing persons and orphans and wives of prisoners, and women with disabilities). This department has not implemented the intended objectives, which are empowerment and capacity building, and creating job opportunities for women, but it merely provides the beneficiaries with a very modest protection salary not exceeding \$ 90 per month. And add to this, the routine procedures and administrative corruption, which increase the suffering of widows and heads of families in obtaining their financial rights.
4. Widows and female heads of households also face difficulties in getting into the labor market, because of the social conditions, and their low level of education, in addition to their lack of training and qualification required to work. The percentage of women's access to loans is 6.99% compared to 93.1 % for males.
5. The parliament has not yet been able to legislate the Social Security Act for unemployed marginalized groups, which is also emphasized in Article 30 of the Constitution.

### **B. Women with disabilities**

1. CSOs who deal with the disabled, achieved significant success in an advocacy campaign which promoted their work, when Iraq ratified the Convention on the disabled in 2012, and the issuance of legislation concerned with this category. The campaign is still ongoing in order to set up a higher commission concerned with the affairs of people with a disability, especially since their numbers increased as a result of terrorist attacks and violence prevailing in the country.
2. Women with disabilities suffer from marginalization and isolation, and may be forced to stay in the house, and the deprivation of rights, such as health care, education, rehabilitation and employment. There are no necessary facilities for moving, mobility

and integration in public life available for them. And they are the victim of double discrimination by society and the law, and are subjected to family and community violence, and are being exploited as beggars and prostitutes.

### **C. IDPs and refugees**

1. There are still more than one million internally displaced people in Iraq, mostly in Baghdad, Diyala and Nineveh, who live with their families in rented houses or in random residential gatherings in harsh conditions. The displaced families are suffering difficult living conditions as a result of the loss of jobs. The displacement in 2013 did not stop in the provinces mentioned above.
2. The percentage of widows increased, as a result of forced displacement and acts of violence, which made the widow a breadwinner for the family. This category of women is facing economic challenges, as well as social challenges because of the stereotypical view towards them. Also, displaced minority women in particular, suffer threats and blatant attacks on their lives and their security and privacy regarding their freedom of dress and movement.
3. The government has taken measures and actions to reduce the phenomenon of forced displacement , through the enactment of the law 20 (2009) to compensate those affected by the military operations and military errors and terrorist operations, in addition to the resettlement programs by providing very limited financial support for families wishing to return to their original places or settle in the resettlement areas , but still these measures and actions fall short of addressing the magnitude of the problem or to contain its negative effects .
4. There are growing significant numbers of minor Iraqi girls refugees in Scandinavia , who are forced to return to Iraq once and for all , by their parents to preserve what they call the ( family honor ) , and they are forced into marriage in Iraq, according to tribal customs , and are to stay there in spite of their will .

### **Chapter XI / Rural women**

1. Rural women suffer from complicated problems, of a social nature founded on discrimination and violence based on gender discrimination , represented by tribal and clan norms and influenced by misogynist thought in rural areas, and her stereotypical role , manifested in damaging practices (such as female genital mutilation, child marriage , tribal marriage as a form of compensation , marriages where the man offers a female relative in exchange to giving him a wife, denying the woman her right to marry if a male cousin wishes her for himself , depriving wives of inheritance ) . Rural women suffer from violence in all its forms, which are up to very high levels. Also, a rural woman fears for her personal safety if she reports about her exposure to violence. Also, contacting the police or counseling services and legal services is more difficult for rural women than it is in the cities. A woman with disabilities in rural are anonymous creatures not to be seen or heard, and she is locked up in the house.

2. Women in a rural environment, lacks infrastructure and basic public services , such as health, education , training and rehabilitation , and the lack of financial allocations for the rehabilitation and integration of women in economic development .
3. Government measures, within the national plan for the advancement of rural women to provide affordable credit facilities, still have very simple and limited impact on the development of rural women and her reality in some rural areas.
4. Granting rural women a loan if she has a land deed, but because of customs and traditions that deny women the right to own land, they are deprived of such loans.
5. Women in rural areas are denied the subsidy provided by the Social Welfare Department for Women, for the following reasons: not registering marriage contracts in court, or any other official documents required for this purpose, ignorance of the laws and mechanisms to apply for the subsidy, not being able to move freely to follow-up treatment with the departments concerned.

### **Chapter XII / Education**

1. Despite passing a law to eradicate illiteracy, No. 32 (2011), in order to reduce the gap in literacy between men and women, and start a national campaign for literacy, the indicators of the phenomenon of illiteracy are still high, particularly among women and girls. According to the estimates of the UNESCO office in Iraq in 2013, illiteracy rate among young women in rural areas between the ages of 15 and 24 -year-old are closer to 50 percent.
2. There are a variety of obstacles facing girls' education and to continue their studies, including: deterioration of infrastructure, education, and the small number of schools, especially in rural areas, and a lack of training and qualifying programs for the teaching staff, and the lack of financial allocations in proportion to Iraq's vast budget, and not granting local governments sufficient powers, and rampant administrative and financial corruption in educational institutions. In addition to the customs and traditions, and poverty, and the unwillingness of the parents.

### **Chapter XIII / Health**

The report of the Ministry of Health for the year 2012 concerning the health situation in Iraq pointed out:

1. Poor infrastructure for health services in health centers and public hospitals, and the lack of medical staff, especially women, poor health services in rural areas because of the distance between the family and the rural health center or hospital. This affects emergency cases, especially in cases of birth, leading to the resorting to midwives and ignorant women.
2. The spread of epidemics and contagious diseases (cholera, malaria, diarrhea), especially in the random and poor communities, because of the scarcity of drinking water and lack of sanitation networks.
3. There is a decline in women's access, especially pregnant women to the necessary health care. There has been a decline in the rate of pregnant women's first visit to the primary health centers throughout Iraq to 51% in 2012 after it was 66% in 2011. The

reason is attributed to the lack of female medical staff in these centers. These centers, in most of the provinces, did not achieve the intended goal from the visits of pregnant women to it, and the percent of the coverage of the first dose of the tetanus vaccination for pregnant women, throughout Iraq, did not exceed 27% in 2012, while the fourth dose reached 12% for the whole of Iraq.

4. Increased cases of cancer due to chemical pollution and radiation that Iraq was subjected to, especially after the wars in 1991 and 2003. The cases of breast cancer has ranked first , reaching about three thousand cases in 2009, representing 19.59 % of the total cases of other cancers, according to the Ministry of Health report . Girls under the age of twenty form 32% of the total casualties of cancer in Iraq.
5. Increased cases of congenital disability resulting from wars and terrorist acts experienced by Iraq. The number of people with a disability is more than a million disabled people.
6. The report identified the reasons for the low level of health:
  - Lack of financial allocations, as the percentage of financial allocation for the year 2012 is 5.4% from the federal budget
  - Poor infrastructure, and the immigration of medical qualified specialists caused especially by Deteriorating security situation.
  - Lack of health awareness, especially in rural areas, and the impact of customs and traditions in reliance on traditional medical means.
7. Among the most significant challenges in the field of health, stated in the draft of the national population policies:
  - The high rate of infant mortality.
  - The high proportion of the population below poverty line.
  - The entrenched values and traditions that encourage early marriage and underage marriage (less than 18 years old) and polygamy.
  - The high rate of teenage births because of early marriage.
  - The high rate of the unmet need for regulating reproduction.
  - The lack of safe means of family planning.
  - The emergence of the phenomena of internal displacement and forced displacement.

## **Recommendations of Iraqi CSOs Shadow Report:**

We recommend that the CEDAW Committee urges Iraqi Government to consider the following recommendations by the Shadow report team/Iraq:

### **Chapter One: Iraq reservations on CEDAW**

1. Adopt two Observations issued by you, Observations No 188 and No. 189 to remove the reservations on Article 2 / F - G as well as Article 16 of the Convention.
2. Ratify the Optional Protocol to CEDAW Convention to guarantee and ensure protection

### **Chapter Two: Harmonization of CEDAW into national legislations**

1. Make amendments to the 2005 Constitution, including Article 41, to be in line with building a civil State that devotes the principle of citizenship and equality before the law, and in conformity with the provisions of CEDAW and other human rights conventions ratified by Iraq.
2. Work on the abolishment of Article 45/2 of the Constitution, which enhances the authority of the clan and strengthens customs and traditions that represent threat to the dignity of women and their rights guaranteed by the Constitution and the valid laws.
3. Review legislations, regulations and instructions that perpetuate inequality and discrimination before the law, and in particular the Penal Code No. 111 of (1969) and Criminal Procedure Code No. 23 of (1971), and to take the necessary measures, including interim measures, to create an environment where women are not legally discriminated according to Observation No 181
4. Encourage the Iraqi government to involve civil society organizations, particularly women's ones, in the process of constitutional amendments.

### **Chapter Three: Strategies and laws to Combat violence against women**

1. Create a mechanism to ensure regular evaluation and qualitative and quantitative assessment of progress in the implementation of the national strategy for the advancement of women and to develop mechanisms to measure the extent of violence against women. in addition, we request the inclusion of a budget for the gender that will accelerate the removal of discrimination against women. Committee Observation No. 185.
2. Urge the government to provide the necessary financial and human resources to activate the strategy to combat violence against women.
3. We also recommend that the Committee encourages the government on the importance of launching the national strategy for women advancement and allocate the necessary resources for it.

4. Conduct a general census inactivated for political reasons, in order to obtain data and statistics on cases of marriages and divorce out of court, in order to restrict and address them legally.
5. We would like to emphasize on the Observation No. 179 of CEDAW Committee to urge the government to provide the necessary measures to implement these strategies according to the planned goals and work hard to provide the required human and financial resources for each program in order to achieve the Millennium Development Goals.

#### **Chapter Four: Access to Justice**

1. Activate the measures of its national plan for human rights with regard to reduce the number of crimes that are included within the death penalty.
2. Any punishment must comply with the international standards and human rights principle, therefore, we demand to tighten the punishment of the crime of torture and follow up allegations of torture rape and bring the perpetrators to justice and activation of judicial oversight at all stages of investigation and trial.
3. Ensure rapid investigation procedures with female detainees in the presence of female cadres, and the release of those that their charges were not proved, without delay or submitting them to a fair and impartial trial
4. Establishment of prisons for women to take into account the specificity of women and their health and psychological needs, and to prepare competent female cadres for the prison administration.
5. Provide rehabilitation mechanisms for women to integrate them with the society and provide safe haven to protect them from violence

#### **Chapter Five: Violence against women in Iraqi society:**

1. Remove Articles 41 on personal status and 45/2 from the Iraqi Constitution, regarding the tribes, which are devoted inequality before the law, and pose a threat to the rule of law, legitimize violence on family and community and prevent women's access to justice.
2. 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 honor killings and protect the offender and of impunity, and the implementation of awareness-raising campaigns to change stereotypical and discriminatory view on women and girls. Committee Observations No. 192 and 193
3. Accelerate issuing the law of Protection from Domestic Violence and the implementation guidelines for its implementation, in partnership with CSOs and media.
4. Create a special legislation to reduce the cases of sexual harassment and criminalize it.

5. Establish safe havens for the protection and rehabilitation of victims of domestic violence, in cooperation and coordination with civil society organizations.

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

1. Put in place the necessary regulations and mechanisms to implement Law No. 15 of (2008) regarding the amendment to the application of Personal Status Law No. 188 of (1959) as amended.
2. Complete the existing deficiencies in Anti-domestic Violence Law No. 8 of (2011), issue regulations for the implementation of this law, complete forming the reconciliation committees in the provinces of region and the participation of the relevant ministries to implement it.
3. Cancel all illegal offices regarding murders and conflicts among individuals, with the activation of the amended text of Article 409, by strengthening the investigative and judicial organs to detect cases of murder of women, prosecute the perpetrators and bring them to justice.
4. Failure to ratify the laws of a general amnesty for crimes of honor crimes, even if there is reconciliation between the parties, as well as withdraw the authority from the presidency of the region in terms of special amnesty for such crimes.
5. Conduct broad awareness campaigns against the practice of female genital mutilation by identifying the relevant ministries and in partnership with civil society organizations, media and local communities.

**Chapter Six: Women Trafficking and Prostitution**

1. We ask the Committee to urge the Iraqi government to speed up the development of procedures and mechanisms for the implementation of the Human Trafficking Act No. 28 of (2012) to ensure the reduction of the phenomenon, create databases, train security personnel at border crossing points and airports on the mechanisms of monitoring, control and follow-up for early identification of victims and protect them, and develop programs for their rehabilitation, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children which Iraq joined in 2009
2. Amend the Criminal Law to ensure appropriate and reasonable penalties for the crime of prostitution, and providing financial support and medical and other support, including vocational training, for women convicted of crimes. Furthermore, ensure that the offence of women victims of trafficking or sexual exploitation, and treated as victims and provide care, support and appropriate assistance to them.

## **Chapter Seven: Political Participation**

1. Cancel the Ministry of State for Women Affairs and to be replaced by an independent commission for the advancement of women to ensure the non dominance of specific thought on the policy of dealing with women affairs.
2. Urge the government to implement 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.
3. Emphasize on the Observation 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.
4. 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 active political participation for elected women, in accordance with the provisions of Article 20 and Article 49 Fourth of the 2005 Constitution,
5. Continue to include the women quota within election law.  
Adopt a national plan identifies from which priorities and coordination for the implementation of Security Council Resolution No.1325atthe local level, and subsequent resolutions associated with it: 1612/2005, 1674/2006, 1820/2008, 1882/2009, 1888/2009, 1889/2009, 1894/2009, 1960/ 2010., with an emphasis on decision No 2122/2013.

## **Chapter Eight: Personal Status and Marital**

1. Monitor implementation of the Personal Status Law 188 (1959), in order to prevent overtaking on the provisions of the law, particularly the issue of registration of marriage contracts in courts, not to allow marriages of persons less than 15years old, restrict polygamy, and consider claims of judicial separations filed by the wife and others.
2. Amend Article46 of the Personal Status Law No.188 (1959), granting the right of the wife to abandon her husband regardless of the husband's consent.
3. Make amendments to the Personal Status Law No.188of 1959, as amended, in line with the amendments to the law by the Kurdistan Regional Government- Iraq, and involve civil society organizations in the process of amendments.
4. Comply with the ruling of the Court of Cassation for decades about granting the right of the Muslim to return to her/his former religion upon

reaching the age of majority, to be in line with the provisions of the Constitution in the State guarantee for the protection of the individual from intellectual, political and religious coercion (Article37/ Second), and to ensure that everyone has the freedom of thought, conscience and religion (Article42).

#### **Chapter Nine: Minorities:**

1. Ensure that the rights of migrants, ethnic and religious minorities.  
Recommendation No.122 of UPR
2. Provide protection for minority women. Recommendation No.208

#### **Widows and Women Breadwinners:**

1. Take the necessary measures 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 bread –winner women to empower them economically and to ensure decent life for them and their families.
2. Set up accurate and comprehensive database for all widows and divorcees to support policy and program plans.
3. Take the necessary measures to issue the Social Security law and to include the widows and bread-winner women within this law in accordance with article 30/Second of Iraqi constitution.

#### **Disabled Women**

1. Provide facilities and institutions to meet the needs of disabled people for health care and psychological and medical treatment to live a normal life, exercise their full rights as citizens, and to ensure a decent life for them.
2. Provide the proper environment and the necessary facilities for disabled women to form family, to have children, education, and rehabilitation and to get economic empowerment.
3. Rehabilitate and train cadres working with disabled women, in particular, in the educational and health institutions.
4. Establish an independent national commission under the supervision of the Prime Minister to deal with disabled people.

#### **Refugees and women IDPs**

1. Implement programs of psychological and social rehabilitation for victims of displacement, particularly women and children.
2. Involve displaced women, in conflict zones, in the process of national reconciliation and peace-building.
3. Take measures to reduce the discriminatory practices in terms of disbursing compensations to displaced and migrated women.
4. Adopt the following recommendations of the UPR report on Iraq:

- i. To promote policies and continue to seek international cooperation to ensure the human rights of IDPs, including measures relating to their return or resettlement. Recommendation No. 125.
- ii. To encourage the mass return of Iraqi refugees, and guarantee their rights and their reintegration into Iraqi unified society. Recommendation No. 123.
- iii. To adopt measures aimed at ensuring full respect for international law, human rights and international humanitarian law with regard to all refugees. Recommendation No. 124

### **Chapter Eleven: Rural Women**

1. Provide a comprehensive report on the status of women in rural areas, particularly regarding education, health, employment, and the impact of traditions and stereotypes on the exercise of their rights. Observation No.206.
2. Provide the necessary infrastructure in the education and rehabilitation of girls and women, implement vocational rehabilitation programs away from the stereotype of women, encourage women to carry out income-generating projects and provide support to them, and to provide facilities for them to obtain agricultural loans, and the allocation of the subsidy by the Social Welfare Department for Women.

### **Chapter Twelve : Women and Education**

1. Take the governmental measures for sustainability by the enforcement of Literacy Law No 32 of (2011).
2. Focus on the Observation of the CEDAW Committee 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.
3. Take the necessary measures to achieve the compulsory education in the primary school and free access to education in all its stages, in accordance with Article 34/First and Second of the Iraqi constitution, and allocate more resources to education sector, Recommendation No 107 of UPR.

### **Chapter Thirteen: Health**

1. Provide the greatest possible protection for the health rights of women, especially in rural areas, and promote the protection of the impact of traditions and stereotypes. (Recommendation 204 and 206)
2. Continue to support health services for women, particularly vaccines for pregnant women and children, and early screening for breast cancer, providing a safe means of family planning.
3. Seek to create a health insurance system to guarantee health care to all segments of society, especially poorest one, based on the text of Article30/ First and Second of the constitution, as well as the recommendation No.104 UPR report.

## Detailed Report:

### **Chapter One/ Reservations**

Iraq ratified the CEDAW, by Law No. (66) 1986, and published this ratification in the Official Gazette, Issue No (3107) on 21/ 7 / 1986<sup>3</sup>.

**Iraq has ratified the Convention with four reservations , they are included in the order and sequence of materials as follows :**

**First:** Article (2), paragraphs (f - g) on equality in national legislations.

**Second:** Article (9) paragraph 2, for married woman to a foreign, granting of nationality to her children. This reservation has been canceled, according to the provisions of paragraph (Second - of Article 18) of the Constitution which stipulates that: (Everyone who is born to an Iraqi father or an Iraqi mother is considered an Iraqi, and this is regulated by law). In 2006, a new law was issued, Law No. 26 for the year 2006, with its Article No. 3 stating that: "The Iraqi (definition) is: A - born to an Iraqi father or an Iraqi mother."

**Third:** Article 16 of the Convention, concerning marriage and family relations.

**Fourth:** Article 29 of the Convention, paragraph (1) with respect to arbitration.

#### **a. Reservation on Article 2 (F and G)**

Iraq still has reservation concerning Article 2 of CEDAW , with both its clauses (f - g) , even though the 2005 Iraqi Constitution approved the principle of equality before the law and ensured equal opportunities without discrimination in articles 14 and 16 . It is worth mentioning, that there is also a provision similar to those clauses in the International Covenant on Civil and Political Rights , ratified by Iraq without reservation , in Law No. 193 (1970) which is still in force, as it has not been amended and not canceled , and is protected by Article 130 of the Constitution .

#### **b. Reservation on Article 9:**

Iraq has legislated Law No. 33 (2011), which includes lifting the reservation of the Republic of Iraq on Article ( 9) of the Convention on the Elimination of All Forms of Discrimination against Women, set forth in Article II of the law on the ratification of Convention No. 66 (1986) . The government should send details of the cancelation of the reservation to the CEDAW Committee, and demand that the executive authorities enforce the law, and take necessary measures to assure its implementation at all relevant departments.

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<sup>3</sup><http://www.amanjordan.org/pages/openions/6151.html>

c. **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 amendment 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 applications were settled, for more than half a century, on the provisions of this law, in the framework of courts unity, which strengthen the unity of social fabric, based on diversity and integration in marriage and descent among various sects, the most prominent provisions of this law are:

1. The Personal Status Law has stipulated that marriage contract is consensual contract between the parties and this corresponds to Article 16 and may not be done by coercion it because the coercion is crime, and this corresponds to Article 16 -A, and the law separating the wife's rights in terms of feeding, custody, and guardianship and these are considered legal texts so according to this legislative situation, there is no legal value of this reservation.
2. The law prevented the marriage among relatives and forcible marriage according to Article 16-B.
3. Iraqi Personal Status Law equated marital responsibilities as in Article 16 - C.
4. Regulate the relationship with the children in a manner consistent with the provisions of Islamic law and consistent with 16 - D - E.
5. Gave custody to mother provided that the child get his best interest by this custody and this is in line with Article 16-F.
6. 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 that **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 Convention.

## **Chapter Two: Harmonization of CEDAW into National Legislation**

b. **Article 41 contradicts with Article 14 of the Iraqi Constitution of 2005**

1. Art. 41 of the Constitution, which relates to inequality, is completely inconsistent with the text of Article 14 of the Constitution, which guarantees equality before the law without discrimination because of sex. Art.41 poses a threat to the unity of the national legislation and the rule of

law and enforcement institutions, as well as to the unity of the social fabric of the Iraqi society which is based on mixed marriages between sects and ethnicities. It enshrines sectarian discrimination the dominance of the clergy in the organisation of private status, and the resulting cancellation of the Amendment of the Personal Status Law No. 188 of 1959, which saves women a lot of rights in marriage, divorce, alimony, custody and inheritance.

