

# Gender-Based Violence:

## Ambitious Laws Versus Bitter Reality The Case of Iraq

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### Introduction

Nowadays, women's role in society is getting more and more recognized, due to an increasing concern with women's issues that has taken a new dimension, involving government institutions and legislative bodies. Therefore, women's rights can no longer be considered matters of mere national concern since they have acquired far reaching transnational implications compelling governments to take ineluctable decisions as part of their commitment to the international human rights conventions and treaties.

The traditional and modern attitudes vis-à-vis women's rights issues are quite antagonistic. The past is so loaded with deeply-rooted, retrograde, religiously and morally sanctioned traditions that consider women inferior and powerless creatures, while modern times are permeated by a new reformist vision of life. Thus, tackling women's rights issues today puts the country on the path to modernity and development. So women's rights violations that we are facing on a daily basis are deeply anchored in the past. Gender-based abuses are rooted in women's conscious and subconscious mind which is part of the collective mind that has conferred upon these retrograde practices a sacred value.

Each international declaration, treaty or convention that has addressed women's rights issues constitutes a big step forward, which is also reflected in new legislations at the national level. This is quite true in the case of Iraq: the 2005 constitution endorsed positive discrimination by ratifying the quota systems, defining the strategy to combat violence against women, and establishing the Ministry of Women's Affairs. However, nothing of the above shall have any direct or significant effect unless it echoes in women's collective consciousness.

### Gender-Based Violence<sup>1</sup> in the International Forums

Gender-based violence stems from a discriminatory standpoint that violates the one indivisible whole of human rights by an irrational logic which assigns to women an inferior status, in contradiction to the universal principles of human rights. It is common knowledge that the general principles of human rights are the result of the agonies generated by wars and conflicts over the origins of life and existence which justified the rise of different theories such as Malthusianism, Darwinism, and other

ethnic segregation theories. And it is in a such context, as a result of two World Wars and tens of other conflicts, that the 1945 Charter of San Francisco was signed, as well as the 1948 Universal Declaration of Human Rights, that stressed on equal rights for men and women, followed in 1966 by two international covenants, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). All these treaties have reaffirmed the principle of gender equality without however tackling issues pertaining to gender-based violence.

The United Nations Development Fund for Women (UNIFEM), established in 1976, was the first international agency dedicated to women's issues. The International Decade on Women (1975-1985), witnessed the enactment of the most important international document to fight gender-based discrimination: the 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), which became effective in 1981.<sup>2</sup> Although CEDAW did not exclusively address the issue of violence, the interpretation of its articles and the recommendations of the follow-up committee specified that gender-based violence is a form of discrimination that constitutes a serious impediment to women's ability to enjoy their rights and freedom on an equal basis with men<sup>3</sup>

Thus gender-based violence became part of the general international concern with human rights' issues. Therefore, the Nairobi Forward-Looking Strategies for the Advancement of Women was considered a qualitative leap forward. And until 2000, the main focus of the Strategies was on eight issues, two of which are gender-based violence and the impact of armed conflict on women, particularly the situation of women under occupation, as well as the situation of female refugees, displaced, and returnees. Actually, two major events occurred between the Nairobi Conference in 1985 and the year 2000: the Vienna Conference on Human Rights, and the United Nations' adoption of the Declaration on the Elimination of Violence Against Women (DEVAW) in 1993, which are considered to be the first explicit and direct initiatives to address the problem of gender-based violence defined in the Declaration as:

Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

According to this definition, violence is not solely limited to the commonly known physical harm, but is rather multifaceted. The second important event is the Fourth World Conference on Women held in Beijing in September 1995. It was attended by representatives from 185 states. Participants set an agenda of 12 crucial issues in the Platform for Action, including violence against women, women and armed conflicts, the female child, and other topics directly related to women's rights. This conference was the end result of years of hard work in order to form an international body dedicated to combat gender discrimination and violence. In 2000, a session was held at the United Nations under the title Beijing +5, with the intention of holding another major international conference under the title Beijing +10, but the United Nations replaced it with mini-conferences for review and evaluation purposes.

