



**Women, Peace and Security**  
**Recommendations for the UPR of Iraq**  
**by the Iraqi Women Network**

The Iraqi Women Network submitted a shadow report to the CEDAW Committee for its upcoming review of Iraq (22 October 2019). The recommendations in the report are also relevant to the Universal Periodic of Review of Iraq. For this reason, our network strongly encourages delegations to raise them in that context.

The report is available electronically, both in English and Arabic, on the OHCHR webpage of the CEDAW Committee 74<sup>th</sup> Session (21 Oct 2019 - 08 Nov 2019), at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fCSS%2fIRQ%2f37264&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fCSS%2fIRQ%2f37264&Lang=en)

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# **Iraqi Women challenges of Security, Peace and Justice**

**By**

**Iraqi Women Network**

**Shadow Report to the CEDAW Committee**

**2019**

The Iraqi Women Network is a non-governmental feminist civil society association established in late 2003. Today, it includes more than 100 local organizations from various Iraqi governorates, as well as academic, media and legal experts.

## **I. Iraq's international obligations**

1. The state of Iraq has not responded to the **CEDAW Committee's concluding observation 16 (2014)**<sup>1</sup> regarding the withdrawal of reservations to **Article 2, paragraphs (f-g) and Article 16 of the Convention**. The national report of 2018<sup>2</sup> considered Article 2/First of the Constitution,<sup>3</sup> stipulating that Islam is the religion of the state and the framework for considering Iraq's obligations under national and international law.

### **Our recommendations:**

- a) **Reaffirm the government's commitment to CEDAW's Concluding Observation 16 of 2014 to withdraw its reservations to Article 2 (paragraphs f-g) and Article 16 of the Convention.**
- b) **Urge the government implement Concluding Observation 54 of 2014 by ratifying the Optional Protocol of the CEDAW Convention.**

## **II. Legislative Responsiveness to the CEDAW**

### **A. Article 41 of the Constitution and the Jaafari Personal Status Law:**

2. Article 41 of the Constitution continues to represent a threat by providing for the possibility of advocates for sectarian personal status law to amend Law No. 188 of 1959 on the right not to be forced into marriage. It contributes to disrupting social cohesion based on mixed familiar relations through intermarriage.

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<sup>1</sup> CEDAW Committee's concluding observations of 2014.

<sup>2</sup> Seventh national report of the Republic of Iraq on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 2018.

<sup>3</sup> [https://www.constituteproject.org/constitution/Iraq\\_2005.pdf?lang=en](https://www.constituteproject.org/constitution/Iraq_2005.pdf?lang=en)

**B. Second: Amendment of the Penal Code No. 111 of 1969:**

3. The Penal Code No. 111 of 1969 and the Code of Criminal Procedure No. 23 of 1972 are still in force, which include many Articles that perpetuate violence and discrimination against women and contribute to impunity, in light of the rise in kidnappings, rape and killings under the pretext of so-called family honour. The government's report considered that the mitigating excuse for honour killings is not a form of discrimination against women, but is instead "derived from the provisions of the tolerant Islamic sharia, and the norms and traditions of our authentic oriental society, and does not contradict the constitutional provisions and customs of the conservative society,"<sup>4</sup> disregarding Article 45/Second of the Constitution, which prohibits tribal customs that are contrary to human rights.
4. Article 128 which pertains to the defences of "provocation" "honour", and Articles 130 and 131 which refer to mitigation for felonies and misdemeanours in the Penal Code remain in force. These laws contribute to the impunity of perpetrators in light of inadequate powers of law enforcement agencies, the influence and conduct of militias, and the proliferation of weapons outside the control of the state, as well as corruption and the use of dispute resolution processes based on tribal norms outside the law. It should be noted that these articles have been suspended in the Kurdistan Region of Iraq under resolution 14 of 2002 if the murder victim is a woman. Article 409 (on mitigation for finding a wife in the act of having sex with another man) has been voided by Law No. 3 of 2015 amending the Penal Code No. 111 of 1969.
5. The Supreme Judicial Council in 2017 initiated the formation of a committee of experts and judges<sup>5</sup> to review the Penal Code. A report of the amendment proposals was submitted to the Presidency for referral to the Council of Representatives, concerning a number of articles whose review was recommended by the CEDAW Committee<sup>6</sup>, as they enshrined inequality, discrimination and violence against women and girls, which are 41/1, 377, 398, 409, and 417 on abortion.