2. Article 41 of the Constitution is disputable as it first embarks for non equality, secondly it strengthens sectarianism, and thirdly it represents a threat to the rule of law and social fabric of society through the elimination of the valid Personal Status Law No 188 of 1959, which preserves the women rights in marriage, divorce, alimony and the custody. As a result of advocacy and pressure campaigns carried out by civil society organizations, Constitutional Revision Committee responded in 2006 to include it in the controversial articles to be amended. Due to the instability of the situation in the country, the report of the Constitutional Revision Committee was not submitted to the Council of Representatives for approval, and the Committee stopped its activity since the summer of 2009 up to date.
3. Article 41 still constitutes a serious threat on women rights as it subject for political deals. The Ministry of Justice, personally by the Minister, had an initiative to submit two draft **laws of Jaafari personal status and Jaafari judiciary, based on Jaafari (Shiite) jurisprudence**<sup>4</sup>. This is completely contradicts with the text of Article 14 of the Constitution for not achieving equality between women and men before the law also permits marriage of young girls and temporary marriages, and strengthen religious sectarian thought through the dominance of religious men on personal status in the society.
4. It is indeed regrettable that Iraq is one of the countries that has contributed to and signed the Universal Declaration of Human Rights, but its constitution in 2005 did not include any reference to it or stick to its provisions, which requires a review of the Constitution and the emphasis on its articles, especially Iraq signed it and this is deemed part of the national law as well as international conventions on women's rights.

**c. Article 41 of the Penal Code No. 111 of 1969**

1. There are a number of discriminatory Articles in the penal provisions of the Penal Law No. 111 (1969) that are in force in Iraqi courts, where the punishment is not equal for the same act for men and women, as some offenders are able to get away and escape punishment despite committing a crime. It is contrary to the principle of equality before the law affirmed in Article 14 of the Constitution, this is also incompatible with Article 29 of the Constitution: (The family is the basis of society and the state shall maintain its entity and religious and moral and national values).

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<sup>4</sup> Annex No 4, Iraqi Women Network statement about providing a legal draft personal status Jaafari and eliminate-Jaafari12/05/2013

The most important part is conceivably the contents of the Fourth Clause of the same Article that stipulates: (All forms of violence and abuse in the family, school and community are prohibited). Also, this text does not conform with the general provisions included in the International Covenant on Civil and Political Rights, and provisions stated in (CEDAW), which obligate the legal protection of women equally with men, and ensure her effective protection through courts of jurisdiction as national laws after their ratification in 1970 and 1986.

2. Although the Ministry of Human Rights submitted proposals to amend or cancel these articles, based on the provisions of Article 14 of the Constitution , yet the political will and the customs and traditions , in addition to the weakness of state institutions, have all contributed to obstruct the amendment of these articles. The CSOs advocated a continuous campaign under the title: "Equitable Legislation for Women's Rights", and submitted the amendments draft of a number of these provisions. We summarize below the most important discriminatory provisions in the Penal Code:

- **Article (41)** : Permits the husband to discipline his wife , and this act is considered a " right " even if this act leads to spousal abuse and causes her harm , whether emotionally or physically , and without regard to the social position of those women in the family or community or in the workplace . The text exceeds in humiliation when this matter is classified along with minor children, where parents and teachers are permitted to discipline their minor children.
- **Article 128** , which stipulates : ( legal excuses shall either be exempted from punishment or shall reduce the sentence ... and it is considered a mitigating excuse if a crime is committed out of motives related to honor or on the basis of serious provocation from the victim unjustly ) . The judicial practice has settled on the application of legal mitigating excuses in relation to the so-called crimes of honor. The legislation and jurisprudence and the judiciary are all united in granting the offender the authority to execute the verdict on the victim. The penalty imposed is reduced from death penalty or life imprisonment to six months in prison in many cases.
- **Article (377)**: This legal text adopts a different legal stance for men and women, when committing adultery. According to this provision the act of adultery committed by the husband is not subject to legal accountability, unless committed in the marital house, which means that the legislator gives the husband a license to commit adultery outside the marital house.
- **Article (380)**: (A husband that incites his wife to commit adultery, and she committed the act based on this incitement is punishable by imprisonment). In other words if the material element of the crime was not established, meaning the act did not actually happen, the incitement in itself does not constitute a crime. But if the wife commits adultery on the basis of incitement, and the husband filed a complaint in accordance with Article (377), and the wife failed to prove this incitement, she will receive the punishment stated for the offense of adultery. This is prejudice to her right and an insult to her dignity.

- **Article (398) :** The provisions go as far as to give the offender a legal excuse with reduced sentence if a valid marriage is conducted between the perpetrator of an act of rape and the victim on basis of Articles ( 130 ) and ( 131 ) Penal Law . Here the victim is faced with another coercion added to the act of rape; a forced marriage, and the culprit escapes punishment despite committing a crime.
- **Article ( 409 ) :** Gives men a mitigating excuse : " If a husband caught his wife or a female kin in the act of adultery, or if she is in bed with her partner, if he kills them both or one of them , the husband is punished by imprisonment, ." This article in its current state constitutes discrimination against women, as it is a legal excuse for a reduced sentence, for men who kill defending their honor. This does not apply to a woman who surprises her husband and partner in the marital bed and kills them.
- **Article ( 427 ) :** This text stipulates that if a valid marriage is conducted between the perpetrator of the crime of detaining or kidnapping a woman and his victim , the investigation and other procedures shall be suspended , which allows the offender to escape punishment

#### **d. Instructions on issuing passport**

Iraqi women still cannot get a passport without the consent of the guardian or anyone represents her legally to the law and in accordance with the instructions of the Ministry of Interior, and in the following cases and in accordance with the following:

1. The virgin girl the age of 12 -40<sup>5</sup>, a married woman, the widow and divorced women to get a passport without the consent of the parent or of his legal representative.
2. For widows and divorced women, if there is no guardian or her legal representative, the Director of the Passport Office has the right to issue the passport or not.
3. A decision of the Council of Ministers ordered to allow women to travel without a Mahram (male escort) since 2004, and this was driven by the Ministry of State for Women's Affairs, where the decision No. 7/1/271 in 19/09/2004 was issued, which had emphasis on allowing Iraqi women with full eligibility to travel whenever she wants without the need to escort called (Mahram), but that directorates of travel and citizenship in Iraq did not comply with the decisions<sup>6,7</sup>.
4. These instructions issued by the executive authority completely inconsistent with the text of Article 44 / First of the Iraqi Constitution (Each Iraqi has freedom of movement, travel, and residence inside and outside Iraq). Article 46 of the constitution stipulated (Restricting or limiting the practice of any of the rights or liberties stipulated in this Constitution is prohibited, except by a law), according to that this

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<sup>5</sup> Ministry of Interior Website- Citizenship Directorate  
[http://www.iraqinationality.gov.iq/passport\\_ar.htm](http://www.iraqinationality.gov.iq/passport_ar.htm)

<sup>6</sup>Ministry of Human Rights Report of 2003 about the status of Iraqi woman after 2003, page 4

<sup>7</sup>COMSEC Order to cancel Mahram back in 2004

restriction or limitation shall not affect the essence of freedom and right. It is also contrary to Article 15, paragraph 4 of CEDAW Convention.

**e. Tourism Authority Instructions**

Verbal instructions issued by the Tourism Security to the hotels, stating “Not to allow women to stay overnight at the hotel alone, they have to be accompanied by a Mahram or carrying an authorization from an official or non official entity”.

**f. Civil Society Organizations Efforts:**

1. The women movement managed with lobby and advocacy campaigns, to abolish the Governing Council Resolution No. 137 (2003)<sup>8</sup>, which was calling for a sectarian personal status of Iraqis rather than the Iraqi Personal Status Law No. 188 of 1959, but the political will of religious parties, was able to impose Article 41 of the Constitution of 2005, which represents the same content of the resolution No 137.
2. As a result of NGOs lobbying, especially women organizations with regards to Article 41 of the Constitution that fuel sectarian conflict, and pose a threat to law enforcement and loss of prestige became controversial article that cannot enact a law whereby only after political consensus to modify or cancel it.
3. The civil society organizations conducted pressure campaigns which aims to draw the attention of the government and the legislature to make amendments to discriminatory laws against women, in particular regarding articles (41,128, 377, 380, 398, 409, 427) of the Penal Code No. 111 of 1969 and the Ministry of State for Women's Affairs submitted a proposed amendment to this article to the Shura State Council. Only all this encountered with the barrier of norms which cannot be canceled and replaced by another legislation as it takes time and effort<sup>9</sup>
4. The norms that hinder amendment of Criminal Articles afore mentioned , derives its power from the authority of Clan , which is a rising authority of and official power, enhanced , when the State under the 2005 Constitution ensured The advancement of the Clans Tribes, as in Article 45 / Second<sup>10</sup> . This article forms a serious threat to women's dignity and rights, as it guarantees by the Constitution and the laws in force, i.e over rule a woman's will and freedom of choice, her right to marry, expose women to murder and get away with it, under the pretext of “ Honour killing”, or a woman can be exchanged as part of the compromise deal between Clans for settlement of conflict , all this taking place outside the context of the rule of law and its

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<sup>8</sup> Order 137 of the governing council, session 5, 27/2/2004

<sup>9</sup> Iraqi government CEDAW report 2011

<sup>10</sup> Article 45/second/Iraqi Constitution 2005: the State is keen on advancement of Iraqi tribes and clans, and concerned with their affairs related to religion and law, strengthen its noble humanitarian values, in contributing to developing society, and to prevent the clan norms that are incompatible with human rights.

institutions, and other tribal traditions and customs that are contrary to human rights and freedoms contained in the Constitution and in international instruments.

## **Chapter Three: Strategies and laws to combat violence against women**

### **A. Strategies**

#### **• Strategy to Combat Violence against Women :**

The federal government adopted in March 2013<sup>11</sup>, it was initiated by civil society organizations. The strategy followed an approach to address all kinds of violence against women in all stages of life. This strategy relied in its framework on a number of international conventions including CEDAW Convention with its reservations. The state budget 2013 did not include the allocation of the required financial resources for this strategy.

Recently the Ministry of Women made assessment of the situation in order to develop a cross cut work plan to activate the Strategy against gender-based violence and ensure that the ministries (Labor and Social Affairs, Ministry of State for Women Affairs, Health, and Education) at the federal level in addition to the Ministry of the Interior in Kurdistan region. The evaluation pointed out that there is a short fall in the financial resources allocated to activate the strategy. (Attached are pictures of the evaluation plan for the above-mentioned ministries)<sup>12</sup>.

- **Strategy for the Advancement of women:** developing a draft prepared by international support, but it has not been launched yet
- **The National Strategy to Confront Violence against Women in Kurdistan – Iraq (2012-2016):** was approved on 29 September 2012. The strategy establishes a uniform analysis and approach to combating violence against women in all forms and provides a plan of action for legal reform, awareness-raising for professionals and local communities, including media and in schools, protection of survivors of violence, and the provision of medical, social and physiological services<sup>13</sup>.
- **Other National Strategies:** Iraq launched a number of national strategies in line with Millennium Development Goals, in order to achieve the overall national development in the country, including:  
**First-** National Development Strategy, 2010-2014  
**Second-** National Strategy for Poverty Reduction 2010-2014  
**Third-** National Strategy to Combat Corruption

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<sup>11</sup>[http://www.smwa.gov.iq/inside\\_page/247.html](http://www.smwa.gov.iq/inside_page/247.html)

<sup>12</sup>Ministry of Labor and Social Affairs page 17-18, Ministry of Women Page 19, Ministry of Health page 13, Ministry of Education page 13, Ministry of Interior-Kurdistan page 22

<sup>13</sup>[http://www.ohchr.org/Documents/Countries/IQ/HRO\\_July-December2012Report.pdf](http://www.ohchr.org/Documents/Countries/IQ/HRO_July-December2012Report.pdf) UNAMI Report pg 20

These strategies faced a number of challenges and the most important of these challenges is the deterioration of the security situation, lack of adequate financial allocations, and delay in the public census, legal requirements, and lack in using new technology and weak government performance represented by the financial and administrative corruption in the implementation of programs for these strategies.

There were no clear indicators to achieve the required outcomes so government has extended the work in some of these strategies up to 2017.

#### **b. The law to Combat Domestic Violence**

- **National law for Protection from Domestic violence** : Since about one year, the draft was prepared by the Committee of Experts with the participation of CSOs, under the auspices of the Ministry of State for Women's Affairs; the draft is still with the government and is subject to routine procedures that hinder its submission to Parliament.
- **KRG passed the Law against Domestic Violence No. (8) of 2011:** That was widely accepted and well received. 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 deemed a crucial step in eradicating the practice of FGM<sup>14</sup>. Despite the elapse of almost two years on the issuance of law, but its implementation was faltered due to not completing the formation of the Reconciliation Committees as was stated by the law, and did not achieve its intended purpose in creating the legal protection of women<sup>15</sup>.

### **Chapter Four: Access to Justice**

#### **a. Death Penalty**

1. 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. In 2013 five women were executed. There are 32 female inmates are awaiting execution, and a number of them awaiting execution since years<sup>16</sup>.
2. These continuing executions in Iraq raised widespread concern at the local and international levels. The United Nations Assistance Mission in Iraq (UNAMI), the United Nations High Commissioner for Human Rights and the UN Special Rapporteur on extrajudicial expressed their concern about cases of arbitrary

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<sup>14</sup>in 2010, Wadi Society for Development Cooperation, German-Iraqi NGO, issued a study on the extent of this practice prevalence in Karmian/ Kirkuk, Sulai and Erbil, and found that the percentage is more than 40%

<sup>15</sup>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

<sup>16</sup>Summer Saad Abdullah, who was convicted with death penalty in 2005, after she had confessed of killing some of her relatives, but she alleged later on that she was forced to confess after she was tortured during the interrogation

executions, and drew repeated calls to freeze the implementation of the death penalty in Iraq.

3. 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), secondly No. 48 states (respect the minimum standards, at least, as long as the death penalty in force).
4. The Iraqi government gave a pledge to the Human Rights Council of the UN in 2010, that it will reduce the number of crimes subject to the death penalty. The pledge was included in the action plan of the National Plan for Human Rights in Iraq, to take measures, including a survey and research, and then a review of the laws and regulations, and their harmonization with international agreements, and set a timetable for the completion of 15 months-Human Rights Council UPR.

**b. Women in detention centers and prisons:**

1. **The annual report of the Ministry of Human Rights on the situation of prisons and detention centers in Iraq in 2012**<sup>17</sup> indicates that there is a large over crowding in prisons above its capacity<sup>18</sup>. The same report indicates the cases of allegations of torture of detainees and exposure to rape or threats that were registered in 2012. It also pointed out that most women prisons lack the nursery for children that they accompanied their mothers in prisons, as the case in the women prisons in Baghdad, Hilla, and other prisons, and almost totally lack any privileges to people with special needs. The total number of detainees, as the report indicated, was 1165 until the end of 2012 across the prisons and detention centers in Iraq.

**On Saturday July 13<sup>th</sup>, 2013, Israa Rabii, a young female prisoner died, she was spending time in Hilla prison. Given an injection by mistake for treatment, it worsened her condition; she was transferred to Site 4 prison in Baghdad after further deterioration of her condition. During the morning she was calling for help in that prison, the prison administration ignored her cries, she died amid inhuman and neglect of the prison administration. Such cases occur all the time in prisons, yet pass without punishment of those responsible for the negligence.**

2. **On the other hand the report of UNAMI on Human Rights in Iraq stated:**

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<sup>17</sup> <http://www.humanrights.gov.iq/uploads/ali%20pdf/final2012.pdf>

<sup>18</sup>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.

“UNAMI is also concerned at the excessive harshness of some sentences: 15 percent of the convicts had received prison terms ranging from 15 years to life for adultery or prostitution” and two thirds of all women convicted for murder had been sentenced to death. In Baghdad, for example, UNAMI found a number of women in the Rusafa women’s detention centre, who had been sentenced to 15 years imprisonment for adultery or prostitution.

3. “In one case documented by UNAMI in Basra, a female Iraqi refugee who had returned to Iraq to search for her relatives was arrested twice in two different provinces, apparently only because she was an unaccompanied woman who had a relatively large sum of money in her possession. Only repeated interventions by lawyers and UN representatives secured her release two months after her initial arrest.”<sup>19</sup>

### **Additional Notes:**

1. Iraqi law did not distinguish between women and other male detainees in terms of enjoying legal safe guards during the period of detention, investigation and trial, but within detention procedures there is the necessity of bringing the defendant before the court within 24 hours, it was observed that there is a delay in the periods of bringing female detainees before courts may last days where they are kept in detention under the administration of the Ministry of the Interior.
2. Women's detention facilities of the Ministry of Interior and Ministry of Defense are run by men. There is no consideration for detained women privacy in communication with the family and children<sup>13</sup> during arrest and pre-trial detention and in the majority of pre-trial detention facilities in Baghdad and the provinces<sup>20</sup>.
3. The absence of protection mechanisms for State institutions supporting the work of the criminal justice system, leading to expose the lives of many women who finish their prison terms or released to violations and danger on their lives, due to customs and traditions of the society and demeaning attitude against them.

### **Chapter Five: Violence against women in Iraqi society**

Violence against women is the most important problems facing the Iraqi society and threaten the future of the Iraqi family in its security and stability, as Iraqi women faced various types of violence on a daily basis and at all stages of age<sup>21</sup>, the reports from CSOs indicated high levels of violence against women as a result of the accumulation of the defunct regime's policies that dragged the country to wars and blockade, in addition to what is occurred after 2003 including terrorist, killing and displacement that have led to high unemployment and increasing poverty levels among members of the society and this left its negative impacts on Iraqi women, on her family in particular and society in general.

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<sup>19</sup> [http://www.ohchr.org/Documents/Countries/IQ/HRO\\_July-December2012Report.pdf](http://www.ohchr.org/Documents/Countries/IQ/HRO_July-December2012Report.pdf) - page 10

<sup>20</sup> There are no places for family visit to the female detainees

<sup>21</sup> Ministry of Human Rights report about the status of Iraqi woman of 2003, page 24

a. **Survey of the Integrated Social and Health Situation of Iraqi Women (I WISH 2011)** issued by the Ministry of Planning - Central Bureau of Statistics, in cooperation with the Bureau of Statistics of Kurdistan - the Ministry of Health<sup>22</sup>:

6. According to the report; there is a lack of awareness on the right concept of violence against women, it is noted that the understanding of Iraqi women to violence is different from the international definition of violence against women, as most women in Iraq agreed that the economic deprivation, denial of the exercise of the rights to communicate with family, the denial of right to education and the right to work constitute violence against women, whereas most women don't consider the deprivation of political participation, must know the wife activities all times, beating the girl if she misbehaved and obtain permission before traveling are cases of violence against women.
7. The women in the survey pointed out that they are subject to physical or verbal violence, or sexual abuse during the year preceding the survey in many places, as almost one in every five women indicated that they are subject to violence in the street or shopping centers, and this percentage rises in urban areas more than the rural areas, where abuse in public transportations 10.5% follows next, which is also higher in urban areas than the rural areas.
8. The report indicated that there are not many cases of violence in the workplace or in educational institutions, according to the testimony from women; it shows clearly that this kind of violence is hidden, and considered a taboo to mention it, due to stereotype customs and traditions. And here we refer to a recent questionnaire, prepared by the Iraqi Women Journalists Forum on the extent of harassment women in media are subject to in media work, 68% of the media women answered yes, 11% of them answered sometimes and 21% said no, this indicates clearly, how harassment in the workplace is a worrying phenomenon.

b. **Legal Framework**

1. Article 29 / Fourth of the Iraqi Constitution “ all forms of violence and arbitrariness in family, school and society are prohibited”
2. Article 14 of the Constitution, " All Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status”
3. Convention on the Elimination of all Forms of Discrimination against Women, which was ratified by Iraq in 1986

c. **Domestic Violence:**

1. Domestic violence is still one of the taboos to talk openly about or share within family or outside. As the cases of abusing women verbally, by cursing them; beating, and mutilation, even extends to killing, still are not considered strange and criminal behaviours in the society as it is still the prevailing belief that women are the property of the man and his family. The customs and traditions justify violence against women as some see it as religiously justified being associated with the obedience to the guardian, and others

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<sup>22</sup>Iraqi Ministry of Planning- Central Bureau of Statistics [http://www.cosit.gov.iq/documents/statistics\\_ar/human%20development/surveys/fullreports/202011%20المسح%20المتكامل%20للاوضاع%20الاجتماعية%20والصحية%20للمرأة%20العراقية.pdf](http://www.cosit.gov.iq/documents/statistics_ar/human%20development/surveys/fullreports/202011%20المسح%20المتكامل%20للاوضاع%20الاجتماعية%20والصحية%20للمرأة%20العراقية.pdf)

believe in the perception of women as inferior. In all cases, the violence against women remains a common practice in the prevailing patriarchal system and male dominant culture, deriving its influence and strength from the customs, traditions and principles of missled social upbringing, and extends its effects to all State institutions and decision makers. This system, which organizes the type of relations in a hierarchy, allows the top of the power to practice violence as a means of exercising control and more often the domination.