The international community made huge efforts, especially during the last quarter of the twentieth century, to reduce gender-based violence. Women themselves have exerted continuous efforts in the same direction. This is an important indication of women's increasing awareness of their rights and a reflection of the positive image they have about themselves. These are important factors when it comes to making radical changes in society.

Non-governmental organizations also played a significant role in coordinating, developing, and guiding men's and women's efforts. They were also instrumental in lobbying in favor of eliminating gender-based segregation, given that men and women are partners in the construction of a world free from oppression, marginalization, and exclusion.<sup>4</sup> In fact, civil society organizations have played a crucial role in overseeing and combating systems of values and norms that justify or generate violence. In this context, international efforts have succeeded in building national and global public opinion that maintain that gender issues are in fact universal issues particularly when these issues started to become more visible in human development reports. The first 1990 report started assessing a country's development in relation to its gender-based achievements. Hence, gender-based violence was to be dealt with on par with key social issues such as poverty, exclusion, marginalization, education, healthcare, social work, family planning, securing livelihood, marriage, civic education, etc. This means that gender-based abuse was and still is a serious and vital component of problems faced by any society.

It has been proven, development wise, that societies can achieve their objectives and prosper only if its men and women worked together. That being the case, growth is associated with improving women's status, in terms of education, employment, healthcare, curbing childbirth mortality rates, as well as boosting women's political participation and their increasing contribution to major decision-making strategies as well as to conflict resolution and peace-building issues.

In spite of all these efforts, there is still a huge gap between the ambitious international resolutions and their implementation. In fact, states may ratify conventions and covenants; their representatives may attend conferences and seminars; some laws may be enacted and other ones amended, but the end result is not success. Thus, one can say that the merits of laws are judged by their effective implementation otherwise they remain in the realm of good intentions. The reason behind this failure lies in traditionalist attitudes that consider such international treaties and conventions as threats to society's stability as well as to its moral and spiritual values. Traditionalists follow a conservative and rigid rationale quite antagonistic to the international modern one. Although they lack strong arguments, the traditionalists' influence on societies is tremendous. This is quite true because positive changes in women's lives are more felt in urban areas rather than in the rural ones, where ignorance and erroneous interpretations of the religious and moral principles enhance the prevailing traditionalist trend, where gender-based discrimination, including violence, are an acceptable routine.

This culture of gender-discrimination is also fostered by dictatorship systems of governance that abuse women's rights issues using them as a façade or false display to mask and bolster their image, giving lip service to women's liberation slogans while pursuing their persecution policies. These political systems are no more than an

extension of the harsh patriarchal authority, be it in the private or public spheres, at school, or in the workplace.

By the same token, societies living under dictatorship tend to be zones of wars and conflicts, where the cult of the leaders' personality is paramount. In such contexts, women's rights are not priority concerns. Even worse, women who are the most vulnerable creatures, become scapegoats paying the price of these conflicts. As a matter of fact, although they might not fight on the front lines, women are warriors' wives or mothers. In case of loss or injury in the battlefield, they become widows, caretakers for orphans and the disabled members of their family, or the sole breadwinners.

Globalization, along with the catastrophic consequences of wars and the drastic economic transformations where markets are governed by cut-throat competition and uneven relationships are prejudicial to women. Hence, women end up as victims of exploitation, unemployment, or forced marriages in countries where weak governance, widespread corruption, weak mechanisms fostering women's empowerment and little protection measures prevail.

Theoretically speaking, international bodies may boost great cultural and humanitarian values. However, what has been achieved so far does not even meet the expectations mainly in conflict-afflicted societies, where women's rights are violated due to poor formal and informal regulation measures, or even totally non-existing ones.