**C. Child custody:**

6. Article 102 of the Iraqi Civil Code No. 40 of 1951 stipulates: the guardian of a minor is their father, and then his father's guardian, and then his grandfather and then the guardian of the grandfather, and then the court or the court-appointed guardian. This text shows a clear denial of the role of the mother,<sup>7</sup> in contradiction with the personal status law, which granted guardianship and custody to the mother,<sup>8</sup> or leaves it to the court to determine the child's interest. It also contradicts the text of article 14 of the Constitution, which establishes equality without discrimination before the law.

**D. Prostitution:**

7. Women continue to face harsh penalties for prostitution, and sex-workers are not considered victims, in accordance with Decree 234 of 2001 issued by the now-dissolved

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<sup>4</sup> Report of the Republic of Iraq, para. 152.

<sup>5</sup> <https://www.hjc.ig/view.5137/>

<sup>6</sup> CEDAW Committee's Concluding Observations 17(c) and 18 (c) of 2014.

<sup>7</sup> Iraqi Women Network mid-term report, 2016, on Concluding Observations 12 and 18.

<sup>8</sup> Article 57 of the amended Personal Status Law Act No. 188 of 1959.

Revolutionary Command Council. This decree punishes by imprisonment for at least 15 years or the death penalty for sodomy, incest, prostitution, brokering or running a prostitution business.

**E. Directives:**

8. **Tourism Authority Directives:** These are verbal instructions issued by the tourism authority to hotels, imposing that women not be allowed to stay in the hotel alone<sup>9</sup>, unless accompanied by a *mahram* (the requirement that a male relative escort a woman) or possessing a permit.
9. **Housing Card Directives:** According to the directives issued by the Ministry of Interior for the application of the law regulating housing inside Iraq, No. 95 of 1978, and its amendments, women are denied access to a housing card if they are unmarried, abandoned or live alone. Orphans, widows or divorced women have the right to receive them, indicating inequality and discrimination between women based on their personal status. This is despite the fact that the law grants every adult who lives alone the same treatment as a head of household, in terms of regulating housing cards.<sup>10</sup> The housing card is an essential document in official transactions, and the lack of access by women deprives them of their other rights, such as issuing passports and accessing pensions or loans.
10. **Directives of the Martyrs' Institution Law No. 2 of 2016:** The rights of martyrs' wives are covered by the rights and privileges mentioned in the Martyrs' Institution Law No. 2 of 2016. However, reports indicate that the Martyrs' Institution delays in granting the entitlements of martyrs' widows who have remarried, except for the retirement pension.

**Our recommendations:**

- a) **Enact constitutional amendments of controversial articles, including abolishing Article 41, in line with Article 14 of the Constitution, and the provisions of international conventions on human rights.**
- b) **Commit to enforcing CEDAW's Concluding Observations 17 (c) and 18 (c) of 2014 to abolish all provisions that discriminate against women contained in the Code of Criminal Procedure, legislation, regulations and other directives.**
- c) **Develop a timetable for reviewing national legislation in order to improve and update it in line with Iraq's international obligations to uphold human rights.**

### **III. Absence of National Mechanisms for Women**

11. The Ministry for Women's Affairs was abolished in 2015, and replaced by the Women's Empowerment Department of the General Secretariat of the Council of Ministers and the

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<sup>9</sup> In May 2019, journalist Jumana Mumtaz, along with her mother and her 7-year-old son, were prevented from entering the tourist village of Mosul except with a mahram.

<sup>10</sup> Article 3.

National Team for Resolution 1325. However, these institutions have overlapping mandates and compete for resources.

### **Our recommendations:**

- a) **Create an independent national body concerned with women's affairs and empowerment, and improve their health, cultural, political, economic and social conditions through strengthening partnership between official and non-official bodies in the formulation of policies and programs, and monitoring their implementation and sustainability, in order to eradicate gender-based discrimination and violence, and work towards sustainable development, security and peace.**
- b) **Support gender departments in governmental institutions, train their staff, and organize data-gathering and statistics.**
- c) **Urge the Kurdistan Regional Government to make haste in issuing the High Council of Women's Affairs law, and to allocate the necessary human and financial resources to that end.**