2. Bringing attention to the subject of violence against women, especially domestic violence is a prior issue, and one of the main causes, raised by demands of women movement in Iraq and international organizations on finding mechanisms to protect abused women. As a result of this, the government has taken positive steps although they are slow to reduce violence against women, such as the creation of the family protection directorates and launching national strategy to combat violence against women, in addition to the Law on Protection from Domestic Violence in Kurdistan region of Iraq. And approval of the National Strategy to combat violence against women in Kurdistan Region 2012-2016

d. **Family Protection Units (FPU)**

1. The Iraqi government has taken measures to reduce gender-based violence by establishing Family Protection Directorates in the Ministry of the Interior, in 2007 by two directorates in Baghdad and one directorate in each governorate, they are still operating without a law regulating their work, most of its cadres are men from the police force, and they need training for their cadres on violence and GBV, and to strengthen its capacity to increase the number of women officers, policewomen and social workers at various administrative levels, the challenge lies in establishing an effective referral system to provide support and protection for survivors.
2. Several offices and directorates to combat violence against women in the three provinces of Kurdistan were opened, in addition to open shelters for women whose lives at risk. Whereas other provinces do not have shelters, moreover, media promotion of these centers are weak, as the case with the mechanisms of communication and therefore many women are unaware of these services that could be provided to them.
3. The Supreme Judicial Council established two courts specialized in issues of violence under the title Family Court in Baghdad, one in the Karkh district and the other one in Rusafa district; they work according to Iraqi Penal Code No. 111 of 1969.

❖ **Although a Family Police Unit (FPU)** specialising in cases of domestic violence against women and children was opened in Kirkuk, the unit has limited capacity owing to a lack of suitably qualified staff and inadequate space. The Unit currently has no female staff. The FPU is located on the second floor of a regular police station, which discourages women from entering it. During the reporting period, only a few cases had been referred to the FPU, all of them through women's rights organizations<sup>23</sup>.

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<sup>23</sup> [http://www.ohchr.org/Documents/Countries/IQ/HRO\\_July-December2012Report.pdf](http://www.ohchr.org/Documents/Countries/IQ/HRO_July-December2012Report.pdf) - page 19

❖ **The FPU in Basra** is currently housed in premises that are overcrowded and not easily accessible to female victims of domestic violence, since, as in Kirkuk, they are located on the top-floor of an existing police station. The FPU also needs to expand the number and functions of female staff, which currently number six and are tasked exclusively with secretarial duties and the frisking of female visitors. UNAMI shares the concern of the FPU that there is still no shelter available in Basra to accommodate women who cannot return to their previous residence<sup>24</sup>.

**e. So called “Honour Crimes”**

1. The crimes under the honor pretext is hardest types of violence against women which is usually carried out by a relative to the woman if they think that her behavior affect the honor of the family. The rates of such crimes are higher in rural areas than the cities due to the nature of stereotype thinking of women associated with the tribal customs and traditions<sup>25</sup>.The year 2007 witnessed the highest rate of killings of women, reached approximately to 70 cases<sup>26</sup>.The deterioration of the security situation and the emergence of extremists’ armed groups who considered themselves responsible for women behaviour in the streets, and started judging them with orders to punish them.

2. The police department in Basra reports indicated that there are 52 murder cases fall under this category<sup>27</sup>. The courts files showed that most cases of murder of women recorded against anonymous or as destiny and God’s will, and they are either arson cases or suicide. In 2008, only ten such cases had access to the court, this indicates a weak legal pursuit on the perpetrators of these crimes, despite the amendment of an article related to the honor crimes in Law No. 14 (2002), in Kurdistan Region, which states:" The crime against women under the pretext of honor motives shall not be considered a mitigated legal excuse for the purposes of applying the provisions of articles (128, 130, 131)<sup>28</sup>

According to reports and statistics of the Directorate of Combating Violence against Women/Ministry of Interior/Kurdistan Region, here below is

**(Table-1)**with records murder cases in Kurdistan Region**2010, 2011, 2012:**

<b>Cases of Murdered Women in Kurdistan (Erbil, Sulaimaniya, Duhok, and Karmian)</b>	<b>No. of Cases in 2010</b>	<b>No. of Cases in 2011</b>	<b>No. Cases in 2012</b>
Murder	49	43	46
Suicide	56	44	39
Burning	299	228	253
Self Burning	143	123	105
Torture cases and beatings (all types)	1068	990	691

<sup>24</sup>The same 26 reference source.

<sup>25</sup> UR NGO for motherhood culture and child, has documented more than 6 cases under the pretext of so called honour killings for women in rural areas in ThiQar province, from Sep-Dec 2011

<sup>26</sup>Ministry of Human Rights report about the status of Iraqi woman of 2008, page 39

<sup>27</sup>Files of UN Human Rights Office - Ministry of Human Rights report about the status of Iraqi woman of 2013

<sup>28</sup>The Iraqi Penal Code No. (111) of 1969 as amended in Kurdistan

<b>Rape</b>	<b>134</b>	<b>109</b>	<b>170</b>
Cases Of violence against women, filed complaints at Police Dept., courts, and combating violence against women bureaus	<b>2485</b>	<b>2538</b>	<b>3426</b>

**Table-1**

As part of the **16 days of Activism** campaign to combat violence against women in November 2013, **No to Violence against Women Gathering in Kirkuk**, issued a statement on the following statistics about the murder of women in Kirkuk in 2012, as well as the first months of 2013 (taken from credible resources). The statement noted the growing proportion of cases of women assassination in general in 2013 compared to 2012, as recorded 19 cases of murder from the date of 1/1/2012 to 20/4/2012, whereas 28 cases for the same period in 2013, with an increase of (9) murder cases.

**Below (Table-2): shows Statistics on murders of women in Kirkuk**

<b>Number of women killed from 1/1 to 20/4/2013</b>	<b>Method of killing</b>	<b>Number of women killed in Kirkuk in 2012</b>
<b>8</b>	<b>Killing by gunshot</b>	<b>33</b>
<b>/</b>	<b>Slaughter or hanging</b>	<b>13</b>
<b>15</b>	<b>Burning</b>	<b>65</b>
<b>5</b>	<b>Murder because of social problems</b>	<b>10</b>
<b>28</b>	<b>Total</b>	<b>121</b>

#### **f. Female Genital Mutilation (FGM)**

1. Girls are vulnerable to circumcision, especially in the areas of the Kurdistan region, but these cases are rare in central and southern Iraq<sup>29</sup>. According to the report of German Wadi Organization that 72% of females in the Kurdistan region have been subjected to circumcision after conducting a full scan during 2007-2009 in more than 700 villages and sub-districts, which included the city of Sulaimaniya, Erbil and area Karmian. The age of most of these girls who had circumcision, is ranging from 4 to 9 years old. Karmian is deemed the worst area in Kurdistan in terms of the rate of girls who had circumcision<sup>30</sup>, and 38% of females in the Kirkuk have been subjected to circumcision<sup>31</sup>. Usually, this circumcision operation is

<sup>29</sup>Lawyer and activist in Al-Salam Humanitarian NGO, HayderKhamas Al-Rubai'is said "circumcision is a phenomenon that is increased in Kurdistan, but it is rare in central and southern Iraq as this act is not preferable in these areas" <http://www.dw.de/ختان-الاناث-في-كردستان-العراق-برعب-يلاحق-الفتيات>

<sup>30</sup>same resource

<sup>31</sup>Wadi Society for Development Cooperation and Bana Organization conducted a survey in 2012 showed that 38% of female had circumcision, as 1212 females were covered by this survey, whose ages is more than 14 years old in Kirkuk city and its sub-districts. <http://manber.ch/news.php?action=view&id=6884>

performed by elder women who have no medical experience. The basis of this phenomenon depends on an old religious fatwa, and this phenomenon is strengthened by emergence of radical Islam after 2003, and some Kurdish areas of tribal and rural character. The governmental health authorities stand powerless to prevent it, due to social and customary causes that constitute barriers to it.

2. The issue of circumcision of females have been addressed with great interest by many international organizations specialized in human and civil rights, including "UNICEF", "Wadi", " **No for violence against Women** ", " **Human Rights Watch** " , and others. **The women NGOs in Kurdistan** had health, social and media awareness campaigns against the circumcision of females; they were successful to include the prohibition and criminalize of circumcision in the Anti-Domestic Violence Act No 8 of 2011. Despite the issuance of the law, but so far, no procedures have been taken for its activation by the government and the rates of this phenomenon are still high."We have a project with international and local organizations to find out more about this phenomenon and determine the causes and the age group to have results to reduce this phenomenon" according to the Representative of Supreme Council for Women's Affairs in Kurdistan.

3. **The Iraqi Penal Code No. 111 (1969)** did not explicitly criminalize the circumcision but implicitly pointed to it in Article 412, as circumcision is listed among the acts that lead to amputation of limbs<sup>32</sup>.

#### **Anecdotal evidence: Case of Nermin Hama Nafi'a**

The below case helps illustrates how FGM is seen to be part of accepted societal norm and not as a violation of women's human rights and rights of a child.

**NerminHama Nafi'a** did not know that one day in the spring of 2004 will be different from the rest of the days of her life.Nerminis a 17 years oldgirl, lives in the village of Ahmed Kloanin Penguin district in Sulaimaniya governorate; she suffers the bitterness of pain seven years ago. After a long silence with anguish and shame that became clear in the features of her face from talking about it when she lost part of her femininity. In the beginning, she refused talking with Deutsche Welle about that moment that she described as " ominous ", but after moments of silence, she decided to talk , saying: "While I was soaked in sleep, my aunt started to whisper in my ear to wake me up and go with them to the market to buy some things for the house. I was surprised that the time is still early, and after a few moments I went out with my aunt and my mother". But soon they took one of the roads that lead to the other side away from the village market. Details of that day are still present in front of the young Kurdish girl, and she adds: "my aunt and my mother entered to the house of our neighbor old Fatima and I was waiting in the courtyard of the house, beside me were many of the young girls playing with dolls and toys like a feast day ." The scene seemed somehow strange to Nermin that did not exceed ten years old at that time. Unforgotten moments and indelible effects were at that time.

Moments later, her mother with her aunt came to take her into the house , and in the semi-dark room, the old lady pulled Nermin legs apart and cut part of her genital by a used blade and she felt " severe pain" and then this old lady washed the wound

<sup>32</sup>Article 412 "Any person who willfully assaults a person by wounding or beating him or with the use of force or harmful substances or by committing another unlawful act with intent to cause permanent disability is punishable by a term of imprisonment not exceeding 15 years,there is permanent disability if the act results in the severance or amputation of a limb or part thereof"

with warm water and salt and put ashes to stop the bleeding. Nermin recalls how her mother kissed her at that time with joy, "she scattered candy over my head and put some money in my hand, and whispered in my ear that she is happy and I became today a pure woman"

**g. Minor girls' marriage:**

1. The phenomenon of early marriage of girls increased considerably after 2003 due to deterioration of economic and security situation, ignorance, illiteracy and dominance of tribal traditions. Statistics show that women in the south have been subjected to this phenomenon by **19%** for age group between (15-19) years old, while for the same age group is no more than **10%** in Kurdistan region and often this marriage is concluded outside the court.

2. The law gave the exception of the eligibility requirements by permission from judge for the marriage of a minor, which is below the 15 years old, under the definition contained in the currently active Personal Status law if he/she (the minor) proves his/her eligibility for marriage and physical capacity after the approval of the legal guardian (and even if the guardian does not respond or agree) during the period set by the judge and the guardian objection is worthy of consideration, the law gives the judge the right and by his/her personal permission to make marriage of minor possible and by the jurisprudence of the judge and doctrine, the law did not require mental capacity and mental maturity. Making the marriage of a minor possible by the jurisprudence of the judge, the judge, eventually, follows his personal religion/sect back ground and personal belief.<sup>33</sup>

**Anecdotal Evidence, the case of Naima Abbas:**

**Naima Abbas is an Iraqi woman**, she was born in 1975, resorted to the center of Progress for Women seeking legal assistance. Naima Abbas said " I got married in late 1996 and did not register my marriage in court and gave birth to three girls and a boy, Alia was born in 1998, Wasanin 1999, Abeer in 2000, and Ahmed in 2001 ( these ages according to Naima's calculation to her children because she does not have the official birth dates ) in 2013 Alia and Wasanin married to two men from their relatives but they did not register the marriage in court because the two girls do not have personal papers as a result of non-registration of their parents marriage in court and the Department of Civil Status, and also they are minors, they only have the marriage bond of the Shiite cleric, so the tragedy of Naima repeated with her daughters because of ignorance, poverty and lack of responsibility.

**h. Temporary marriage:**

1. The phenomenon of temporary marriage, increased significantly in the recent years, and some considered it a religious liberty but women often

<sup>33</sup> Iraqi personal status law No 188 of 1959

resort to it because of the economic destitution more than the religious liberty and sexual need. The increased number of widows and the desire of many young men including the unemployed ones prefer temporary marriages rather than permanent marriages, which require long-term financial commitments. In the temporary marriages, the man spent on woman throughout the period of this marriage only.

2. This phenomenon in itself is deemed an exploitation of women as it is one of the marginalized and vulnerable groups, especially after the extremist religious groups had a growing influence in Iraq. Some clerics, who do temporary marriage, think that such marriage will keep young women away from sexual intercourse outside of wedlock, and will prevent divorced and widowed women from resorting to prostitution to get money. The Shiite cleric Sheikh Mehdi Al-Shook says that “this marriage aims to provide humanitarian assistance to the women according to this marriage”.
3. This kind of marriage can last for several minutes or several years; men can maintain unlimited number of temporary marriages, in addition to the permanent wife. The temporary marriage does not require a written contract or celebration. When the period ends, both spouses separated without the problems of traditional divorce, in most of these cases, women do not have the right to terminate the temporary marriage, before the expiry of its duration, except in the case of man consent.
4. It is not legally recognized or socially accepted. It is disturbing that there is an increase in cases of temporary marriage in universities. It said some female students do it because of the need for money, while others do it for love, or when the family objected the marriage of their daughter from a man belongs to another sect. There are no accurate statistics about temporary marriage because often it occurred secretly.

**i. Violence due to armed manifestations (US occupation and sectarian violence)**

1. Violence by armed manifestations has contributed immensely to restricting women and girls freedom of movement in society in all provinces, adversely affecting their education, and the proliferation of the phenomenon of early marriage for protection. As women incurred results of forced immigration, widowhood and orphan-hood, in addition to becoming more vulnerable and exposed to kidnapping and rape.
2. The US occupation forces have exercised direct violence against Iraqi women embodied in the intimidation, arrests and raids on members of her family, and the threat of arms, also it was raped by soldiers.<sup>34</sup>

**Abeer is a girl, who was raped and her father Qasim Hamza Al-Janabi and three of her relatives were killed in the Mahmudiya district, in March 2006, she was 14 years old, and the perpetrator of that crime, Soldier Steven Green was punished by unfair penalty as he was tried in a court in US Kentucky state by a sentence of life imprisonment and he has great hope to reduce the sentence to be released.**

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<sup>34</sup> Annex 8

3. The government report submitted to the CEDAW Committee indicated that kidnapping is one of the manifestations of violence against women as a result of the deteriorating security situation and the spread of the insurgency in the society. The kidnapping increased either for the purpose of ransom or for the assassination of women activists and journalists. The Iraqi Women Journalists Forum documented the names of 28 female journalists who were assassinated from 2003 up to the end of 2013, in addition to cases of assaults, threat, abuse and displacement to many female journalists. Statistics of the Iraqi Interior Ministry showed the increase of girls abduction from 2003 up to 2006 recording 732 cases of abduction of women in all governorates of Iraq,<sup>35</sup> whereas in 2009 recording 197 cases of abduction of women.

**Margaret Hasan, was a representative of CARE International in Iraq and that served Iraq approximately 30 years, especially in period of sanctions which was imposed on Iraq since 1990 to provide humanitarian aid and pharmaceutical aids, she was exposed to kidnapping on 19-10 -2004.**

**Amal Al-Maamelchi, was an adviser in the Ministry of Municipalities and feminist activist, she was murdered in morning of November 20<sup>th</sup>, 2004 and the issue of assassination attributed to unknown assailant.**

4. As a result of reports prepared by Human Rights Committee and Woman, Family and child Committee in Council of Representatives in 2013 that showed **women detainees were exposed to harassment, rape and abuse**, huge demonstrations organized in western areas of Iraq claiming the release of women detainees, cancel the secret informer from the anti-terrorism act.
5. **The Kurdish community in Iraq**, and women in particular, still suffer many social problems as a result of the aggressive policy of the former Iraqi regime against the people of Kurdistan in the practice of the worst campaigns of repression, displacement, forced relocations, with a scorched-earth policy and massive destruction of infrastructure, and genocide especially in the town of Halabja, where 5,000 victims of extermination of civilians, mostly women and children, with internationally banned chemical weapons, and more than 5,000 people were injured and birth defects. In addition to exterminate nearly 182,000 people in the notorious Anfal campaign, most of them women and children

**j. The impact of violence on women situation in Iraq after 9-4-2003:**

1. **Homelessness phenomenon** among women due to the difficult conditions experienced by them, especially breadwinners, where the state fails to provide services to them, nor do they have access to social

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<sup>35</sup> Iraq report to CEDAW Committee in 2011

welfare. In addition to extreme poverty and destitution experienced by displaced families, widows, and the existence of organized crime/gangs exploiting many women and children as beggars, any solution and measure by the State in this sphere did not match the size of the problem<sup>36</sup>.

2. **Widows and divorcees as breadwinners**, increasing due to growing levels of violence in society and the family as a result of wars before 2003 and terrorist operations in the country afterwards .
3. **Female suicide bombers**, where armed groups recruit women in terrorist operations or exploit them in logistics and fund raising operations.
4. Forcing many women in hot areas, notably in Diyala province, to **marry temporarily unknown men, with anonymous identities** who are members of armed groups such as Al-Qaida, whom eventually will depart or get killed leaving behind children without identity, and wives who do not know anything about their rights and about how to address the situation of their children legally .
5. **School Dropouts**: the violence affected increasing numbers of school drop-outs, with girls forming a majority proportion of them, because of the deteriorating security situation and the increasing kidnappings and violence in all its forms, especially between 2005-2008. In addition to the migration of many families in and outside Iraq, which affected negatively by the fact that in most cases, the girls who leave school or postpone studying.

#### k. Civil Society Organizations (CSOs) Campaigns

1. Many workshops, seminars and conferences to highlight the increasing **humanitarian disaster prevailing due to violence against women and discrimination** were conducted by CSOs. The Network held on March 8, 2012 a national conference on violence against women, which was marked with the participation of more than 400 delegates nation-wide, which discussed six topics including, domestic and legal violence, impact of tradition and norms on increasing the phenomena of violence against women.
2. The success of the campaigns, lobbying and advocacy that led to the approval of the Iraqi government in March 2013 to the **national strategy to combat violence against women**.
3. Many civil society organizations in most of the Iraqi provinces are running **Family Support Centers or they are called Legal Support Centers**, offering free social, psychological and legal consultations for victims of domestic violence, and they have played an influential role in breaking the silence of women, and in the monitoring and documenting violations that they faced, as well as awareness and education among women in communities and official institutions about violence and discrimination against women in the context of (CEDAW) and SCR No. 1325, in particular. They carried out also programs to empower female

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<sup>36</sup> Iraqi Women Status Report 2008 - The Ministry of Human Rights

employees in the judiciary, the institutions of law enforcement and social workers, in addition to female employees in education, health and social care institutions.

4. Successful advocacy campaigns in order to create a legislation to criminalize violence against women, and the participation of a number of representatives of NGOs and specialists in law in the competent Committee of Experts to write the draft **Law on Protection from Domestic Violence**, which is still awaiting the government's approval of it to be transferred to the Council of Representatives.
5. Supported the establishment of **Directorates of Family Protection/ Ministry of the Interior** and empower their staff. And support offices and **directorates to combat violence against women** in the three provinces of the **Kurdistan region**, and cooperate to develop their staff through the training workshops on topics related to CEDAW, gender, gender-based violence and skills of communication and dialogue.
6. Women NGOs initiatives to open **shelters for threatened for women survived from domestic and community violence** in Sulaimaniya, Erbil and Duhok, these shelters provided important services to save many of them and re-integrate them within the society and contributed to mobilize the public opinion against the crimes that target women. Due to the shortage of funding and difficulty of their sustainability by women NGOs, most of these centers were handed over to the governmental authorities to run them.

#### **1. Challenges with regards to violence against women:**

1. Tribal customs and traditions, spreading ignorance and poverty and indigence and the absence of legal awareness and health, Control of religious conservative thought on political will.
2. With dominance armed militias in some parts of Iraq, Weakens law enforcement and justice institutions, where women have difficulty reaching justice.
3. Male dominance trend over logic and attitude of judges and the judiciary and in law enforcement institutions.
4. The absence of studies, research and data base on violence against women, as well as the lack of the official reports, which monitors such cases.
5. Reluctance to amend legislations to violence against women, as well as the delay in the issuance and passing the Bill of protection from domestic violence.
6. Absence of social awareness of gender issues.
7. Lack of services for abused women for not incorporating all official sectors such as health and education among health care services dedicated to them (not to the integrity of the referral system).