## **From the International Context to the Domestic One: Debating Gender Discrimination and Equality**

### **A Historical Review**

The Iraqi case is quite paradoxical. As a matter of fact, the ancient history of Mesopotamia reveals that women enjoyed a privileged status, especially with respect to legislations where the Codes of Hammurabi, Lipit-Ishtar, and Ur-Nammu were fair to women at a time when laws of the jungle and those of war were the prevailing ones. These great ancient times also show that the female idol represented by the goddess Ishtar (or Inanna) was a manifestation of growth and love, as well as an expression of power, Ishtar representing simultaneously the goddess of love and war. This contradiction has subsisted in the collective unconscious mind until today. Although Islam has prohibited some of the widely spread harmful practices that were inflicted on women, such as female infanticide and prostitution,<sup>5</sup> the patriarchal nature of society prevailed with the advent of civilization. Although some women were exceptional, female slavery became part of power relations, and slaves were a commodity displayed in the marketplace to be auctioned off. The 1001 Arabian Nights stories are good illustrations of these gender-segregated practices. By carefully studying the evolution of the Iraqi society, one notes the deterioration of women's conditions throughout these gloomy centuries of darkness, where women's poor conditions are a mere reflection of the poverty of the society as a whole.<sup>6</sup>

In 1921, the Iraqi State was officially established. The first Iraqi Constitution (1925), did not provide for the elimination of gender-based discrimination, although Article VI of the constitution stipulated that all Iraqi citizens are equal, regardless of race, religion, and language.<sup>7</sup>

According to this principle the Iraqi State enshrined the notion of citizenship through education, employment, health, and social services. As a result, the education of girls improved both qualitatively and quantitatively. Similarly, women's right to work was institutionalized for the first time in the 1936 Labor Code (Article 2), providing for gender equality in terms of working hours and wages. And it was under the British mandate that the first Health Directorate was established in Baghdad, and the scope of health services for women branched out and widened, especially after the Ministry of Health was established, and then restructured in 1952.<sup>8</sup> Similarly, since the establishment of the Ministry of Labor and Social Affairs in the 1930s, and the Directorate for Social Services in 1952, social security benefits were boosted with the creation of development centers in poor neighborhoods, the enactment of the 1980 Social Welfare Act No.126, the opening of orphanages, retirement homes for the elderly, clinics for the disabled, and other care centers, and the creation of the Social Protection Network (2006).

In this context, women's presence gained in visibility. As a matter of fact, women became active in the magazine publication business and women's magazines such as *Leila* which emerged in 1923 and *al-Mar'aa al-Haditha* in 1936. Also, women's joint efforts led to the opening of the first feminist club called *Nadi an-Nahda an-Nassawiyya* (The Feminist Renaissance Club) in 1924; the women's section of the Red Crescent in 1933; *Jam'iyyat Mukafahat al-I'lal al-Ijtimai'yya* (the Association for the Prevention of Social Ills) in 1937; and the Anti-Nazi Association in 1943. In 1945, the Iraqi Women's Union was created upon the recommendation of the Cairo Arab Women's Union Conference, as a proof that Iraqi women measure up to the standards of their other Arab counterparts (it is worth mentioning here that in 1930 the first Iraqi women delegation attended the Congress of Oriental Women in Damascus). Iraqi women gained their voting right in 1958, upon pressure by the feminists.<sup>9</sup>

The promulgation of significant laws also helped Iraqi women gain more rights, such as the 1980 Social Welfare Act No. 126, the Free Education Law of 1974, the Compulsory Literacy Law of 1978, as well as the restrictions placed on polygamy and the consecration of women's right to custody in case of divorce.

Unfortunately, these successful achievements suffered serious setbacks and each and every step taken on the path to success was systematically thwarted. Since 1980 and the beginning of the Iran-Iraq conflict, the countdown started as far as women's achievements and the whole development process were concerned. Things worsened with the beginning of the economic blockade on Iraq in 1989, in addition to the endless wars and conflicts that Iraq suffered. Expenditures on education, health care, and social welfare were scaled down, and the burden placed on women was exacerbated while the men were in the battlefield, not to mention the mounting problems of poverty, unemployment and marginalization, the drop in school and college enrollment rates, and the increasing maternal mortality rates.<sup>10</sup>