8. The lack of shelters for survivors violence in areas of Iraq except the Kurdistan region

## **Chapter Six: Women Trafficking and Prostitution**

**Article 6: States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.**

### **a. Introduction:**

1. The trafficking in humans in Iraq emerged due to the wrong policies, involvement in wars and conflicts, and followed by sanctions and occupation. Women are subjected to exploitation, where the roots of the problem return back to international economic sanctions since 1991 – 2003, which led to the poor performance of state institutions and the destruction of infrastructure. This problem worsened due to forced displacement and sectarian violence. In many studies and reports, Iraq is considered now is one of “the worst countries” in the world in this issue because young girls are subjected to the worst forms of exploitation under threat and forged documents and the withdrawal of documents from the victim<sup>37</sup>.
2. The abduction of girls is one of the means of trafficking, in addition to the factors of poverty, ignorance and exploitation of women under the pretext of permanent or temporary marriage or promises of lucrative work contracts in the Gulf States or regional neighboring countries, as well as the poverty prevailing among Iraqis, after 2003 including displacement and school dropout. Reports indicate that there are 300 cases of abduction of women recorded from 2006 to 2009 can be considered this figure as an indicator of the trafficking in women for immorality purposes<sup>38</sup>. What was recorded at the official institutions on cases of kidnapping against women constitute a very small proportion, as most of the cases are not recorded and are not reported by the families for fear scandal.
3. Trafficking crimes are still the responsibility of the Ministry of the Interior but it did not include this type of crime within the Ministry statistics. These crimes of trafficking were not addressed in training curricula for the police. The Ministry did not do any investigation on this type of crimes before 2006<sup>39</sup>. The government measures lack to mechanisms of monitoring, documentation and protection as the deterioration of the security situation does not allow the Ministry to respond effectively to the problem.

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<sup>37</sup> The report of the U.S. State on trafficking of human beings for the year 2010

<sup>38</sup> National strategies to combat violence against women in Iraq, 2013-2017

<sup>39</sup> U.S. State Department (report on human rights in Iraq for the year 2005) on March 8<sup>th</sup>, 2006

**b. Legal Framework:**

The phenomenon of trafficking in persons, especially prostitution, is a form of violence against women and there are legal mechanisms at the local and international levels to protect women from trafficking at the following levels:

1. The principles contained in the constitution of 2005. In Article 37 / third as stipulated "Forced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited".
2. The issuance of anti-trafficking law No (28) of 2012.
3. The provision of Iraqi penal code No.11 (1969) on the issues of trafficking in human beings, and in particular to articles that are not included in the law No. 28, as well as the prostitution law No. 8 (1988), articles 4 and 5.
4. CEDAW- Article Six.
5. Resolution No 1325 by SCR, especially in Articles 9 and 10.
6. SCR on Iraq No. 1483 of the dissolved SCR on 22 May 2003, which included reference to the SCR No.1325 in order to ensure equal rights and justice to all Iraqi citizens without discrimination.

**c. International Concerns over the phenomenon of Human trafficking in Iraq**

1. The U.S. State Department published in its tenth annual report on trafficking in persons for 2010<sup>40</sup>, the report said " Iraqi women and girls, some of them under the age of eleven, are subjected to trafficking such as forced labor or sexual exploitation inside the country and in Syria, Lebanon, Jordan, Kuwait, the United Arab Emirates, Turkey Iran and perhaps in Yemen. In some cases, women have been seduced by giving them false promises of jobs. Among the most used means of trafficking was selling or forced marriage. This was the first sign that there is an increase in the phenomenon of trafficking in human beings in Iraq.
2. International Media played an important role in exposing publically the phenomenon of human trafficking in Iraq, since 2003 as international media's reports on this phenomenon and its effects and methods of exploitation used, those reports indicated that Iraq has transformed from a country/player as resourceful in exporting victims, in the white slaves trade to an importing country after 2003.
3. In spite of the government's measures to fight this phenomenon by issuing a special law to combat trafficking (anti-trafficking law NO. 28 of 2012). Iraq is deemed from countries of Group 2 (category of monitored country) that has efforts in combating trafficking, but still under monitoring, and do not comply fully with the minimum standards set forth in the law to protect victims of trafficking, but it is making significant efforts in achieving compliance with those standards<sup>41</sup>, where these measures remain effective in reducing the growing phenomenon of trafficking in human beings.

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<sup>40</sup> US State Department Tenth Report of 2010

<sup>41</sup>US State Department Report on human trafficking of 2012

4. The Article (1 / First) of the law defined (Human Trafficking) as follows: (trafficking in Humans means in this law: the recruitment, transportation, harboring or receipt of persons, by means of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, such as the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, servitude or begging or trading human organs or for the medical experiments purposes). This definition is derived from the definition in Article (3) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the United Nations Convention to Combat Transitional Organized Crime (Palermo Protocol - Italy) of 2000.

**d. The Iraqi legislator violations to the international definition of Human trafficking in different areas:**

1. The Iraqi legislator removed the word (**transfer**) contained in international definition of acts that lead to the crime.
2. Removing of the definition (**exploite vulnerabilities and lack of opportunities**) in the international, and only stated (by means of force or other forms of coercion, abduction , fraud, deception or abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person).
3. The Iraqi legislator removed two important cases from exploitation (**slavery**) **and (practices similar to slavery)** contained in the international definition, although they were cases of serious human exploitation that the Iraqi society suffer like the marriages under tribal tribunals and arranged marriages.
4. The legislator replaced the word (**removal of human organs**) as used in the international text of definition with ( trading of human organs or for the medical experiments purposes), and we believe that the international text is broader than the Iraqi text as the Iraqi text only focus on trading the human organ and medical experiments.
5. It is noted that according to the International Convention the used exploitation as an example, and not for limitation, while the Iraqi legislator **limit offenders target with (exploitation ) only in eight purposes:** 1 – prostitution, 2 -sexual exploitation, 3– forced labor, 4 - forced service, 5-servitude, 6 – begging, 7- trading human organs and8- medical experimentspurposes ), while the international text did not limit varieties of exploitation, but put them under ( exploitation ) and only gave examples about them.

**e. Current mechanisms to combat trafficking in Humans in Iraq:**

1. The formation of a National Committee to enforce the law No 28 (2012)<sup>42</sup> at the national level (**Committee on Trafficking in Humans**)

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<sup>42</sup> The Council of Ministers issued a decision to form a Steering Committee for the implementation of anti-trafficking law No. 28 of 2012, chaired by the Minister of Interior and the membership of the

2. The Committee is working on drafting instructions for the implementation of anti-trafficking law and these instructions are under discussion and approval. Through these instructions, each ministry and institution member in this Committee clarified the areas that they can work on and what they can provide to the victims of trafficking in persons, each one according to its competence.
3. The role of the sub-committees is stipulated in the anti-trafficking law and they should be chaired by the governor in every Iraqi province, and they have been formed, but so far they did not work effectively.
4. The Ministry of Labor and Social Affairs assumes establishing a shelter to the victims, and they are assisted by the relevant ministries such as Interior and Health, but no information with regards to cases of trafficking received by this shelter yet, as it lacks a clear action plan and programs for rehabilitation and reintegration of victims.
5. There is no legislation to combat trafficking in Kurdistan, namely that there is a legal and legislative vacuum in terms of legal protection, and only rely on the old laws, such as the Iraqi Penal Code, which does not cover all types of practices and crimes in the area.

**f. The civil society organizations role:**

CSOs play an important role in the fight against the white slaves trading, through trainings and educational workshops that work to aware society on the consequences of the threatening phenomenon of humans trafficking in Iraq, and draw the attention of the government to adopt clear programs with measures to contain and fight this issue. However, CSOs face many challenges working in this field in Iraq, such as:

1. Lack of monitoring mechanisms and sustainable follow-up profficinally.
2. Weak documentation and oversight by Government over trafficking cases, with the difficulty to access any information in general.
3. CSOs target in its reports and follow-up the prostitution, which is one of the types of trafficking (White Slaves), but only locally, and within the internal borders of the country<sup>43</sup>

**Mariam is an Iraqi, 15 years old**, from a poor family, the bad conditions forced her father to sell her to a group of people by (\$ 6,000), on the grounds that she will work as a servant in one of the houses in Dubai, but found herself in a hotel and accompanied by an elder man forced her to have sex with him by violence, Then, she was transferred to an apartment with other 20 girls and are exploited by gangs under the force of death threats<sup>44</sup>.

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General Secretariat of the Council of Ministers, the ministries of foreign affairs, human rights, justice, finance, transport, labor and social affairs, and displacement and immigration in addition to the Human Rights Commission, the Representation of the Kurdistan region and Iraqi provinces.

<sup>43</sup> Norwegian Agency Report of 2010, page 9

<sup>44</sup> National Information and Investigation Agency Report

**Shaima is an Iraqi girl, 18 years old.** She was engaged in a traditional way , after her mother met with a lady who asked for her hand to her brother, later she married and travelled two months later to Syria and find herself within her husband's family, consisting of three sisters who are working in prostitution in one of the nightclubs in Damascus. The husband's family forced her to practice this profession, and when she refused, she was exposed to violence in all its forms. Due to the conflict of Syria, Shaima returned back to Iraq with her husband, making it easier for her to get out of the control of the husband and refuge to her family, she worked to sue him, but the difficult economic conditions, and he kept her official documents with him, in addition to keep her baby away and have pressure on her, and nobody supports her case and threats by the husband's family, to make her give up the right legal and return to the husband<sup>45</sup>.

At the end of 2009, a court in the United Arab Emirates had sentence to imprison a husband and wife for a period of three years, for trafficking Iraqi minor girl and forcing her to have sex with men in order to get money. The National Newspaper, UAE daily newspaper, mentioned that the age of couple, who did not reveal their identities, are 52 and 45 years old and their origin is from Iraq.

The prosecutors clarified that the couple, in addition to the third man, bought the girl from her parents in 2005 for an estimated amount of \$ 4,000 and brought her to Ajman, one of the seven emirates making up the UAE, and the couple had about \$ 500 from customers per the night, where they are forcing the girl to engage in sexual practices against her will. The police rescued the girl when the couple tried to traffic her to Bahrain. The girl is now 17 years old, and she says she has not received nor her family the money in Iraq over the past years. Afra AlBasti, CEO of Dubai Institution for Women and Children Care said, "I wished that the sentence was tougher than this, the case involved a minor girl, so the sentence should be stronger as deterrent for each aggressors and human traffickers"<sup>46</sup>

## **Chapter Seven: Political Participation**

### **a. Civil Society Organizations Efforts:**

1. After 2003, the women movement proved its presence in the political life by holding conferences, advocacy and awareness campaigns. The first conference of Iraqi women was held on 29 May, 2003, and then held several conferences. The women's organizations introduced its vision that the success of the process of political transformation and democracy in Iraq based on respect for human rights and equality, is subject to the extent of women's participation in political power and public life, and the removal of all forms of discrimination against them, taking into account the historical role of the ancient struggle of Iraqi women in the political and social movement, and their remarkable sacrifices for the sake of national independence, democracy and social justice.

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<sup>45</sup> Case study by Progress of Women Center of 2012 within the legal aid program for the victims of gender-based violence

<sup>46</sup> UAE court sentenced Iraqi couple for buying a girl and force her to prostitution: <http://forum.alqum-a.com/t490737.html>

2. The meetings continued, contributing to the forming the Iraqi Women Network, which included many CSOs that adopted the claim of women representation of not less than 40% of the National Transitional Council and provincial councils, as well as committees specialized in constitution and regulating the elections<sup>47</sup>. The women movement faced opposition and controversy for demanding to increase representation of women, arguing that this quota is incompatible with the principle of equality demanded by women organizations.
3. Following the campaigns of advocacy by the women movement and the pressure of some political figures, who support the woman issue, on the constitutional committee, the quota was recognized as a constitutional article, the 2005 Constitution identified the proportional representation of women with not less than (25%), within the article (49 – Four)<sup>48</sup>, also the Constitution stated in Article (20) the equality between men and women to take part in public affairs, enjoy political rights, including the right to vote, elect and to be elected.
4. The results of the **I-WISH survey** of 2011 carried out by the Ministry of Planning - Central Bureau of Statistics, stated the positive women position toward the political participation: “Most of women think that the women should participate in elections. 84.8% of women said that the women shall participate as voters, whereas others said that the women shall participate as candidates by 67.7%. It is noted that the trend of women participation in elections is increasing, as the participation rate increased from less than the half in 2005 to be two-thirds in 2010”<sup>49</sup>

**b. Women participation in parliament:**

1. There was a hope that the women representation, in its outstanding levels in the Council of Representatives, plays an active role on behalf of women's issues, towards the achievement of the objectives of equality, development and peace. This did not happen for several reasons, including the lack of faith of the majority of women MPs on the issue of women's rights and equality. The government report also illustrates (that the failure of women's political participation is due to lack of political experience, in addition to their lack of experience in parliamentary work. The political parties' exploitation to the quota principle by involving women who lack the efficiency just to fill the empty seat<sup>50</sup>).
2. There is discrimination at the level of women representation in the House of Representatives in the 2005 session , which did not represent women in its presidency board, also came the representation of women on committees with political , regulatory , and legislative mandates much less representation than

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<sup>47</sup> Iraqi Women Network Memo issued during the meeting of general assembly of the network convened in Baghdad on 20/01/2004 regarding “the Active participation of Women in Political Process, and Social and Democratic Changes.

<sup>48</sup> Article 49-Fourths: “The election law targets achieving the women representation of not less than one fourth of the number of Council of Representatives member”.

<sup>49</sup> “Women and Men in Iraq by Development Statistics 2012” booklet, page 27, issued by Ministry of Planning - Central Bureau of Statistics.

<sup>50</sup> Governmental report on CEDAW, page 22

the committees of mandates regarding the family and service and civil . Women representataion has exceeded the proportion of women's representation in the committees of human rights and displaced persons, and education, work and services 60%, while it did not exceed their representation in the Finance Committee, 29 % , and in the Economic, investment and reconstruction of 23%.

<sup>51</sup>There are zero women members in the folowing six committees of the parliament, out of total 24 of the Commission, among these free from women representation committees are: Commission on Security and defense, oil and gas and natural wealth, agriculture, water and marshes.<sup>52</sup>

3. In the beginning of the current Session of the Council of Representatives in 2010, the Speaker of the House announced a decision requiring parliamentary blocs, with the participation of women to head quarter of parliamentary committees<sup>53</sup>, but the decision was not taken into action, as it was noted that three parliamentary committees devoid of any representation of a women: Security and Defense, Reconciliation and Tribes.
4. In the Committee on constitutional amendments (2006-2009), the representation of women by members of the House of total 30 members, a very small percentage point over the declining role of women in the formulation and decision-making. The parliamentary session ended its work without completing the constitutional amendments file, which is still pending, and was supposed to submit to Parliament for approval, and then put to a referendum.
5. **The performance of the parliament Committee on women, family and children and legal Committee in drafting laws and amendments to laws on women's rights referred to in the Constitution and in line with international conventions and covenants signed by Iraq, related to issues of civil and political rights and economic, social and cultural rights, was weak.** The performance has been marked by the Commission on women, family and childhood in parliamentary sessions (2005 and 2010), because of the differing views of its members (women MPs) on the situation of women's rights, as many do not have faith in the cause of gender equality, they are more subjected to ideological religious parties.
6. According to a study on parliamentary performance of Iraqi women that the Council of Representative did not put women's issues within its priorities which legislated more than 400 laws in 2005 none of them for women<sup>54</sup> and this also included the parliamentary session of 2010 as the number of laws increased to become 600 laws and they have nothing to do with women.

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<sup>51</sup> Dr. Nahla Al-Nadawi, parliamentary performance for Iraqi women “study and assessment” Baghdad, 2010

<sup>52</sup> In an answer by MP, from the research sample about the reasons that hindered their participation in the committees that they nominated themselves to take part in, came the answers according to the sequence: the incompatibility of the political blocs, disapproval of her bloc or inter-bloc competition , blocs quotas in committees, lack of competence to qualify for admission Committee ". From “parliamentary performance of Iraqi women” - study and assesment, dr. Nahla Naddawi, 2010 edition, p 61.

<sup>53</sup> Interview with the Speaker of the House, Mr. Osama Nujaifi in a meeting with representatives of civil society organizations at 27/12/2010.

<sup>54</sup> <sup>42</sup> Dr. Nahla Al-Nadawi, parliamentary performance for Iraqi women “study and assessment” Baghdad, 2010

7. Women bloc was formed within the Council in September 2007, only half the women MPs joined (37 MPs), the bloc intended to "bring closer the various political blocs in support for specific issues, activating the role of women in political decision-making, as well as promoting national reconciliation<sup>55</sup>." And that could pose itself as big and effective legislative bloc and oversight than large blocs, but women's bloc failed to achieve its goals for many reasons: lack of coordination, the absence of a strategy and programme of action, and the lack of a legal framework identifying competencies, in addition to the loss of independence of the political blocs, as well as competition between MPs within the bloc.<sup>56</sup>

**c. Women Participation in Provincial Councils**

1. During the past decade, three election sessions for the provincial councils (2005) and (2009) and (2013) took place. CSOs pushed for women quota to be approved in provincial councils similar to the Council of Representatives. They managed to get the approval on this basis with quota of not less than 25% in a court order from the Federal Supreme Court No. 13 T / 2007 31/7/2007
2. The status of women was not that different in the provincial councils that it really is in the Council of Representatives, where the criteria for nomination of women candidates by blocs and political parties, is based on their own nationalism, sectarianism, tribalism and regionalism trends. Most of the women candidates have no background in political action or women rights. The women in the provinces with tribal/religious nature, faced significant challenges, they could not even expose their personal photographs as candidates in elections campaigns because of the stereotype dominant culture, where voters do not elect a woman who does not wear the Abaya (a traditional cover for women from that head to toe), or quite few of the women candidates, instead of her photo, had to put her husband's photo, with her name below his, asking voters to vote, reference, the wife.
3. As stated in the government report, the percentage of quota for women in provincial councils has been achieved through calculation of a conclusive total member of all Iraq provincial councils in the election (2009)<sup>57</sup>. While in the current session, in 2013, the IHEC (Independent Higher Electoral Commission, Iraq) has approved in order to guarantee the distribution of seats for women in each provincial council, for not less than 25 % of the seats in each, and not on the basis of the total seats of provincial councils<sup>58</sup>,

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<sup>55</sup> Same above reference source, page 95

<sup>56</sup> Same reference page 95.

<sup>57</sup> (...because the quota has been achieved or exceeded the ratio of (9) provinces out of 14 counties, and the total members in the provincial councils 110 member out of 440 members, and has thus achieved a ratio prescribed by the law 25% of the total membership). The government report to CEDAW, p 24

<sup>58</sup> Women quota/ elections seats count) seats distribution system, No. 12 for the year 2013 for IHEC Iraq

due to conflicts among political blocs, it is not yet announced the final number of women representation in the Provisional Council.

4. One of positive decisions taken by the Electoral Commission for elections to encourage the participation of women as candidates by reducing the value of the financial insurance when registering a political entity on behalf of a woman as an individual to ( 2,000,000 ) million dinars , and ten million dinars for the group , if the political entity is limited to women only Based and rated in provincial elections in 2013 , and to ( 5,000,000 ) million dinars when recording entity on behalf of a woman as an individual , and (25,000,000 ) million if the political entity is limited to women only and rated Based in the coming Council election in 2014<sup>59</sup>.

**d. Women Participation in Executive Authority:**

1. As women assumed (6) ministerial portfolios out of (36) ministerial portfolios in 2004, the representation of women declined in 2006 government by only 4 ministries but current government after the 2010 elections, the woman got only the position of Minister of State for Women's Affairs without portfolio, which is more like a consultant office to the Prime Minister secretariat office/Council of Ministers Secretariate (COMSEC). The governmental report admits the decline in the women representation in the executive authority due to sectarian and partisan quotas, and discrimination-based on gender.
2. In 2005, 8 women had the post of deputy minister; their number has fallen in 2013 to just one deputy minister. Three women currently occupy the post of ambassador in the diplomatic corps. The government report, stated that was submitted, noted that there is a positive representation of women in decision-making positions in the governmental sector as 343 women had the post of director general, noting that these statistics belong to the Ministry of State for Women's Affairs for the year 2005<sup>60</sup>, and there is no update in the database for the official number of women in decision-making positions , and that the report did not elaborate on the proportion of women to men in this area to determine the size of the gap between them.
3. It also notes the deliberate absence of women representation in all decision-making positions, by excluding them from negotiations to form the national partnership government, Erbil Conference and the marginalization of women for negotiations and meetings of national reconciliation that deal with vital issues. They were also absent in the preparatory committees of the National Conference, which was scheduled to take place during 2012.

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<sup>59</sup> (Article 3/2 b), and (Article 5-2) in the regular approval of the political entities and coalitions No. (1) for the year 2012 Provincial Council Elections 2013 (No. 3) for the year 2013 House of Representatives election in 2014 – IHEC-Iraq

<sup>60</sup> Al-Sabah Newspaper, in 02-10-2005 on the link:  
[http://www.siironline.org/alabwab/taqharer%20ehsat\(25\)/025.htm](http://www.siironline.org/alabwab/taqharer%20ehsat(25)/025.htm)

4. The report has neglected the issue of government formation of the Human Rights Commission and civil society effort on the necessity of women's representation in the Commission by 30% as the Human Rights Commission Law No. 53(2008) stipulated that the Board of Commissioners should consist of 11 original members and three reserves provided that women hold one-third of the seats. The Council of Representatives voted on the members of the Human Rights Commission in at its session No (34) on Monday, 9/4/2012. 4 women were selected out of 14 members. The civil CSOs filed a law suit to the Federal Supreme Court, which issued its resolution No. 42/Federal/2012, that provides for the representation of women in the Board of Commissioners by at least one third of its fourteen members as provided in article 8/ fourth<sup>61</sup>-of the Commission Law. Despite more than a year since the decision of the Federal Court was issued, it has not been implemented till now, and is contradictory to the text of the constitutional article 94<sup>62</sup>. In addition the administrative structure for the Board of Commissioners has not formed (President and Vice-President), because of political interference and the system of political quota, and lacks the special work site, as well as the necessary administrative and financial allocations
5. The participation of women in the IHEC in late 2012 was represented by one woman among the nine members, and this shows a clear discrimination in the number of women who were supposed be 2 to 3 women and also did not give this woman a position in the Commission both in terms of the president or the deputy, noting that Commission that preceded it, had two women members out of 9 and this indicates a lack in political will to develop the participation of women in decision-making positions.

**e. Political Participation of Women in Kurdistan Region**

1. After the uprising in Kurdistan region in 1991 and what was followed by the withdrawal of governmental institutions of the previous regime from this region and the formation of Kurdish autonomy in 1992, the Kurdish women started actively and openly to participate in its political role in the Kurdistan National Assembly and the first cabinet, as women could achieve the percentage of (7%) in the first Parliament of Kurdistan in 1992, and this percentage increased to become (27%) of the second parliament in 2005 and (33%) in 2012. This is the highest percentage of women in the Middle East, as the women chaired several committees in the Kurdish parliament, and occupied the chairmanship of the biggest political bloc in it; this is deemed an advanced case towards the activation of women participation in the political work and decision making positions.
2. The representation of women in executive authority as minister or in the provincial councils and in the position of directors of the districts, sub-districts and also officers in high administrative positions, although the

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<sup>61</sup> Annex No7- federal court decision

<sup>62</sup> "Federal Supreme Court decisions are final and binding for all authorities. "The text of Article 94 of the Constitution in 2005

dominant atmosphere of tribal society of Kurdistan, women were appointed to the position of head of district and officer in the security and the military services. The woman became a judge for the first time in 1997.

3. Despite the change some of the trends on women's political participation and leadership, but the male domination appears evident in the performance of government and the distribution of cabinet positions such as leadership and sovereign positions, as well as reflected in the uneven distribution compared to men in terms of official representation at the level of the institution or the government at conferences, courses and supervisory departments outside region<sup>63</sup>.
4. It should be noted the weakness of the professional, technical and administrative capacity of government institutions and CSOs, both quantitatively and qualitatively, with regard to addressing the issues of discrimination against women, in addition to the weakness of knowledge and awareness by staff involved in the field of national laws, international conventions and human rights of women<sup>64</sup>.

**f. Supreme Council for Women's Affairs in Kurdistan Region-Iraq**

1. The Supreme Council for Women in Kurdistan was established to replace the Ministry of Women Affairs in the region, the decision was issued on 14/12/2009 by the Council of Ministers - the Kurdistan Region, and then the order was issued to assign its members in February 2011. The Council began its work in June 2011 under the chairmanship of the Prime Minister at that time and with the membership of six ministers: (interior, finance, justice, culture, youth, labor and social affairs, and education). The structure was formed from the Secretary General and eight activists working in the field of feminist and civil aids activities appointed by of the KRG.
2. The functions of the Council were identified as a reference focus on women issues in the Kurdistan Region, and working to develop its status in cooperation and coordination with official bodies, NGOs, relevant regional and international agencies, and the preparation, follow-up and evaluation of policies, programs and laws related to women's issues and their humanitarian and development rights in general. Its establishment is deemed a positive step to improve the intervention of the government for the advancement of women in the region.
3. Despite the elapse of three years of the work of the Council, but one of the most major problems facing the work is the absence of a special law to organize its work, also suffers from weakness in its human and technical staff to deal with gender, and lacks its own budget. Most of programs, projects of

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<sup>63</sup> National strategy for the development of the status of women in the Kurdistan region 2013-2019

<sup>64</sup> Same previous reference

the strategies, which are prepared by the Council and approved by the Presidency of the Council of Ministers, do not enter into force, due to non-allocation of a budget, and for this reason, the Council did not achieve concrete impact of the empowerment of women and the commitments of the Government of the region in this area<sup>65</sup>.

4. Council needs more political support for the development of human, financial and technical capacities and powers in order to develop policies for the region to fight all forms of discrimination against women and the achievement of full equality with men<sup>66</sup>.
5. It also requires taking measures to institutionalize gender issues in many institutions involved in the development and integration of the citizens through the identification of independent institutions contribute to enhancing the status of women, as well as the development of existing ones and support the human and financial resources and sufficient powers, in addition to have special attention to research and studies on necessary issues related to discrimination against women<sup>67</sup>.

**g. Women Participation in Judicial Authority:**

1. Women participated after 2003 is clearly more in the judiciary, but still low levels of 6%. It should be noted that the judicial Institute, which is involved in the preparation of judges, did not include the principle of quotas on women's participation.
2. In the table below, the numbers of women in the judiciary compared with their male counterparts in the year 2012.

**Table-3**

Male Judges	Male Prosecutors	Total	Female Judges	Female Prosecutors	Total	Percentage
1059	388	1447	31	55	86	6%

**h. Women Representation in Political Parties and Unions:**

1. After the events of 2003, there was an expectation that there will be no difficulties on the expansion of women participation within their parties in Iraq, however, the concept of "politics for men" have been strengthening the dimension of male dominance in political parties, which is still very strong, and does not take into account the issues of national importance for women vision, therefore not reflected in the policies and programs of political parties. Moreover, women are not elected in supreme positions in the party structures. The absence of the clear party program for parties to work on the

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<sup>65</sup> Previous reference

<sup>66</sup> Previous reference

<sup>67</sup> Previous source

development of women cadres or involved them in leadership positions within the party, which resulted in the exclusion of women from contributing to decisions of their parties or blocs where we have not seen a woman as a president or vice-president of party even parties did not announce the percentage of representation of women.

2. As for unions, until now we have not seen a woman that assumed the position of head of union but all these positions are assumed by men. It is up to men's fear of women competence for positions of leadership, and a lack of interest or expertise of unions and professional associations in the field of development, gender and human rights, as they mainly focus on professional and union rights. In addition, the weakness of women ambition themselves to reach to decision-making positions because of social and cultural background and their family responsibilities. The unstable security situation forces them to stay away from the assumption of leadership responsibilities that require constant movement and communication.

**i. UN Security Council Resolution No. 1325:**

1. 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. All political blocs participated with all its religious and liberal trends in the exclusion of women from positions of sovereign "...Women remained absent from the three governing bodies (Presidency Council, Presidency Council of Ministers, and Council of Representatives) and in the Supreme Judicial Council and the Supreme courts (the Federal Supreme Court and the Federal Court).<sup>68</sup>
2. Many women faced cases of assassination, kidnapping and threats, in addition to the increase of sexual harassment of women. In a situation under poor law enforcement institutions led to impunity, noting that the UN SCR 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 Resolution as stated by the UN SCR No. 1889 of 2009.
3. In contrast many CSOs-women's and other, embraced various activities to publicize the importance of the resolution among women in particular, as well as between different social and political circles. It also issued an analytical study on "**ways of enhancing the participation of women in conflict resolution and peacebuilding in Iraq**" in February 2009, prepared by a tripartite group of Iraqi civil society, published in Arabic by the Economic and Social Commission for Western Asia (ESCWA)<sup>69</sup>.

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<sup>68</sup> Government report to CEDAW Committee 2011, pg 25

<sup>69</sup> <http://www.escwa.un.org/information/publications/edit/upload/ecw-09-3-a.pdf>

4. And since 2012 a number of local civil society organizations partner with European feminist initiative (EFI), **the grouping called (INAP) to draft the National Action Plan (NAP) for resolution 1325**. Grouping as well as a number of members of Parliament, Federal Government and Kurdistan-Iraq, specialists in law and gender studies. And the work of the Assembly as a team work between the various sectors within the three committees (drafting, legal, financial). It is hoped that the work of the Group during the period and submit its findings to the Federal Government and the territorial Government to endorse the national action plan for resolution 1325.

**j. National Reconciliation Committee:**

1. The government initiated to consider June 25<sup>th</sup>, 2006 a day to promote the values of **tolerance, non-violence and the rule of law within the society**, and on the basis of national consensus among the political and community parties within a democratic framework to support participation in political and social life, and to ensure equality in rights and duties. A committee was formed under the supervision of Council of Ministers with a budget from the Council to implement a national plan for reconciliation.
2. Most of the activities of the reconciliation committee are focusing on rallying with the tribes, support and the awakening councils, and the total number of awakening council's members is (40068)<sup>70</sup>. Whereas the support councils include more than 7,000 members and they are all of tribes men where the government support them with money and weapons under the pretext of fighting terrorism and that often used to reinforce the authority of the clan and their allegiance to the government <sup>71</sup>. These councils are dominated by partisan entities<sup>72</sup>.
3. The National Reconciliation Committee did not include the civil society participation in its programs and activities so this Committee is far from the community needs to the goals of national reconciliation,
4. Despite the presence of a special office for women in the committee but there is marginalization and exclusion of the women role within the Committee due to the absence of a real program to activate the role of women in national reconciliation, according to UN SCR No. 1325 and the UN SCR on Iraq No 1483 and these women only have temporary activities that focus on women's stereotypical role and through specific activities like visiting holy shrines and competitions to read the holy Koran , and this alone promotes sectarian practices to exclude others that contradict with the concept of national reconciliation. The office did not provide a specific percentage of achievement of the participation of women in national reconciliation programs at all levels. And we find this evident in the offices of Reconciliation Committee (Office of the Awakening, the Office of Tribal Support, and ServicesOffice), where there is no role for women in these offices.

**k. Challenges to women's participation in decision-making places:**

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<sup>70</sup> National Reconciliation Project <http://www.nriraq.com/>

<sup>71</sup> alItihad Newspaper <http://www.alitihad.com/paper.php?name=News&file=article&sid=117053>

<sup>72</sup> MP-Qais Alshathir, member in National Reconciliation commission in Parliament statement <http://www.almowatennews.com/index.php/2013-04-19-21-21-34/2013-06-09-20-36-19/2905-2013-09-08-03-24-43.html>

In a study of an Iraqi researcher<sup>73</sup> under the title (**the role of Iraqi women in the democratic system**) published in 2012, showed that the democratic experiment on the Iraqi people in general and women in particular, is new, and it is due to several reasons, including the following:

1. Weakness of initiative and lack of interest in political parties in building political /partisan Iraqi women and encourage them to political action , especially as her participation has become a constitutional imperatives, for which no alternative , in the political life in the new Iraq .
2. Iraqi woman in general , and woman politician , in particular, behave politically and match similar to the man in her party, her list , her bloc, with the same national, religious , and sectarian vocabulary . So we see that the fortunes of Iraqi women in the world of politics will remain poor by any standards, and as a result she will not get any of her rights, because of her intolerance to her cultural and environmental superiors
3. Prevailing values and social norms, some of those values characterized by harsh, not only on women, but even men and society as a whole, which weakens the spirit of initiative, and build high psychological barriers, that preclude development, and slow wheel change, and the bulk of those values and norms is like the brake who bridle the personal freedom of women and their role.
4. The focus of a woman's own entity and psychological built, is considered weak in the inside and submitting to the outside. Many women did not allow her political role and right to prevail, because they grew up and learned to accept a stereotype female social role, and she performs it in the way she was raised to. This has reflected in the social and political behavior, where the lack of serious interest in political work , is dominant, because it is still in the mind of the Iraqi Women, considered a masculine pursue, more than it is a woman concern, as the dominant nurturing culture and social rules keep her inside this concept and role .

## **Chapter Eight: Personal Status and Marital Relations**

- The Iraqi Constitution of 2005 included Article 41 that calls for regulating the personal status according to sects and religions, and we already discuss it in the topic of harmonizing the legislations.
  - The Iraqi Constitution stressed on the protection of family and childhood as Article 29 of the constitution stated “The family is the foundation of society; the State shall preserve it and its religious, moral, and national values, and The State shall guarantee the protection of motherhood, childhood and old age, and shall care for children and youth”.
- a. **Personal Status Law No. 188 of (1959) with its amendments**
1. This law regulates the relationship between the individual with his/her family including the impacts such as, alimony, dowry and affinity and what is resulted from this relationship like divorce, separation and other cases of inheritance and guardianship. Paragraph (1) of Article (2) of Personal Status identifies

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<sup>73</sup> Dr. Balkis Kazem, a researcher at the University of Baghdad, her book: "The role of Iraqi women in the democratic system" --2,012

general principle that the Personal Status Law applies to Iraqi Muslims only, while the Iraqi non-Muslim, and follow provisions of personal articles.

2. Islamic Sharia is considered the source of rule in this law in as in Article 1, paragraph 2,<sup>74</sup> and it includes the best of what was stated in Islamic jurisprudence to regulate personal status.
3. The issues of personal status for non-Muslims including the Christians and the Jews will be under their own religions and their cases are reviewed by courts of first instance as they are the courts of personal status and review their cases and make judgments accordingly, whereas the Mandaeans and Yezidis are not covered by the jurisdiction of this law due to lack of their personal regulations although each of them have their own religion and personal regulations that can be adopted in accordance with the legal provisions of it religion as recognized in Iraq.
4. The Personal Status Law No. 188 (1959), stated on the rights of the wife during the marriage and the rights after a divorce, these rights include:
  - The rights of the wife upon marriage in dowry, deferred dowry, wife's right to furniture of marriage and this furniture that is purchased for the wife from the dowry, all gifts presented to her on the occasion of the marriage and what she purchased from her own money, her right to alimony as she can claim for past, permanent alimony and ongoing alimony for the children as long as she is the guardian of them.
  - The Iraqi law grants the right to the wife to seek court separations from her husband if he caused his wife harm that she cannot continue marriage with him with the existence of persistent quarrels that make it impossible to continue marital bond, or if the husband marries a second wife without the consent of the first wife or he committed adultery, or if the husband abandoned his wife two years and more, or if he left his wife without the expense or legitimate alimony or if the husband refuses to pay accumulated alimony according to decision by the Department of Implementation after sixty days. The Iraqi Penal Code No. 111 (1969), as amended, the legal protection to the rights of wife as Article 384 of the Law in this case punishes the husband if he fails to pay alimony.
  - The rights of the wife after divorce: if the husband divorced his wife twice and turned out to be arbitrary divorce so law obliges the husband to pay compensation that commensurate with the degree of abuse and damage, because the divorce is permissible for reasonable and legitimate reasons, no to be misused by the husband for un reasonable or simple reasons that do not destroy the marital life. The compensation for arbitrary divorce is equivalent to alimony for two years, based on the provisions of Article 39/3 of the Personal Status Law No. 188 of 1959.
  - The law grants the right to the wife for the alimony, and in fulfillment of deferred dowry in gold, and her right to housing which is a right of

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<sup>74</sup> "if there is no legislative text can be applied he is condemned under the principles of Islamic law most favorable to the provisions of this law," Personal Status Law No. 188 of 1959 - Article I / P 0.2.

residence in the house after divorce for a period of three years after the divorce, under the law of the right the divorced wife in residence No 77 of (1983).

- The Personal Status Law permitted the polygamy, but only with certain condition, the most important ones of these conditions is the consent of the wife, the husband financial status and judge assessment.

**b- Law No. 15 (2008) of Kurdistan Region-Iraq**

- The Kurdistan regional Parliament enacted this law to amend the application of the Personal Status Law No.188 (1959) which is a quantum leap in the development of the law of personal status law based on civil grounds.
- The law in article III imposes tough restrictions addressing polygamy with conditions and also authorized the judge to decide. But with this amendment, the circumvention of the law is possible, so that the citizens of the region continue to complete the marriage of second and third wife in Iraqi courts outside the region of Kurdistan, which have effect on the territory, leading to fragmentation of the content of the amendment on polygamy in the Region.

**c- Marriage and inheritance provisions:**

- Article 17 of the valid Personal Status Law stipulates "It is permissible for Muslim to marry a woman from the followers of holy books (Christian or Jewish or Sabiyan) and not permissible for Muslim woman to marry non-Muslim man", as well as article 18 of the said law, stipulates " the Islam of one spouse before the other, it should follow the Islamic Sharia in the survival of the marriage, or to separate between the spouses." When the husband becomes Muslim, for example, it is permissible for a woman to remain on her religion, whether she is the follower of Holy books, but the Yazidis are not regarded by the law as the followers of Holy books so the Yazidi women must convert to Islam before marrying a Muslim.
- If one of the spouses becomes Muslim, he/she should ask the other spouse to choose to become Muslim and continue their marriage or separate. The provisions of the inheritance and the way of inheritance distribution should follow the Islamic Shari'a, which allows for the Muslim to inherit the non-Muslim but not the opposite, that is considered a contradiction to the constitutional provisions, and in particular the provisions of the article (14).

**d- Islamization of Minors and Freedom of Belief**

- According to the article 21 / third of the Civil Status Law No. 65 of (1972), the minor children, are registered Muslims, following to the Islam of a parent. The civil book officer should register them in their personal record without informing them. Often the children are unaware that religion has been changed and they are surprised when they come to the marriage or to

renew ID card as a result of damage or loss, they discover that their Religion field in the civil records was modified into Islam.

- The Court of Cassation, for many decades, agreed on the principle of giving the right to the individual, who was considered a Muslim, according to the Islam of one of his parents, the return to the religion of one of his parents before his conversion to Islam, to file a claiming to Personal Status Court requesting the return to his former religion for the Islam of one of his parents (the rule of the Court of Cassation No. 201 / second public body / 1976, on 25/12/1976).
- But the Court of Cassation in recent years 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) and (Article 29/ First) that stated: "The family is the foundation of society; the State shall preserve it and its religious, moral, and national values". It is a problem faced by many Christian, Sabians, Yazidis and non-Muslims families in general.

(Romin Isaac is 29 years old), she is mother of two boys and a girl, she from the Ninevehplain, she says "when I went to the Officer of the Civil Registry to renew my IDcard, I was 20 years old at that time, I was surprised when I found that I am a Muslim in the civil records, and when asked why is this? the officer replied that my mother, who left when you were young, had converted to Islam, and married someone else, and according to the law you are currently a Muslim, at the time I did not realize this at all, she adds" my problem does not stop at this point, but I am now married to a Christian, and we have the wedding of church and registered according to church because my old personal ID includes the field of my original religion " Christian ." The problem that we face we can have a marriage contract in court and registered in accordance with the civil status, because that would oblige my husband to convert to Islam also abolish marriage under Article 17 of the Personal Status Law No. 188 of 1959, and that our greatest suffering is that our children have reached school age and don't have personal IDs, and thus will be deprived of education<sup>75</sup>."

## **Chapter Nine: Minorities:**

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<sup>75</sup> Study case from Hamourabi Human Rights Organisation.

- i. Women from religious minorities in Iraq, such as the Christian, Sabean, Yezidi and Shabak, exposed to various types of violations, such as harassment to force them wearing veils in some areas with a Muslim majority, as the unveiled women are exposed directly to the pressure, there is a number of Christian women in different parts of Baghdad, Diyala, Basra and Mosul wearing the veil (hijab) to avoid harassment.

Story: Abou Youssef is a citizen in one of the neighborhoods of Baghdad with the Muslim majority, they imposed a veil over his wife and his brother's wife, and otherwise, they should leave the area.

- ii. The same things with government departments, as the imposition of the veil depends on who runs the department, there are departments issued clear and direct instructions on the nature of the clothes, other offices tried to have virtual pressure, like what happened in the Ministry of Oil in 2011 by issuing instruction<sup>76</sup> to determine the type of clothes. Some offices exercise kinds of indirect pressure, by nodding or telling the unveiled women some words that annoy them. Hammurabi Organization has received reports of Christian female employees who were transferred from their offices to other offices. For Christians, we found that we were transferred to another section has nothing to do with our specialization, and when we asked about the reason, there was no satisfying answer to us, only we heard that our Director did not want to see unveiled women in these sections.

Ilham, 40, an employee of one of the Iraqi ministries: "I was very surprised, me and my girlfriend Maria as we got back to office, after Easter holidays for Christians, we were both transferred to another section, that doesn't even remotely relate to our competence, we checked for reasons behind this order, there is no reasonable, or professional answer only what leaked to us by colleagues, that the Director General would not want to see such as nearby sections as we were categorized as women without veil.