### Confronting Violence

There are many similarities between the ordeals of Iraq as a whole and those incumbent on its women. It sums up a tragic reality whereby women became the

breadwinners of the family instead of the absent males. Although the price that was paid was high, nevertheless it was a test to women's capabilities and the courageous choices they made. Today, this experience persists with the mounting violence that is still ravaging the country due to the terrorist attacks. Violence against Iraqi women has increased, in parallel to the increasing wave of violence that society in general is facing. Actually, it is women, children, and the elderly that constitute the first victims in communities torn by war and civil strife. The 2008 National Human Development Report indicates that the uninterrupted spiral of violence overlaps with the deeply rooted gender-based violence already existing in society. The social tension in Iraq has affected family and interpersonal relationships. So it is not religion, but rather the ancient inherited set of cultural beliefs and ideas that lie behind the stereotypes inherently anchored in the collective mind that confers on women this status of inferiority.<sup>11</sup>

Studies have revealed that gender-based violence due to domestic abuse are not only affecting women, by shaking their own self-image and self-esteem and their relationships with others, but are affecting the children too. A governmental survey conducted in Iraq on a sample of 15-49 year-old married women, revealed that 83.1 percent of the respondents declared that they have suffered from some form of conjugal harassment, a great deal of that was due to jealousy or frustration. While 51 percent of husbands insisted on knowing their wives' whereabouts all the time, 63.3 percent of the respondents had to ask their husband's permission before seeking health care. The highest rates of controlling persons were found in Kurdistan; and it seems that the younger the women, the more likely they seem to suffer from most types of controlling behavior.

Also, it has been revealed that women suffer from conjugal harassment irrespective of their educational level, in the sense that the wife's degrees do not grant her immunity from violence. Over and above, there are no clear cut disparities between rural and urban areas, which means that the controlling behavior is there, no matter the milieu.<sup>12</sup>

The study also revealed that one-third of the female respondents experienced at least one form of psychological abuse: 22.3 percent were subjected to scorn and insults, 21.7 percent to public humiliation, and 21.7 percent suffered from intimidation and psychological abuse. In Kurdistan, 17.6 percent experienced psychological abuse, compared to 35.7 percent in the southern and central provinces, while 21.2 percent of the respondents admitted that they have been suffering from physical abuse for the past 12 months.

Another survey conducted on a sample of 250 women showed that 37.6 percent of them had been subjected to physical abuse, 28.8 percent to health-related abuse, 16.8 percent to financial abuse, 11.6 percent to verbal violence, and 5.2 percent to sexual abuse. Another study conducted on a sample of 300 battered women filing lawsuits against their husbands in the personal status courts revealed that a great number of them (36.7 percent) suffered from physical abuse, 14.7 percent suffered from economic or financial exploitation, and 23 percent experienced multiple forms of abuse.<sup>13</sup>



## Origins of Gender-Based Violence

Gender-based violence is associated with many of the problems facing family and society as a whole, on top of which comes poverty. The survey data shows that 71 percent of the respondents' families' earnings are less than the barely required minimum, whereas 43.6 percent have a low income, and 17.2 percent have no income at all.

Women's poverty is linked, at least partially, to their unemployment or to their low-paying jobs. A job market survey revealed that unemployment rates of females aged 15 years and above is 19.64 percent compared to 14.3 percent for males, where the highest rates of female unemployment were found in the Governorate of Baghdad.<sup>14</sup>

Many a factor lies behind women's unemployment: poor work experience and low job qualification standards, limited job opportunities, especially in the private sector, and for some women a total lack of any work motivation.<sup>15</sup> Women's unemployment is likely to increase their reliance on their husbands or on the extended family. Sometimes, soaring economic conditions compel them to work in hostile environments such as in brick plants where they get half the men's wage, or picking dates, a sector where women account for about 70 percent of the labor force.<sup>16</sup>

Early child marriage is another additional problem associated with poverty, with related issues such as child trafficking or sexual abuse, and their serious physical, psychological, and demographic consequences. Also, the unequal access to resources is another issue, because generally speaking, women own less financial assets compared to men, and therefore, female-led households (about 11%) have fewer assets than those led by men.<sup>17</sup>