- iii. The women from minorities as other women were exposed to all acts of violence, such as murder, abduction and forced displacement internally and externally, it is estimated the number of internally displaced Christians is 325,000 Christians, where as the number of immigrants out of Iraq is 360,000 according to the report of Hammurabi Organization for Human Rights.
- iv. According to statistics compiled by UNAMI (the UN Assistance Mission for Iraq) that members of minorities continue to leave their homes in many areas

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<sup>76</sup> Hammurabi Organization Report (Human Rights Status for Minorities in Iraq 2011), the Organization received an official letter No 8376 on 18/12/2011 addressed to central institutions in the Oil Products Distribution Company in Ministry of Oil that includes directives to the company staff that they should adhere to one type of clothes and shows with certain colors, according to CoMSEC letter No 36737 on 17/10/2011 regarding the recommendations of National Committee for Iraqi Women Advancement which stresses on the women staff commitment with uniform that should stop wearing tight and slim trousers and short skirts.

because of insecurity and violence committed against their communities, as well as lack of access to basic services, and the lack of economic opportunities<sup>77</sup>

- v. **As for the Yazidis**, reports of the International Organization for Human Rights on Yazidi that have received by Hammurabi Organization, that more than 41 person of Yazidi killed in 2011, and the data revealed that more than 17 cases had been subject to kidnapping for money or for political reasons , some of them released after paying a ransom , while killing others in spite of paying the ransom , the data also revealed that also the names of more than 74 suicides cases carried out by men and women in Sinjar and Sheikhan districts and the majority of the population of these two districts are Yazidis , the report pointed out that the majority of suicide cases are committed by young people who suffer from despair of life , as a result of the bad economic situation in their areas , the lack of job opportunities , and exposure to discriminatory practices by the Kurds and the Arabs around them . This information is confirmed by the (UNAMI), in its report for the second half of 2012, as mission has concern of suicides among women and teenagers<sup>78</sup>. UNAMI continues to work with local community leaders, the Government of Iraq and the Kurdistan Government to deal with this sensitive issue.
- vi. The **Organization received data from Shabak activists**, that 11 people were killed in 2011, by unidentified gunmen, mostly in Mosul, including Dr. Haifa Juma'a Abdullah, a doctor who was assassinated with a weapon silencer at her clinic in the Al-Tahrir neighborhood in Mosul, and four cases of abduction, some of which were released after paying ransom and others were killed though.

## **Chapter Ten: Marginalized Women**

### **a. Widows and Breadwinners:**

1. As a result of the wars fought by the former regime and what followed aftermath after the 2003 terrorist attacks, violence and displacement, the number of women who lost their breadwinner, either to imprisonment or loss, the percentage hitting, according to the report of the Ministry of Human Rights on the situation of Iraqi women to 10.7% of the proportion of households headed by women in Iraq.<sup>79</sup> According to unofficial estimates there are a million and a half widows, in addition to the number of women divorcees who are breadwinners. The absence of accurate official statistics make it more complicated for any executive body to draw clear policy to address the problem of widows and heads of families.
2. Widows and divorced women in particular face very difficult social challenges and harsh discriminatory norms, they are often are at risk of sexual exploitation, prostitution and offers of temporary marriages. Most of the families headed by women live in miserable economic conditions due to low income. The International Committee of Red Cross (ICRC) conducted a study to highlight this situation, where interviews showed that

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<sup>77</sup> Human Rights Report\_ UNAMI\_ Dec 2012

<sup>78</sup> Human Rights Report\_ UNAMI\_ Dec 2012\_Arabic, page 35

<sup>79</sup> the reality of Iraqi women since 2003 - Ministry of Human Rights for the year 2012

the average income of vulnerable households headed by women is 150,000 Iraqi dinars per month, the equivalent of (\$ 125), less than half the minimum of the household expenses, and often these families rely on charity by relatives and benefactors.

3. The government set up the Social Welfare Department for Women on 22/8/2008, which is aimed at women (widows, divorcees and wives of missing persons and orphans and wives of imprisoned and disabilities). The number of women beneficiaries of this service does not exceed 83 thousand widows - as mentioned in the government report - money commensurate with the scale of the problem faced by this large category of women in society. The welfare department has not implemented the planned objectives which are empowerment, capacity building, and creating work opportunities for targeted women, and merely provide beneficiaries with a salary that is very modest, and does not exceed \$ 90 per month. We add to that routine procedures and administrative corruption, which increase the suffering of widows and heads of families in obtaining financial allowance they deserve.
4. Widows and female heading families face difficulties of access to the labor market because of the social conditions, and their lack of competent education and training and rehabilitation work. The data of the Ministry of Labour and Social Affairs refer that the ratio of loans provided to women for the purpose of establishing small projects reach up to 6.99% compared to 93.1% for males<sup>80</sup>.
5. The Council of Representatives did not reach or agree on legislation for Social Security for marginalized workers, as confirmed by Article (30 / I and II) of the Constitution, which can take away the category of widows and heads of households and their families from poverty and ignorance.

**b. Women with disabilities**

1. CSOs concerned with disability, achieved significant and important success especially after their advocacy campaign, when the Iraqi government ratified the Convention on disabilities in 2012 and issued a legislation concerned with this category<sup>81</sup>. The campaign is still ongoing for the establishment of a High Commission for disabled affaires, especially their number increased as a result of terrorist actions and violence prevailing in the country.
2. Women with disabilities suffer marginalization and isolation, and may be forced to stay at home, denial of rights, such as health care, education, rehabilitation, employment, and do not have the necessary facilities for the mobility and integration into public life, and they fall under double discrimination by society and laws, as they are subject to domestic and community violence, being exploited in acts such as begging and prostitution.<sup>82</sup>

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<sup>80</sup> Work plan to activate the strategy to combat gender-based violence – Ministry of Labor and Social Affairs

<sup>81</sup> Welfare Act with disabilities and special needs No. 38 (2013).

<sup>82</sup> Report on human rights in Iraq from July until December of the year 2012, issued by UNAMI - Human Rights Office

### c. IDPs and Refugees

1. "The Parliament committee of Displacement and Migration revealed that the number of displaced families during the year 2013 amounted to ( 20737 ) family , pointing out that the share of Diyala province amounted to (11433) family , followed by Nineveh ( 6196 ) family , and then the province of Baghdad ( 954 ) family , pointing out that the sorting of zones, prevent the return of the country demographics to what it was before the emergence of the phenomenon of displacement in the country.
2. The Chairperson of the Committee of Displacement and Migration parliamentary MP, Liqaa Wardi, in an interview with a local newspaper "AlMada " said that " with the escalation of sectarian violence in 2006, the statistics of internally displaced in 2008 rose up to more than ( 1392617 ) displaced people , where Baghdad city ranked first in the share of displacement , with the number of displaced families reaching to ( 550 099 ) because Baghdad has the largest diversity of sectarian and ethnic and religious population in the country.<sup>83</sup>
3. As we are in 2013 there are still more than one million internally displaced people in Iraq, mostly in Baghdad, Diyala and Nineveh. Internally displaced people live with their families in rented accommodation or in squatter neighborhoods, under harsh conditions. The cause of displacement was military operations, and the chaos aftermath and suicide attacks carried out by armed groups to terrorize Iraqis on the basis of sect, religion and race, and did not differentiate between one of them. It also showed the case of the forced displacement of population sorting , and retreat to closed areas of a single minority (Ghetto) neighborhoods, a situation that threatens to erode national identity to a mere local or sectarian identity , with the deterioration of the rule of law and institutions. The security situation is still fragile, in addition to the deterioration of services and infrastructure; the displaced families are suffering difficult living conditions as a result of the losing of jobs.
4. The proportion of widows increased as a result of forced displacement and acts of violence, which led to a shift of widow to breadwinner of the family, this category among women, faces the above challenges, as well as social challenges because of stereotypes attitude. Women from minorities were subject to displacement and threats of attacks on their lives, privacy and freedom to dress and move, suffered mostly in particular
5. The government has set up programs to reduce the forced displacement after the process of Law Enforcement operations( The Surge) in 2008, the

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<sup>83</sup> Almada Newspaper (2962) issue Dec 15<sup>th</sup>, 2013 <http://www.almadapaper.net/ar/news/456059/%D8%A7%D9%83%D8%AB%D8%B1-%D9%85%D9%86-20-%D8%A7%D9%84%D9%81-%D8%B9%D8%A7%D8%A6%D9%84%D8%A9-%D9%87%D8%AC%D8%B1%D8%AA-%D8%AE%D9%84%D8%A7%D9%84-2013-%D8%A7%D8%BA%D9%84%D8%A8>

legislation of Law 20 (2009) to compensate those affected by the military operations and collateral damages, and terrorist operations, in addition to the resettlement programs adopted by the Ministry of Displacement and Migration to provide financial support is very limited for families wishing to return to their areas of origin or settle in the resettlement areas. These programs are still inadequate to address the problem or to contain its negative effects.

Sabria Hussein, is 58 years old and her big family is consisting of 30 individuals, who are making their way to caravans No 39 and 40 in Al-Wafaa complex in Baghdad. Three of her sons' wives are widows, many orphans from each of the three fathers are filling space inside the two caravans, and they were playing and having fun and their mothers were wondering where they are going to sleep. Sabria lost three of her sons in the sectarian violence in Diyala province, which was the stronghold of the rebellion within a period of 10 months during 2006. One of her sons, who were a doctor, killed when he was going to drive his car. The second died after gunmen shoot players in a football pitch. The third was a police officer, and a bullet shot at him behind his head when he was going to work. Jenanis 25 -year-old, is the doctor wife, and after his death she became without money, and she enjoys a little freedom too. One of the brothers of her former husband, who is a former police officer and unemployed, he plans to marry her, and that the marriage is arranged by the family. It was her son, 4 years old, writhing on the thigh of his grandmother. Soon Jenan will not become widow anymore, but she refuses to look at the man who was chosen to be her husband. At the time of the interview, she was putting her hand on her head as if she was crying<sup>84</sup>.

6. It is important to point out the increasing significant numbers of Iraqi underage refugees in the Scandinavian countries who are forced to return to Iraq permanently, by their families, claiming to maintain "family honour", and force marriage on them according to tribal customs despite their will.

### **Chapter Eleven: Rural Woman**

Rural women, who are considered to be the main labour force in the countryside, suffer from many complicated problems, the fact that some of these problems are of a social nature such as discrimination and gender-based violence 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 advancement of the agriculture sector along with climate changes that had negative impacts on the agriculture and animals wealth, which led to the increase of poverty in the rural community.

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<sup>84</sup> Baghdad Provincial Council- Displaced Persons Committee

There are no updated statistics that can show the most important indicators of rural situation in Iraq since 2001, as there was only one study about the status of rural woman according to the following description:

- a. **Demographic Structure**<sup>85</sup>: 78 % of women in rural areas, whose ages is ranging between 15-59 years old, while those who over the age of 60 are only 4 % and this means that rural women is a labor force effectively contribute to the work and production together. Statistics in the areas of education, labor, legislation and services in 1980 demonstrated that 93 % of the female labor force in the countryside is often working in the agricultural field.
- b. **Educational Status**<sup>86</sup>: The illiteracy rate of women in rural communities is 76 % overall, which is 61% for 15-19 age group and 91 % in for age groups 30-34 and 35-39, we stress on what is stated in the research that this percentage is dangerous indicator of the situation of rural women and show clear impacts in all areas, this makes officials to have serious attention to literacy for rural women through the development of executive programs to be consistent with situation and the requirements.
- c. **Social structure**: Some rural areas are still suffering from the customs and traditions with harmful practices (such as female genital mutilation <sup>87</sup>and child marriage, trading brides, and paying with women/girls as slaves to solve conflicts as a bargain among tribes in tribunals and depriving wives of inheritance<sup>88</sup>). Rural women suffer from violence in all its forms and that reached to very high levels and this resulted from the impact of customs, traditions and the influence of dominant male mentality in the countryside, and they fear for their personal safety if they report about their exposure to violence, to have access to the police or counseling services and legal services is more difficult for rural women than for women in cities<sup>89</sup>. Disabled women in countryside are considered an isolated creature locked in the house.
- d. **Rural Women and labour**<sup>90</sup>: The agricultural work for rural woman is an integral part of her daily work as a housewife as 96.87 % of the rural women are working in agriculture and grazing, but rarely the rural women be financially independent as there is 82.19 % of the rural women do not have any information about the health, educational and service or even entertainment means.
- e. **Inheritance and Ownership**: social heritage and customs of the community prevent rural women to possess certain legal and legitimate rights, one of the most important reasons that hinder women's access to resources to improve economic conditions in the countryside.

Testimony1

Sawsan Shaheed from Taji district says “women do not have to own

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<sup>85</sup> Al-Naba'a magazine, issue No 60 in 2001 <http://annabaa.org/nba60/iqtsadia.htm>

<sup>86</sup> Same reference

<sup>87</sup> the marriage here is used to bring manpower to ensure the sustainability of agricultural production

<sup>88</sup> <http://www.peyamner.com/arabic/PNAnews.aspx?ID=322894#sthash.XZsWz3H8.dpuf>

<sup>89</sup> Same reference

<sup>90</sup> Al-Naba'a magazine, issue No 60 in 2001 <http://annabaa.org/nba60/iqtsadia.htm>

farmland and if she owns it, it shall be registered in the husband's name, all this because of the prevailing customs and traditions that deny women ownership of rural farmland.

Testimony<sup>2</sup>

Lawyer Qassim from Hilla says “woman can’t possess a farm land goes back to an old fatwa recognizing women's right of access to the proceeds of the agricultural products, without being the owner of the land as an inheritance from her husband or her father.

**f. Government Measures:**

1. Despite the achievements of the State for the advancement of rural women according to CEDAW government report, in order to develop knowledge of rural women and their skills, and to encourage them to adopt scientific methods in agricultural work since 2005, through the creation of the Department of Rural Women within the Ministry of Agriculture in the provinces. In addition to launch loans for rural women by five million Iraqi dinars for each loans, which is equivalent to \$ 4,000 for the establishment of small businesses within the national plan for the advancement of rural women, with accessible credit facilities, but the impact of these achievements on the development of the status of rural women still very ineffective due to slow and limit procedures in some rural areas.
2. Although the CEDAW Committee expressed its concern about the lack of information about the situation of rural women and the implementation of Article 14 of the Convention, the Committee requests in Observation 206 to provide a comprehensive report for the situation of women in rural areas, especially in education, health, employment and the impact of traditions and stereotypes, but this Observation was not included within the plans of government programs.
3. Rural women are granted a loan in the event of ownership of a land, but due to dominant customs and traditions in the countryside, that forbids women to own a land, thus depriving women access to loans.
4. Women in countryside are denied subsidy provided by the Social Welfare Department for the following reasons: absence of registered marriage contracts in courts, or any official documents required to prove this status, women ignorance of laws and mechanisms to access applications for subsidies, rural women are not able to move freely, to follow up on official papers.

**Chapter Twelve : Education**

- a. **Education and Illiteracy:** The government report pointed to a range of challenges that face the continuation 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.

We add to these challenges the following:

1. The deterioration of the infrastructure of education represented by small number of schools, especially in rural areas.
  2. Lack of training programs for educational cadres.
  3. Shortage of financial allocations comparing to the huge Iraqi budget.
  4. Not giving local governments the sufficient powers along with poor coordination for the management of the educational process in the provinces.
  5. Increasing administrative and financial corruption in the education institutions.
- b. The National Development Plan 2010 -2011**, which the government has approved, diagnosed the causes of the deterioration of education as a result of the statistics and studies, strategic objectives were put for the advancement 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.
- c. The law to combat illiteracy No.32 (2011)**: Although the government worked to reduce the gap in illiteracy between men and women through launching the national literacy campaign but still the indications refer to the 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%.

### **Chapter Thirteen / Health**

The Article 31 of Iraqi constitution of 2005 included the right to health for all members of the society, through providing health care<sup>91</sup>, mainly by the Ministry of Health, free of charge or at nominal prices. The private sector provides health services through a number of private hospitals located in all provinces of Iraq, but they are characterized by high prices and poor service in most cases.

**a. Health services in Iraq, provided at three levels:**

1. The first level represented by primary health care centers, as there are (2538) centers including Kurdistan region. The percentage of centers that are run by doctors reached to 49.9%, while 50.1% of them are run by paramedics and nurses<sup>92</sup>.
2. Second and third level of health services provided by a group of public hospitals and specialized centers that spread throughout the provinces of Iraq. The number of hospitals until the year 2012 reached to (239)

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<sup>91</sup>Iraqi Constitution of 2005- Article 31-First (Every citizen has the right to health care. The State shall maintain public health and provide the means of prevention and treatment by building different types of hospitals and health institutions)

<sup>92</sup>Annual report of 2012- Ministry of Health, <http://www.planning.moh.gov.iq/pdf/t2012.pdf>

government hospitals, including 159 public hospitals and 87 specialized hospitals, with operational capacity up to 54%<sup>93</sup>.

3. The percentage of coverage of health services provided by health centers and public hospitals reached to 70% in rural areas<sup>94</sup>. This percentage is not accurate, and indicates to the existence of suffering represented by the long distance between the family houses and the rural health center or hospital. This affects the emergency cases, especially in cases of birth, leading to resort to non-licensed midwives and ignorant women.

**b. Indicators of the low health services level**

1. The spread of epidemics and diseases (cholera, malaria, diarrhea), especially in the random and poor communities, because of the scarcity of drinking water and lack of sanitation networks. It is noted the low level of services provided for women in the countryside more than in the city, as the rate of deprivation of health services provided by the State reached to 10% in urban areas compared to 24% in rural areas<sup>95</sup>. With the deterioration of the security situation, these rates still in steady decline, which is due to ignorance, and the low level of health services, with the absence of health awareness.
2. In 2012, Tetanus vaccination-first dose in Iraq covered only 27% of pregnant women, as for the forth dose, it only covered 12% of the same category in all Iraq.<sup>96</sup>
3. Increased cases of cancer due to chemical pollution and radiation in Iraq, especially after the wars in 1991 and 2003. In statistics by the Cancer Council in Iraq, shows the rate of cancer was in 2009 per 100,000 inhabitants was (48.16 %), recording an increase compared to 2008 rate, which was (44.46 %). The highest rates were recorded in the province of Najaf by 58%, and lowest in the province of Erbil by 25%. The cancer cases among females reached to 53.3% compared to males' rate of 46.7<sup>97</sup>. The breast cancer has ranked first among these cases, especially among girls under the age of twenty, as it recorded 32 % of the total cancer cases in Iraq. The number of breast cancer cases was three thousand cases in 2009<sup>98</sup>, at the rate of 19.59% of other cancer diseases, according to Ministry of Health report<sup>99</sup>

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<sup>93</sup> Report on the Iraqi women situations since 2003 by the Ministry of Human Rights of 2012

<sup>94</sup> Previous source

<sup>95</sup> Report on the Iraqi women situations since 2003 by the Ministry of Human Rights

<sup>96</sup> Iraqi Ministry of Health- Annual Report- 2012, Page 69

<sup>97</sup> Annual report of 2012- Ministry of Health, <http://www.planning.moh.gov.iq/pdf/t2012.pdf>

<sup>98</sup> Cancer Council in Iraq <http://moh.gov.iq/arabic/index.php?name=News&file=article&sid=1732>

<sup>99</sup> Ministry of Health report, 2012 page 138

4. Increased number of congenital disability cases resulting from wars and terrorist acts, as the number of people with a disability was more than a million disabled people<sup>100</sup>.
5. Iraq is not free of HIV, the number of HIV cases recorded 13 in Iraq in 2012, and all cases were recorded among males, with the exception of one case of female in Erbil<sup>101</sup>. Note that there is no disclosure by government institutions with the level of seriousness of this disease, as there is no knowledge by the Iraqi society about it, resulting in the need to provide awareness campaigns about its dangers.
6. The international economic sanctions on Iraq in 1990, led to the emergence of diseases of serious malnutrition. The food basket (flour, rice, tea, sugar, fat, milk for children and legumes) did not meet the food needs of the population, which had a negative impact on the situation of children and mothers in particular. After 2003, the food basket started to lose a lot of its basic elements, with the delay in receiving its items, because of corruption and neglect of the government departments, resulting in the continued prevalence of diseases of malnutrition. It became familiar the occurrence of early abortion of pregnancy due to the weakness of the embryo or because of the poor health of the pregnant mother.

### c. **Reproductive Health**

1. The total fertility rate in Iraq is high compared to the countries of the world and the Arab countries, which constitutes an obstacle to the desired development with regard to maternity and women's health in general in Iraq, as it reached in 2011 to ( 4.5 ) live births per woman of childbearing age. The rate of live births was stable during 2011 and 2012, reaching 38 cases per thousand people, compared to a decline in deaths for the same period, reaching to (3.9) deaths per 1,000 births in 2012<sup>102</sup> and the percentage of deaths among mothers was ( 25.8 ) cases per 100,000 births during 2012<sup>103</sup>. The reason for this was due to unhealthy practices at birth, insufficient sources of health care or midwifery, and the high rate of anemia among pregnant women, which reached to (35 % ), with a low level of vaccines. This situation is particularly prevalent among women in rural areas and the central and southern regions of Iraq<sup>104</sup>.
2. The customs and traditions influenced heavily on women's access to health services, especially in rural areas where the stereotyped image of women is still there. Reports of the Ministry of Health have indicated the decline for women, especially pregnant women, access to necessary

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<sup>100</sup>Annual report of 2012- Ministry of Health

<sup>101</sup>Previous source

<sup>102</sup>Previous source

<sup>103</sup>Previous source

<sup>104</sup><http://iraq.unfpa.org/ar/programmes/reproductive-and-maternal-health>

health care. The percentage of pregnant women visit to primary health centers across Iraq declined to 51 % for 2012<sup>105</sup> , compared to 66% in 2011. The reason is attributed to the lack of female medical staff in these centers. These centers in most provinces did not achieve its target by the visit of pregnant women to them, which requires more efforts to educate women on the need to register in these centers, to reduce the risks that may be exposed to pregnant women during and after childbirth, as well as the need to take the necessary measures for the appointment of doctors in medical institutions, especially in conservative rural and tribal areas.

**d. Reasons behind deteriorating health services level**

1. Lack of financial allocations, as the percentage of financial allocation for 2012 was 5.4% from the federal budget.
2. Poor infrastructure and the Brain Drain, mainly the medical specialties due to the deteriorating security situation.
3. Lack of health awareness, especially in rural areas, and the impact of customs and traditions in reliance on traditional medical means.

**e. The major challenges in the field of health:**

The National Document of Population Policies has indicated ;

1. The high rate of infant mortality.
2. An increase in the rate of the population living below the poverty line.
3. Reinforce the values and traditions that encourage early marriage, Marriage below the legal age (18 years old) and polygamy.
4. High rate of births among young married girls because of early marriage.
5. High rate of unmet need to regulate reproduction.
6. Lack of safe means of family planning.
7. Emergence of the phenomena of internal migration and forced displacement.

## **Recommendations of Iraqi CSOs Shadow Report**

We recommend that the CEDAW Committee urges Iraqi Government to consider the following recommendations by the Shadow report team/Iraq

### **Chapter One: Iraq reservations on CEDAW**

3. Adopt two Observations issued by you, Observations No 188 and No. 189 to remove the reservations on Article 2 / F - G as well as Article 16 of the Convention.

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<sup>105</sup>Annual report of 2012- Ministry of Health

4. Ratify the Optional Protocol to CEDAW Convention to guarantee and ensure protection

### **Chapter Two: Harmonization of CEDAW into national legislations**

1. Make amendments to the 2005 Constitution, including Article 41, to be in line with building a civil State that devotes the principle of citizenship and equality before the law, and in conformity with the provisions of CEDAW and other human rights conventions ratified by Iraq.
2. Work on the abolishment of Article 45/2 of the Constitution, which enhances the authority of the clan and strengthens customs and traditions that represent threat to the dignity of women and their rights guaranteed by the Constitution and the valid laws.
3. Review legislations, regulations and instructions that perpetuate inequality and discrimination before the law, and in particular the Penal Code No. 111 of (1969) and Criminal Procedure Code No. 23 of (1971), and to take the necessary measures, including interim measures, to create an environment where women are not legally discriminated according to Observation No 181
4. Encourage the Iraqi government to involve civil society organizations, particularly women's ones, in the process of constitutional amendments.

### **Chapter Three: Strategies and laws to Combat violence against women**

1. Create a mechanism to ensure regular evaluation and qualitative and quantitative assessment of progress in the implementation of the national strategy for the advancement of women and to develop mechanisms to measure the extent of violence against women. in addition, we request the inclusion of a budget for the gender that will accelerate the removal of discrimination against women. Committee Observation No. 185.
2. Urge the government to provide the necessary financial and human resources to activate the strategy to combat violence against women.
3. We also recommend that the Committee encourages the government on the importance of launching the national strategy for women advancement and allocate the necessary resources for it.
4. Conduct a general census inactivated for political reasons, in order to obtain data and statistics on cases of marriages and divorce out of court, in order to restrict and address them legally.
5. We would like to emphasize on the Observation No. 179 of CEDAW Committee to urge the government to provide the necessary measures to implement these strategies according to the planned goals and work hard to provide the required human and financial resources for each program in order to achieve the Millennium Development Goals.

### **Chapter Four: Access to Justice**

1. Activate the measures of its national plan for human rights with regard to reduce the number of crimes that are included within the death penalty.
2. Any punishment must comply with the international standards and human rights principle, therefore, we demand to tighten the punishment of the crime of torture and follow up allegations of torture rape and bring the perpetrators to justice and activation of judicial oversight at all stages of investigation and trial.
3. Ensure rapid investigation procedures with female detainees in the presence of female cadres, and the release of those that their charges were not proved, without delay or submitting them to a fair and impartial trial
4. Establishment of prisons for women to take into account the specificity of women and their health and psychological needs, and to prepare competent female cadres for the prison administration.
5. Provide rehabilitation mechanisms for women to integrate them with the society and provide safe haven to protect them from violence

**Chapter Five: Violence against women in Iraqi society:**

1. Remove Articles 41 on personal status and 45/2 from the Iraqi Constitution, regarding the tribes, which are devoted inequality before the law, and pose a threat to the rule of law, legitimize violence on family and community and prevent women's access to justice.
2. 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 honor killings and protect the offender and of impunity, and the implementation of awareness-raising campaigns to change stereotypical and discriminatory view on women and girls. Committee Observations No. 192 and 193
3. Accelerate issuing the law of Protection from Domestic Violence and the implementation guidelines for its implementation, in partnership with CSOs and media.
4. Create a special legislation to reduce the cases of sexual harassment and criminalize it.
5. Establish safe havens for the protection and rehabilitation of victims of domestic violence, in cooperation and coordination with civil society organizations.

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

1. Put in place the necessary regulations and mechanisms to implement Law No. 15 of (2008) regarding the amendment to the application of Personal Status Law No. 188 of (1959) as amended.
2. Complete the existing deficiencies in Anti-domestic Violence Law No. 8 of (2011), issue regulations for the implementation of this law, complete

forming the reconciliation committees in the provinces of region and the participation of the relevant ministries to implement it.

3. Cancel all illegal offices regarding murders and conflicts among individuals, with the activation of the amended text of Article 409, by strengthening the investigative and judicial organs to detect cases of murder of women, prosecute the perpetrators and bring them to justice.
4. Failure to ratify the laws of a general amnesty for crimes of honor crimes, even if there is reconciliation between the parties, as well as withdraw the authority from the presidency of the region in terms of special amnesty for such crimes.
5. Conduct broad awareness campaigns against the practice of female genital mutilation by identifying the relevant ministries and in partnership with civil society organizations, media and local communities.

### **Chapter Six: Women Trafficking and Prostitution**

1. We ask the Committee to urge the Iraqi government to speed up the development of procedures and mechanisms for the implementation of the Human Trafficking Act No. 28 of (2012) to ensure the reduction of the phenomenon, create databases, train security personnel at border crossing points and airports on the mechanisms of monitoring, control and follow-up for early identification of victims and protect them, and develop programs for their rehabilitation, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children which Iraq joined in 2009
2. Amend the Criminal Law to ensure appropriate and reasonable penalties for the crime of prostitution, and providing financial support and medical and other support, including vocational training, for women convicted of crimes. Furthermore, ensure that the offence of women victims of trafficking or sexual exploitation, and treated as victims and provide care, support and appropriate assistance to them.

### **Chapter Seven: Political Participation**

1. Cancel the Ministry of State for Women Affairs and to be replaced by an independent commission for the advancement of women to ensure the non dominance of specific thought on the policy of dealing with women affairs as the case with Kurdistan region represented by the Supreme Council of Women.<sup>106</sup>
2. Urge the government to implement the Supreme Federal Court decision No 42 of 2012, which states to make the women representation in the Board of

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<sup>106</sup> Annex 6 /page 2/ No.6

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.

3. Emphasize on the Observation 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.
4. 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 active political participation for elected women, in accordance with the provisions of Article 20 and Article 49 Fourth of the 2005 Constitution,
5. Continue to include the women quota within election law.  
Adopt a national plan identifies from which priorities and coordination for the implementation of Security Council Resolution No.1325atthe local level, and subsequent resolutions associated with it: 1612/2005, 1674/2006, 1820/2008, 1882/2009, 1888/2009, 1889/2009, 1894/2009, 1960/ 2010., with an emphasis ondecision No 2122/2013.

### **Chapter Eight: Personal Status and Marital**

1. Monitor implementation of the Personal Status Law 188 (1959), in order to prevent overtaking on the provisions of the law, particularly the issue of registration of marriage contractsin courts, not to allow marriagesof persons less than 15years old, restrictpolygamy, and consider claims of judicial separationsfiled bythe wifeand others.
2. Amend Article46 of the Personal Status Law No.188 (1959), granting the right ofthe wife to abandon her husband regardless of the husband's consent.
3. Make amendments to the Personal Status Law No.188of 1959, as amended, in line withthe amendments to the law by the Kurdistan Regional Government- Iraq, and involve civil society organizations in the process of amendments.
4. Comply with the ruling of the Court of Cassation for decades about granting the right of the Muslim to return to her/his former religion upon reaching the age of majority, to be in line with the provisions ofthe Constitution in the State guarantee for the protection of the individual from intellectual, political and religious coercion (Article37/ Second), and to ensure thateveryone hasthe freedom of thought, conscience and religion (Article42).

### **Chapter Nine: Minorities:**

1. Ensure that the rights of migrants, ethnic and religious minorities.  
Recommendation No.122of UPR
2. Provide protection for minority women. Recommendation No.208

### **Widows and Women Breadwinners:**

1. Take the necessary measures 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 bread –winner women to empower them economically and to ensure decent life for them and their families.
2. Set up accurate and comprehensive database for all widows and divorcees to support policy and program plans.
3. Take the necessary measures to issue the Social Security law and to include the widows and bread-winner women within this law in accordance with article 30/Second of Iraqi constitution.

### **Disabled Women**

1. Provide facilities and institutions to meet the needs of disabled people for health care and psychological and medical treatment to live a normal life, exercise their full rights as citizens, and to ensure a decent life for them.
2. Provide the proper environment and the necessary facilities for disabled women to form family, to have children, education, and rehabilitation and to get economic empowerment.
3. Rehabilitate and train cadres working with disabled women, in particular, in the educational and health institutions.
4. Establish an independent national commission under the supervision of the Prime Minister to deal with disabled people.

### **Refugees and women IDPs**

1. Implement programs of psychological and social rehabilitation for victims of displacement, particularly women and children.
2. Involve displaced women, in conflict zones, in the process of national reconciliation and peace-building.
3. Take measures to reduce the discriminatory practices in terms of disbursing compensations to displaced and migrated women.
4. Adopt the following recommendations of the UPR report on Iraq:
  - To promote policies and continue to seek international cooperation to ensure the human rights of IDPs, including measures relating to their return or resettlement. Recommendation No. 125.
  - To encourage the mass return of Iraqi refugees, and guarantee their rights and their reintegration into Iraqi unified society. Recommendation No. 123.
  - To adopt measures aimed at ensuring full respect for international law, human rights and international humanitarian law with regard to all refugees. Recommendation No. 124

### **Chapter Eleven: Rural Women**

1. Provide a comprehensive report on the status of women in rural areas, particularly regarding education, health, employment, and the impact of traditions and stereotypes on the exercise of their rights. Observation No.206.
2. Provide the necessary infrastructure in the education and rehabilitation of girls and women, implement vocational rehabilitation programs away from the stereotype of women, encourage women to carry out income-generating projects and provide support to them, and to provide facilities for them to obtain agricultural loans, and the allocation of the subsidy by the Social Welfare Department for Women.

### **Chapter Twelve : Women and Education**

1. Take the governmental measures for sustainability by the enforcement of Literacy Law No 32 of (2011).
2. Focus on the Observation of the CEDAW Committee 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.
3. Take the necessary measures to achieve the compulsory education in the primary school and free access to education in all its stages, in accordance with Article 34/First and Second of the Iraqi constitution, and allocate more resources to education sector, Recommendation No 107 of UPR.

### **Chapter Thirteen: Health**

1. Provide the greatest possible protection for the health rights of women, especially in rural areas, and promote the protection of the impact of traditions and stereotypes. (Recommendation 204 and 206)
2. Continue to support health services for women, particularly vaccines for pregnant women and children, and early screening for breast cancer, providing a safe means of family planning.
3. Seek to create a health insurance system to guarantee health care to all segments of society, especially poorest one, based on the text of Article 30/ First and Second of the constitution, as well as the recommendation No.104 UPR report.

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## Annexes

### Annex 1

#### تقرير الظل لسيداو

النساء العراقيات في ظل النزاعات المسلحة وما بعدها

**CEDAW Shadow Report: Iraqi women under Conflict and aftermath  
Presented by "Iraqi Women NGOs Coalition of CEDAW Shadow  
Report":**

1. Iraqi Women Network
2. Rafidain Women Coalition
3. No to Violence Against women in Kirkuk Gathering

مقدم من قبل تحالف المنظمات غير الحكومية العراقية النسوية لتقرير الظل لسيداو " الذي ضم كل من:

1. شبكة النساء العراقيات
2. تحالف نساء الرافدين
3. تجمع لا للعنف ضد المرأة في كركوك

Organization	المنظمة	ت
AshorPanipal's Cultural Association	جمعية آشور بانيبال الثقافية	.1
Asyad Humanitarian Organization	منظمة أسياذ الإنسانية	.2
Assyrian Women Union	اتحاد النساء الآشوري	.3
Baghdad Women Association	جمعية نساء بغداد	.4
Burj Babel for Media Development	برج بابل للتطوير الإعلامي	.5
Chaldean Women's Association	جمعية نساء الكلدان	.6
Enana Forum For Women	تجمع إينانا النسوية	.7
Family Support Center- IAA	مركز الإرشاد الأسري – جمعية الأمل العراقية	.8
Fatimah House Charity Organization for Women	مؤسسة دار فاطمة النسوية	.9
Hammurabi Organization for Human Rights	منظمة حمورابي لحقوق الإنسان	.10
Humanitarian Women Rights NGO	منظمة حقوق المرأة الإنسانية	.11

Iraq Foundation	المعهد العراقي	.12
Iraq Institution for Development & Human Rights	مؤسسة العراق للتنمية وحقوق الإنسان	.13
Iraq Organization for Medical Aids	منظمة العراق للمساعدات الصحية	.14
Iraqi Al-Amal Association (IAA)	جمعية الأمل العراقية	.15
Iraqi Council for Peace & Solidarity	المجلس العراقي للسلام والتضامن	.16
Iraqi Independent Women Forum	التجمع النسائي المستقل	.17
Iraqi Women & Future Organization	منظمة المرأة والمستقبل العراق	.18
Iraqi Women Journalists Forum	منتدى الاعلاميات العراقيات	.19
Iraqi Women Institution	مؤسسة المرأة العراقية	.20
Iraqi Woman League	رابطة المرأة العراقية	.21
Knowledge Organization for Women	جمعية المعرفة للمرأة	.22
Kurdistan Women Union – Baghdad	اتحاد نساء كردستان - بغداد	.23
Masarat for Cultural & Media Development	مؤسسة مسارات للتنمية الاعلامية والثقافية	.24
Mercy Hands Organisation	جمعية أيادي الرحمة	.25
Model Iraqi Woman Organization	منظمة المرأة العراقية النموذجية	.26
Nazik Al-Mala'eka Forum	منتدى نازك الملايكة	.27
NGO Coordination Committee for Iraq (NCCI)	لجنة تنسيق المنظمات غير الحكومية لأجل العراق	.28
Rafidain Women Coalition	تحالف نساء الرافدين	.29
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## **Annex 2**

### **Preparation Stages for writing CEDAW / Shadow Report**

#### **The first Iraq Shadow Report, since the signing of the Convention in 1986**

##### **Stage I:**

1. A preparatory meeting was held in Baghdad on the first day of December 2012 to prepare to write a shadow report on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), organized by the Iraqi Women Network, in collaboration with the IAA and Forum of Iraqi Media Women , attended by many CSOs from various provinces, and it was agreed to be a qualitative shadow report, and it should be related to Security Council Resolution NO 1325 consistency with sixteen articles of CEDAW, provided that follow-up and coordination in this regard shall be done with the CEDAW Committee at the United Nations to find out mechanisms of registration and follow-up stages of the report delivery during 2013, and its timings, the topics shall be identified at a workshop to be held soon in this regard, the report of the meeting is attached.
2. In this context, the Women Empowerment NGO held on 17-19 December 2012, in Erbil, a workshop to discuss the methods and mechanisms of the shadow report writing, attended by a group of organizations with field expertise in this area, and through working groups and discussions, the main topics of the shadow report were determined. Where NGOs to provide the researchers who are in charge of the report topics with information, reports, and cases that have been monitored, within these topics.
3. After Erbil workshop, information were collected and researchers were assigned by different NGOs, to cover the articles of the Convention, in addition to cover the period from 1998 to 2003, to identify gaps in the government report, and the articles that were ignored by this report.
4. The concerned international organization was approached, to make sure of the sequence of stages of report drafting, the timing of delivery of the first draft and the dates of the meeting of the Committee in Geneva, a timetable and a guide were sent to us regarding these details.

##### **Stage II:**

1. In February 2013, a focus group was formed, to meet with the researchers to review and discuss drafts of reports, the phase before 2003, gaps and questions to be forwarded to the government about the sixteen articles that were mentioned in the government report, with continued correspondences and coordination with the International Organization (IWRAP) specialized in shadow reports, and registration procedures with the international Committee of the CEDAW.

2. In mid - May 2013, the group was trained in Beirut in cooperation with IWRAW, IAA and the Norwegian Embassy in Baghdad, in a workshop on the mechanisms to write the shadow report and its phases.
3. In the beginning of June, the process of collecting reports and additional information completed and made them available to civil society organizations, about any violations in the framework of the above - mentioned three topics in the first phase, to supplement the shadow report.
4. Communication and coordination with the concerned international organization about the report and preparing to send a list of key issues that will be mentioned in the shadow report, in addition to the list of questions from NGOs to the government about what is stated in the government report, as they were sent in mid-June 2013, and two representatives from the coalition of NGOs , that sent a list of key issues in the shadow report, attended the 57th preparations session , and provided oral presentation before the CEDAW Committee in Geneva on July 29, and on August 2 , the CEDAW Committee sent the final list of issues and questions to the State.
5. For the period between July and October, the drafting of the shadow report was completed, with the adoption of the list of issues and questions, research papers and stories that cover articles of the Convention, along with reservations and noting that unfair decisions are issued and even violated the articles of Iraqi constitution, whether they are legislations, procedures and implementation instructions , and this violation by the executive agencies of government passes without deterrent measures or questioning up to the completion of the report, these violations have been updated and recorded
6. National workshop held by the Arab Centre for the development of the rule of law and integrity in cooperation with Iraqi Al-Amal Association in Baghdad on November 2<sup>nd</sup> 2013 and to discuss legal evaluation study about the Iraqi legislation, and CEDAW prepared by the Judge and legal scholar Hadi Aziz-member of the working group preparing the CEDAW shadow report. The workshop was attended by a number of officials at the level of the legislative and executive branches, judges, legal experts, academics and the media, in addition to the many activists in civil society organizations. The debate focused on the legal reality of Iraqi women and determining directions for change towards gender equity.
7. On 5 December 2013 organized Iraqi Amal Association workshop to discuss the draft of the Shadow Report, in the presence of the 45 actors and representatives of 27 non-governmental organizations from eight provinces, and international organization that constitutes an umbrella for a number of international organizations and local Non-governmental organization Coordinating Committee for Iraq (NCCI), and Board member of the High Commissioner for human rights, in addition to specialists in law and media and academics, as well as a representative of the development agencies.

جمهورية العراق  
الجمهورية العراقية  
الجمهورية العراقية

REPUBLIC OF IRAQ  
THE CABINET  
General Secretariat

جمهورية العراق

مجلس الوزراء

الأمانة العامة

العدد: ٢٧٨١ / ٣ / ١٧

التاريخ: ٢٠٠٤ / ٩ / ١٦

وزارة الداخلية / مكتب الوزير

م / سفر المرأة

إشارة إلى كتاب مكتب السيد رئيس الوزراء ذي العدد ٥١ والمؤرخ في ٢٠٠٤/٩/١٣ حصلت موافقة السيد رئيس الوزراء على السماح للمرأة العراقية الكاملة الأهلية بالسفر وقت ما تشاء من دون الحاجة إلى مرافقتها بما يسمى ( محرم).

د. زهير عبد الغني حمادي  
الأمين العام لمجلس الوزراء

٢٠٠٤/٩/١٨

نسخة منه الى:

مكتب السيد رئيس الوزراء / للتفضل بالعلم ... مع التقدير.  
وزيرة الدولة لشؤون المرأة / للتفضل بالعلم ... مع التقدير.

خالد ٩/١٨

Republic of Iraq

The Council of Ministers Secretariat (COMSEC)

No: 7/1/3/2711

Date: 19/09/2004

**Ministry of Interior/ Minister's Office**

**Subject: Woman Travel**

In reference to Prime Minister's letter No 51 on 13/09/2004, the approval of Prime Minister was received to allow the Iraqi eligible woman to travel whenever she wants without the need to male escort (Mahram)

Dr. Zuhair Abdulghani Humadi

Secretary General of Council of Ministers

18/09/2004

Copy to:

Prime Minister's Office for information

Minister of Woman's Office for information

## **Annex 4**

### **No to sectarian draft laws that shatter the unity of the social fabric and women's dignity and rights<sup>i</sup>**

Our country faces serious challenges represented by desperate attempts to stoke sectarianism, conflict and division among our people, along with the continued paralysis in the political process, the deterioration of the security situation accompanying the increase in terrorist attacks in most provinces, that target cafes, restaurants, markets, neighborhoods, schools and State institutions, and commit heinous crimes in attacking the safe houses and killing their residents, including children, women and elders, assassinations, and beheadings of victims and throwing their bodies in the garbage. Many families were threatened in various provinces, and they were forced to flee from their places of residence to other areas, and militia regained its activity in daylight and in full view by the security services, these militia exercise kidnapping and threat to blackmail and intimidate citizens.