## Social Transformations and Gender-Based Violence

In the past few years, the Iraqi society has witnessed many crises marked by violence and conflict, which have created a favorable environment for a mounting multiform gender-based violence. Due to terrorist attacks, women had to face death, disability, and widowhood. Another consequence of this reign of terror is the restriction of women and girls' mobility,<sup>18</sup> particularly in Baghdad,<sup>19</sup> as well as a limited access to health care centers, consequently, increasing maternal mortality rates. Also, Iraqi women had to endure migration and forced displacement, as well as the hardship of widowhood,<sup>20</sup> orphanhood, rape and/or abduction for ransom, not to mention the devastating consequences of the environmental pollution, and the need for safe drinking water, electricity, proper sewage systems, and the deterioration of the educational system. In addition to these contingent contributing factors, the major factor that exacerbates the various forms of gender-based violence, is the traditional culture. This is obvious in the survey that targeted young men who commonly believed to be the main agents of social change.

Table showing<sup>21</sup> Percentage of young (10-30 y) males and females' approving of certain commonly held beliefs (2009)

The Belief	Males	Females
1. Women are men's equals	63.3 %	74.8 %
2. Women shall seek the permission of their custodian upon undertaking any work	92.1 %	92.3 %
3. A husband may beat his disobedient wife	50.1 %	26.3 %
4. If her custodian so wishes, a girl shall marry her kin	46.5 %	34.2 %
5. Women are not capable of taking any decision whether on the personal level or concerning their families	35.9 %	25.6 %
6. Families should place greater restrictions on girls rather than boys	71.9 %	58.1 %

These figures are an indicator of gender-based discriminatory attitude. Strikingly enough, a significant percentage (25 percent) of women respondents do approve of the husbands' violent behavior vis-à-vis their wives. The KAP2 survey shows that 57 percent of young male respondents are convinced of the right for the husband to beat his wife if she disobeys his orders, (50 percent of the females agreed with this statement) and 57 percent of the young male respondents also agreed that women are inferior to men.<sup>22</sup>

### Actions Taken in Favor of Women

Cultural stereotypes have played a significant role in justifying gender-based violence<sup>23</sup> so much so that all the achievements accomplished to the advantage of Iraqi women ended by reinforcing the patriarchal society and its masculine authority. By the same token, wars and conflicts promoted this authoritarianism, so that security issues such as terrorist attacks and domestic violence affected women as well, isolating them from public life, depriving them of their rights to education, health care, and social welfare. According to World Bank reports, women were not encouraged to join the labor force in the 1970's, since the soaring rise in wages facilitated the one household one income option, enabling men to be the sole financial providers of the family. The rate of women's participation in the labor force today has also declined with the advent of the economic recession, unemployment, and decreasing salaries.<sup>24</sup>

Moreover, the deterioration of security and economic conditions have consolidated the patriarchal authority with all its underlying layers of violence. Thus one can say that the traditional gender-based discriminatory cultural stereotypes remain deeply rooted in Iraqi society. Because of their inferior status within the family particularly with respect to decision-making, women have suffered from physical abuse, beating, rape, and murder. Women also suffer from other forms of gender-based practices, such as female genital mutilation and early marriage, with high rates of pregnancy, divorce and inaptitude in bringing up children.

Based on the above, gender-based violence has taken many forms ranging from discriminatory behaviors, to rape, kidnapping, or sexual harassment. Consequently, and in light of women's suffering from marginalization and the violation of their rights, further efforts should be made by the Iraqi government and international organizations. The already ratified international resolutions on women must be



implemented, and the efforts of the feminist civil society organizations should be enhanced as well. On April 1, 2014, and as a move of the Iraqi government in support of women, the Cabinet approved a National Action Plan (NAP) for Security Council Resolution 1325 (2014), which was submitted by the Ministry of the State for Women's Affairs, making of Iraq the first country in the MENA region to adopt a NAP to activate this resolution.