According to this gloomy situation that looks like a renewal of the nightmare of sectarian strife in 2006, the Minister of Justice announced on 23/10/2013 that he accomplished the two draft laws of "Jaafari personal status" and "Jaafari judiciary" that strengthen sectarian divisions within the society and in the formations of the judicial power, contradict with the provisions of the constitution, and target shredding the unity of national legislation that was strengthened over the decades by the Personal Status Law No. 188 of 1959, which had a positive impact on the consolidation of civic peace and strengthen the unity of the social fabric through intermarriage among sects, and even among different religions and various ethnicities, in addition to protect the rights of women in marriage, divorce, custody and inheritance, based on the principles of Islamic law that is most favorable to the spirit of the current time, and most of its provisions are derived from the Jaafari jurisprudence that Minister of Justice is claiming to defend it.

It is strange that the Minister of Justice relied on Article 41 of the Constitution to present these two draft laws, although he knows, by virtue of his membership in the previous Council of Representatives, that this Article is under a constitutional amendment which has not been resolved yet up to date. At the same time, he did not hide his wish to "apply" Islamic law in all criminal and regulatory issues in the country, ignoring the constitutional and ministerial oath and his responsibility to preserve the democratic federal system, public and private freedoms, and the independence of the judiciary and the application of legislations faithfully and impartially.

The women's organizations and CSOs concerned with women's rights played a remarkable role after the change in 2003 to cancel the decision of the Governing Council No 137 of

2003, as well as to put pressure on decision-makers in 2006 to include Article 41 of the Constitution within the controversial articles that need to be modified, to ensure equality of citizens before the law without discrimination due to sex, race, national origin, color, religion, sect, belief or opinion, or economic or social status, to enhance the provisions of the Constitution in the areas of human rights, public freedoms and respect for national, religious and political pluralism, and ensure the unity of the national legislations, State institutions State and their impartiality, the separation of powers, and prevent any other authority to interfere in the judiciary or in the affairs of justice.

Today, once again, CSOs confirm its position of rejecting the two draft laws for the supreme national interest to preserve the unity of the social fabric of our people and build a democratic civil State, defend the principle of equal rights for women and men, eliminate all forms of violence and discrimination against women, in particular to prevent marriage of young girls, temporary marriages and restrict polygamy and arbitrary divorce, impose registration of marriages and divorces in the courts, as the personal status represents the cornerstone in building the human, evolution of social relations and the establishment of a democratic system, by measuring the extent of respect for the dignity of women and their right to choose their life partner without coercion, and building family life based on affection, understanding and partnership.

The attitudes that reject the two draft laws expressed by many legal specialists, political forces, members of the Council of Representatives, clerics, social and cultural figures, has prompted the government to take a positive step to postpone discussing them only after the next election.

The CSOs will continue demanding the abolition of the said draft laws, through advocacy, pressure campaigns, and awareness on the bad impacts of these two draft laws on the stability of family relationships and society, the negative repercussions on the status of women and children, and their violation of the provisions of international conventions ratified by Iraq which deemed by virtue as national laws, in particular the Convention of Elimination of All Forms of Discrimination against Women (CEDAW), and the International Covenant on Civil and Political Rights.

**Iraqi  
Women  
Network**

[iraqiwomennet@gmail.com](mailto:iraqiwomennet@gmail.com)

Baghdad, 05/12/2013

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<sup>i</sup> It was issued during the NGOs workshop on the draft of CEDAW shadow report, 5<sup>th</sup> December 2013 attended by 51 representatives of 28 NGOs.



## **Declaration of Iraqi Women Network Foundation**

In view of the requirements of the current era through which our country is going after the topple of the dictator regime, and in the stage of rebuilding the civil society based on respecting human rights, public freedom, justice and equality and;

To consolidate the participation of woman as a citizen enjoying full political, economic, social and cultural rights in the process of achieving democracy, social security and national sovereignty and;

In respect to the organizational freedom, tens of women NNGOs are established in all governorates, a matter which confirms the vital energy of the Iraqi women and their rush to participate in the public life through the democracy and multiplicity framework.

Many women NNGOs have held corporate periodical meetings for dialogue and exchanging ideas to formalize a stable stand to enable women to participate in the decision-making process as related to the future of our country and the development of the Iraqi Women Movement.

At the latest meeting, held on the 3<sup>rd</sup> of December 2003 at Baghdad Hunting Club in which 50 NNGOs were present; a committee comprising 7 NNGOs was elected and asked to arrange a work sheet for coordinating women's work. The worksheet was discussed and enriched at the General Assembly meeting held in Baghdad on the 20<sup>th</sup> of January 2004 in which 55 NNGOs participated. The meeting certified the declaration of the Iraqi Women's Network as an independent civil democratic gathering; not subordinated to any political body. It has developmental humanitarian aims and it is open to all intellectual currents which believe that the advancement of women is the actual measure for the progress of the society. It aims at coordinating the woman NNGOs to build democracy, law enforcement, human rights and work to eradicate severity and all forms of women discrimination in the new Iraq.

**The Iraqi Women's Network Coordinating Committee comprises the following NNGOs:**

- 1. Independent Iraqi Women's Gathering.**
- 2. Iraqi Al-Amal Association.**
- 3. Woman for Welfare of Woman Society.**
- 4. Assyrian Women's Union.**
- 5. Women Awakening Organisation.**
- 6. The Non-Shelter Society.**
- 7. Iraqi Society to Support Families of Martyrs and Disappeared Detainees.**



## **A memo to:**

**Ladies and Gentlemen members of the GC.  
Mr. Ambassador Paul Bremer.  
Minister of Human Rights.  
Leadership of Iraqi Parties and Political Authorities.  
UN Specialized Agencies.  
National and International Media.**

We are the participants of the Iraqi Women Network General Assembly's meeting held in Baghdad on the 20<sup>th</sup> of January 2004 on “ **Active Women Participation in the Political Process and the Democratic and Social Changes** “ with the attendance of various NNGOs representatives, Civil Society Org. and different public figures. We would like to express our shock and deep astonishment of order 137 issued in 29<sup>th</sup> of December 2003 by the GC; the consequence of which is the cancel the Personal Statute no. 188 in 1959 and other statutes related to women civil rights at a time in which the need is imperative to assure citizenship rights to all Iraqis; men and women without distinction and consecration of sectarianism which feeds dispersion among our people and jeopardize their social texture.

We reject the order for its destructive effects on the unity of the human, social and family ties and its defacement of the lawful heritage of the Iraqi legislation in addition to its serious reflections on the transition process in these delicate circumstances through which our country is passing towards achieving our national independence, formalizing a permanent constitution and going through the elections to establish a legislative authority to ensure development and prosperity for the coming Iraqi generations.

As we stress the serious consequences of this order, we plead you to abate it and work to remove all forms of discrimination in the Iraqi laws especially those concerning women and to abide by the international human rights agreements to build the law and social justice state.

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## **A memo to:**

**Ladies and Gentlemen members of the GC.  
Mr. Ambassador Paul Bremer.  
Minister of Human Rights.  
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UN Specialized Agencies.  
National and International Media.**

We are the participants of the Iraqi Women Net's General Assembly's meeting held in Baghdad on the 20<sup>th</sup> of January 2004 on "**Active Women Participation in the Political Process and the Democratic and Social Changes**" with the attendance of various NNGOs representatives, Civil Society Org. and different public figures. We appeal to you as woman citizens enjoying full civil and political rights ensured by international human rights agreements and former Iraqi constitutions to support our demand to call for at least 40% rate of Iraqi women representation in the decision-making fields especially in the National Transitional Council, the governorates' councils, the constitution verbalization councils and in organizing the elections.

We strongly believe that the success of the political and democratic turnover process in Iraq depends greatly on the rate of women participation in political authorities and public life eradicating all sorts of discrimination against them taking into consideration their deep-rooted historical role in the political and social struggle and their acknowledged sacrifices for the sake of national independence, democracy and social justice.

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## Annex 6

**The honorable, the Presidency of the Honorable House of Representatives**

**The esteemed Committee on Women, Family and Children at the House of Representatives**

**The esteemed Legal Affairs Committee in the House of Representatives**

**The esteemed Civil Society Institutions Committee in the House of Representatives**

**The esteemed Human Rights Committee in the House of Representatives**

**Subject / Comments and suggestions on the draft Law on the Ministry of Women and Family Affairs**

Greetings

We, the representatives of Iraqi Women Network for women's rights, have followed discussions of your distinguished Council on the draft law of the Ministry of Women and Family Affairs, which included the objectives of the Ministry aims to achieve, and its organizational structure. We would like to include in this memorandum our observations as well as our suggestions. We also hope that you would give more time for consultation on the draft law with civil society organisations concerned with women's rights.

1. **We object to linking the issue of women to the family**, through the naming of the Ministry (Ministry of Women and Family Affairs), as if women existence is only tied to the family. This is a abridgement of women as a human being with dignity and rights that were and still are subject to historically combined social persecution. Her marginalization and exclusion in all areas of life ascertain ignorance and backwardness in society, and hinder the progress of society as a whole.

2. The bill, in Article (1)/second: “The **ministry is the highest authority** that is concerned with the affairs and the development of the conditions of women and family in Iraq), is **unrealistic and untrue**.

3. The nine goals, the Ministry seeks to achieve, are very important, but **the mechanisms** set out within the structure of the ministry to achieve them **are deficient and do not match the requirements of the objectives**.

4. Article 3/second in the bill states that the Ministry seeks to implement its strategy through the process of monitoring, evaluating and following-up. This does not indicate that the Ministry would be concerned with women's political, economical, social, cultural or civil affairs through specific departments or special sections. Thus the **Ministry's proposed structure is meaningless and a burden on the state budget** with its administrative expenses at the expense of the objectives of the Ministry, which will result in a waste of money that must be dedicated to the advancement of the status of women.

5. What drew our attention is that the law assigns the tasks for women affairs, to **the Higher Commission for the Advancement of Women**, which has within its membership representatives from other ministries and several bodies, commissioned with the tasks entrusted in the basis and structure of the Ministry. It **became a ministry within a ministry**. The role of the Ministry as an executive authority that carries out specific measurable duties for the advancement of the status of women has vanished.

6. The experience of the Ministry of Human Rights proves that it is unable to play its role in monitoring human rights violations in the government agencies because it is part of the government's policy. And, thus, the establishment of the **Ministry of Women** will be governed by the government's policy, and will be **subjected to political pressure and the Minister's ideology or to the political party ruling in the government**. In addition, the Ministry will not be able to monitor the performance of other ministries with regard to the elimination of discrimination against women.

7. The **bill ignored** in its preamble and its provisions any reference to **the principles of equality before law and equal opportunities** in all political, economical, cultural, social and civil spheres which were stated in the Rights and Freedom clauses of the permanent constitution in articles 14 and 16, respectively, which constitute the essence of the policy of eliminating discrimination against women as a citizen with full civil rights.

8. The most severe suffering women face is the discrimination against them within the current legislations. One of the most important tasks is to review the laws and the enactment of new legislations to arise the status of women and safeguard their inalienable rights, that are enshrined in the Iraqi Constitution and international Human Rights covenants and in particular CEDAW which Iraq ratified. The draft law ignored these important issues. The **Legal Directorate** contained in the structure of the Ministry was merged together with the Finance and Management Directorate. And, therefore, it is put there as **a formality rather than specialised legal department**.

9. It is clear that the bill directs the work of the **Ministry to be similar to the work of a civil society organisation**, rather than the planning and implementing the government's policy in advancing the status of women.

10. The bill stressed the need for **coordinating with the civil societies** in all aspects relating to the rights of women and family affairs. But, at the same time, it **did not establish a specific department in the structure** to follow up on this. It **was even ignored in the membership of the High Commission for the Advancement of Women**.

Therefore, we, the representatives of the Iraqi Women Network concerned with women's rights, with membership of more than 80 civil society organisations in all parts of Iraq, as we put before you our sincere observations on the bill, and after our review of the experience of the Ministry of State for Women's Affairs and government policy in this area, we see that women's issues began to decline in the government's policy and priorities within its mechanisms.

Based on the Human Development Report for 2008 and the National Development Plan for 2010 to 2014 and the National Strategy for Poverty Reduction 2010 to 2014, **we suggest the following:**

1. The **formation of the Independent High Commission for the Advancement of Women**, or the Supreme Council for Women, based on the provisions of Article 108 of the Constitution, instead of a bill to establish the Ministry of Women and Family Affairs.
2. The Independent High Commission for the Advancement of Women should contain, **in the structure, representatives from the executive and the legislative and the judiciary, civil society organisations, the media and the research centers**. It should be linked to the House of Representatives.
3. This institution works towards **drawing up a national strategy for the advancement of women** in the process of sustainable development and in the two principles a of equal rights and equal opportunities in all areas of political, economical, social, civil and cultural rights, in line with the content of the operative Constitution, and Iraq's international obligations to the International Covenants for Civil and Political Rights and on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child, and other conventions.
4. This institution will **coordinate and supervise the implementation of this strategy with all state institutions**, through the review of legislations towards correcting the discrimination elements, and to propose draft laws that are consistent with the provisions of the Constitution, and to demand the halt of the violations of women's rights and violence against women, improving women's status and the required services within the scope of work and budget of each ministry or institution. And, therefore, should not limit the issue of advancing the status of women in a narrow space within the framework of the Ministry of Women.

5. Its role will also include, supervising and coordinating with state institutions in order to achieve the **principle of equal opportunities in employment, capacity building, advancement and holding decision-making positions** to correct the gross imbalance in the women's absence in such positions or the scarcity of their presence.

6. As well as its other functions, **monitor the performance of state institutions in the integration of gender in their programmes, projects and budget**, towards the empowerment of women in economic, social, health, and cultural sphere, and reduce the unemployment rate among women and the abolition of all forms of discrimination against them.

7. It is important that the Commission works on the **awareness and education programmes for women at the community level**, and the re-examination of the curriculum to change the traditional view of women and the social practices that degrade their dignity and their rights, including the tribal traditions, which are incompatible with Human Rights, as stated in Article 45 / Secondly and Article 37 / III of the Constitution of Iraq.

8. This Commission will allow **participation of a number of representatives from various Iraqi social sectors within the state institutions and civil society organisations**, to manage and implement its programmes and policies, without monopoly by one person as represented by the Minister. It will also enjoy independence in the performance of its duties in favor of women's issues, away from the dominance and activities of specific political, partisan or ideological tendencies.

9. We have an experience, close to our current existence in Iraq that is the **presence of the Supreme Council for Women in the Kurdistan Region** which replaced the former Kurdistan Regional Ministry of State for Women's Affairs. Therefore, we believe, in order to unify policies for the advancement of the status of women in Iraq, it is necessary to form a similar institution at the Federal level as Independent Higher Commission for the Advancement of Women.

10. Make it possible for **dialogue to commence with civil society organisations** on women's rights to put forward their views and proposals, and benefit from their experiences, competencies and knowledge of women situation in various fields, and in the formulation of appropriate law for developing Iraqi women status and their advancement.

**Iraqi Women Network**

**January 21, 2012**

[iraqiwomennet@yahoo.com](mailto:iraqiwomennet@yahoo.com)

- 1. Assyrian Women Union.**
- 2. Independent Women's Society**
- 3. Tower of Babel for Information Development.**
- 4. Women's Alliance For a Democratic Iraq (WAFDI).**
- 5. Iraqi ALAmal Association.**
- 6. Iraqi Firdaws Association (Basra)**
- 7. Iraqi Women's League.**
- 8. Women for Peace**
- 9. ALRafidain Peace Organisation.**
- 10. Organisation of Women Jurists**
- 11. Training and Development Center for Widows.**
- 12. Organisation of Health Aid for Iraq**
- 13. Tammuz Organisation for Social Development.**
- 14. Independent Iraqi Women's Organisation**
- 15. Etana Organisation for Women (Nineveh).**
- 16. Center for Women's Human Rights (Diwaniya).**
- 17. Hawa Organisation for Relief and Development (Diyala).**
- 18. Center for Promising Women (Diwaniya) .**

## **Annex 7**

**The US occupation forces have exercised direct violence against Iraqi women** embodied in the intimidation, arrests and raids on members of their families, and the threat of arms. It was raped by soldiers. And under the cover of fighting armed groups from Al-Qaeda, these troops committed the arbitrary killings of civilians, women and children, for example:

- Retaliation by US forces in Haditha on 19 November 2005 attack on several homes and killed 24 civilians dead including 10 women and children.
- The attack on the town of Ishaki on dawn March 15, 2006, which was noted in the letter of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, addressed to the US Department on 27 March 2006: "broke into the House and handcuffed 11 people, including four women and five children, and executed, before launching the air strike destroyed the House completely".
- A housebreaking Iraqi girl named Abeer Qassim al-Janabi in Mahmoudiya on March 12, 2006 by four American soldiers who were taking turns to rape Abeer 14-year-old, killed her parents and her sister, five years old, and then burning the House and the bodies in an attempt to erase the effects of their crime.

## **Annex 8**

### **Translation of the decision of the Supreme Federal Court in Iraq on women's representation at the High Commission for Human Rights:**

#### **Republic of Iraq**

#### **Supreme Federal Court**

**No: 42/Federal/ 2012**

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The Supreme Federal Court convened on 19/09/2012, chaired by judge, Midhat Al-Mahmood and with the membership of the following judges: Farooq Mohammed Al-Sami, Ja'afar Naser Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Sa'ib Al-Naqshabandi, Abood Salih Al-Tamimi, Mikhail Shamshon Qas Kukris and Hussein Abo Al-Taman, who are authorized to issue sentences on behalf of People, the Court issued the following decision:

#### **Plaintiffs:**

1. Hana'a Edwar/ Secretary General of Iraqi Al-Amal Association/ in addition to her job
2. Vian Raheem Ali/ Head of Tamuz Organization for Social Development/ in addition to her job
3. Naqiya Iskandar Mansour/ Baghdad/ Al-Jama'ia
4. Suhaila Abdulhussein Brihi/ Baghdad/ Al-Doura District/ Al-Siha neighborhood
5. Kifah Badran Risan/ Basra/ Al-Aman Al-Dakhili district

Their attorney, Jawad Abdulhameed Al-Bidair,

Defendant: Speaker of Iraqi Council of Representative/ in addition to his job

#### **Prosecutor:**

The attorney of plaintiffs claimed before the Supreme Federal Court in lawsuit no. (42/Federal/2012) that the Council of Representative approved on 09/04/2012 the nomination of the Board members of High Commission for Human Rights in accordance with provision (First) in article (8) of Law No. (53) of 2008, whereas Council of Representative has violated provision (Fourth) of the same article, that stipulates the women representation of not less than one third of the total number of the Board's members and as the total number of original and reserves members is (14) members, and as the number of women after voting is two original and two reserves but this number does not meet the provision (Fourth) of that article, for this reason, the number of women became less than one third as the defendant violated the provisions of the law, so the attorney requested from the Supreme Federal Court to oblige the defendant, in addition to his job, to make the women representation of not less than one third of the total number of the Board members of High

Commission for Human Rights in accordance with article (8/Fourth) of Law No (53) of 2008 and also oblige him to bear the cost of lawsuit and attorney fees.

**Decision:**

Following the scrutiny and deliberation by the Supreme Federal Court, we found that the attorney of plaintiffs is requesting in his lawsuit to oblige the defendant/ in addition to his job to make the women representation of not less than one third of the total number of the Board members of High Commission for Human Rights in accordance with article (8/Fourth) of High Commission for Human Rights Law No (53) of 2008, and after reviewing article (8/First) of the same law, we found that it stipulates the following: (The Board is comprised of 11 original members and 3 reserves, who were already nominated by the Committee, and their selection shall be approved by absolute majority of the present members of Council of Representatives). Whereas the total number of Board members, that includes the original and reserves members, is (14) members, whereas article (8/Fourth) of the said law stipulates that (the women rate in the Board shall not be less than one third of the total members), and whereas the number of women in the Board of Commissioners is now (4 women members), 2 original and two reserves and as this number represents less than one third of the total members (14 members), so the women representation in the High Commission for Human Rights contradicts with the provisions of article (8/Fourth) of the said law and the plaintiffs case is based on sound legal underpinning and according to the foregoing, the Supreme Federal Court has decided to oblige the defendant/in addition to his job to make the women representation of not less than one third of the total number of the Board members of High Commission for Human Rights and also oblige him to bear the cost of plaintiffs' attorney fees ( ten thousand Iraqi dinar), Mr. Jawad Abdulhameed Al-Bidair. The sentence was issued by the presence and agreement of the Court's members in accordance with article (8/ First and Fourth) of High Commission for Human Rights Law No (53) of 2008, article (93/ First and Third) and article (94) of Iraqi Constitution of 2005, and was promulgated on 19/09/2012.

Chairman	Member	Member
Midhat Al-Mahmood Naser Hussein	Farooq Mohammed Al-Sami	Ja'afar

Member	Member	Member
Akram Ahmed Baban Al-Tamimi	Mohammed Sa'ib Al-Naqshabandi	Abood Salih

Member

Member

Member

Abood Salih Al-Tamimi  
Al-Taman

Mikhail Shamshon Qas Kukris

Hussein Abo

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**Federal Supreme Court –Iraq-Baghdad**

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