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## ENDNOTES

1. In Arabic, the meaning of violence is almost always confined to physical harm, although it might be associated with taunting, that is similar to shaming or blaming. However, the concept, as per the definition of Webster's Dictionary, goes beyond the use of force and physical abuse to the unjust use of power, the rejection of the other, and the deprivation of rights. See al-Katergi, N. (2006), p.369.
2. Iraq ratified CEDAW in 1986, and the Convention on the Rights of the Child in 1994. It joined the International Covenant on Economic, Social and Cultural Rights in 1971, ratified the Nairobi Forward-looking Strategies for the Advancement of Women in 1985, and obtained a consultative status at the United Nations under the ECOSOC Resolution No. 32 for the year 1996. See Hamza (2004), p.12.
3. UN Committee on the Elimination of Discrimination Against Women (1992), General Recommendation No. 19.
4. There is no intention here to evaluate some of the feminist movements who exaggerated the women's conditions by stressing on feminism as a women-only matter without referring to men.
5. Prophet Mohamad (PBUH) said: "Women are men's sisters", and "A teacher is better than a ranter".
6. The first school for girls opened under Dawud Pacha's administration (1832-1867), while some people say that it was in 1869, and others would say that it was in 1899. The second school was not opened until 1913.
7. Article 9 of the Interim Constitution of 1958, Article 19 of the Interim Constitution of 1963, Article 21 of the Interim Constitution of 1968 and Article 19 / A of the Interim Constitution of 1970. This was mentioned generally in Article 38 / I of the 1991 Constitution. Preventing discrimination or refraining from discrimination were mentioned in Article 12 of the Iraqi State Administration Law in Article 14 of the 2005 Constitution. This Constitution also prohibited in Article 35 / c all kinds of psychological and physical torture, as well as inhumane treatment. See: Al- Khayun & Mohammed, (2006).
8. See Der Hagopian (1981), n.p. It was the opening of Teachers' Training Institute in 1923 that was behind women getting their first paid job. See: COSIT (2004) Iraq Living Conditions Survey.
9. For information see al-Hamdani (1989) , p. 75.
10. See: Hamza (2004) ,n.p.
11. Government of Iraq. (2009). The National Report on Human Development, 2008, p.164.
12. Ministry of Health Iraq, (2007). Iraq Family Health Survey Report, pp. 27-28.
13. Mohammed, A. (2007), p.167 & 173, and al-Kwak, M.S.(2004), pp.104-105.
14. Central Statistical Organization. Iraq. (2009), pp. 6-8.
15. For example, the number of unemployed people registered in employment offices affiliated to the Ministry of Labour and Social Affairs until 30/11/2009 was 1,547,687 unemployed, out of whom 122,193 were female.
16. The Ministry of Human Rights, Women's Rights Section ( 2009), p. 15
17. Government of Iraq (2009), p.161. On early marriage, see: Hamza (2011), and the COSIT (2006a), p.163.
18. American Bar Association (2006), p. 192
19. UNICEF (2007), pp. 88-90
20. Official data for 2007 showed that 30.2% of households have members who were exposed to the risk of violence and terrorism, and 67.9% of the households imposed social restrictions on women because of violence See: Government of Iraq, (2009), p. 200. It is noted that there are contradictory figures concerning the number of widows, see: Yassin (2008), p. 38. A survey showed that 6% of children in the age group 0-17 years are orphans. See: COSIT (2006b), p. 81.

21. Central Statistical Organization. Iraq. (2009), p.33.

22. Central Statistical Organization. Iraq. (2005), pp. 12-13

23. The preamble to the Declaration on the Elimination of Violence against Women (1993) has pointed out that such violence is a manifestation of unequal power relations between men and women throughout history. The fourth article of the Declaration emphasized that no customs, tradition or religious consideration can be invoked to avoid the commitment of Member States to eliminate violence. It can be added here that traditions often prevent battered women from submitting their cases to the courts, or governmental and non-governmental bodies. In 2008, according to the Annual Report issued by the Ministry of Human Rights and forensic medicine statistics, female victims of violence who have their cases officially recorded are 580 cases; the city of Ba'aquba registered the highest percentage of the total cases at 22%.

24. Central Statistical Organization. Iraq. (2007), Iraq Living Conditions Survey, p.107.

On early marriage, see Hamza (2011), and the Central Statistical Organization. Iraq. (2006a, p. 163).

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