## **IV. Women, Peace and Security**

### **A. The National Plan for the Implementation of Resolution 1325:**

12. In April 2014, Iraq adopted the National Plan for the Implementation of Resolution 1325, which was developed in conjunction with the Strategy for the Advancement of Women, and involving contributions from civil society, government, and parliament. The government approved the emergency plan for the implementation of Resolution 1325 in May 2015, in response to the large-scale displacement and sexual and physical violence suffered by women, especially minorities, after ISIS invaded large swathes of Iraq. However, the Emergency Room for Implementation of Resolution 1325 set up to monitor its implementation ceased operations after the abolition of the Ministry of State for Women's Affairs in August 2015.
13. In December 2017, the National Multisectoral Team on the implementation of Resolution 1325 was formed, by virtue of Diwaniya Order 138 of 2017. This Team was led by the Secretary General of the Council of Ministers and includes 25 members of the rank of undersecretary from the federal and provincial governments. However, the majority of this Team are men, and with a lack of representation by civil society organizations. Two team rapporteurs were appointed, and the ERP was assigned the secretariat of the team to oversee the follow-up of the implementation of a strategy for the advancement of women, as well as the formation of a coordinating committee for the national team.
14. On 16 December 2018, the National Multisectoral Team issued a report on the implementation of the National Plan for Resolution 1325 (2014-2018). In the report, we observed inadequacy in mainstreaming gender in the processes of monitoring, evaluation, accountability, documentation and analysis of data and statistics. The report also included many discrepancies in information, overlap in the implementation of activities, and lack of access to most of the outcomes indicated in the plan.

15. The National Plan and the Emergency Plans did not respond to the situation of women and girls during or after conflict. The situation of displaced women and survivors of sexual violence, especially those with disabilities, whose numbers exceed three million, is characterized by inhumane housing conditions that do not consider their special needs. Moreover, male authority prevails in camp administration, in light of the scarcity of access to essential services, and the dropout of most girls from education, and severe restrictions on their freedom and mobility. Families suspected of affiliation with ISIS are subjected to ill-treatment.
16. Security Council Resolution 2367/2017, renewing the mandate of United Nations Assistance Mission for Iraq (UNAMI), expressed concern at the lack of implementation of the national plan, referencing the absence of the national oversight mechanisms or the allocation of the necessary resources.

**B. Protection, Care and Post-Conflict Rehabilitation:**

17. Iraq signed the joint statement with the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict in September 2016, and launched the national plan for its implementation in March 2018. In general, operations remain very slow and the procedures for security and judicial reform inadequate, and fail to address the legal situation of survivors and their children or to expand the participation of women and civil society organizations in combating terrorism and violent extremism.
18. Despite the Government's announcement on 9 December 2017 that the liberation of areas held by ISIS was concluded in 2014, the issuance of Security Council resolution 2379/2017 on accountability of ISIS members, and the holding of the Kuwait Conference for the Reconstruction of Iraq in February 2018, government measures were deficient in dealing with corruption, the effects of armed conflict and terrorism in terms of casualties, loss of personal property, destruction of basic services infrastructure; the safe return of displaced women and rehabilitation to participate in the reconstruction of their affected areas. Large numbers of women and children remain in IDP camps, and in dire humanitarian conditions.
19. The fate of abducted Yazidi women remains unknown. The latest statistics of the Office of Abductees in the Kurdistan Region showed the abduction of 3,548 women, and the number of survivors of women and girls reached 2,288, but dozens of them remain missing. According to reports of the kidnapping of 600 Turkmen women, 42 of whom were released after the liberation of the areas under the control of the terror group ISIS. There is little political will or coordination with international institutions in uncovering the fate of these women.
20. Women survivors face significant challenges in accessing comprehensive (healthcare, gender, social and legal) services or protection. The government allocated a stipend equivalent to \$90 to each Yazidi woman and child who survived ISIS, and compensated each survivor with an amount of two million Iraqi dinars (equivalent to \$1,600 US).
21. There is a high percentage of female heads of households in liberated areas, with weak economic empowerment mechanisms, and poverty rates which have doubled to 41% in 2014. Unemployment rates rose by 20% according to the 2016 Food Security Survey, which

has affected education, health and social protection.

22. Government actions are still unresponsive in protecting women victims of rape, and their children, or women who were married to ISIS members and their children. These families are more vulnerable to discrimination and marginalization and to various forms of sexual violence and exploitation. They have no protection and are not guaranteed access to personal documents that could enable them to access basic services and enjoy rights on the basis of equality and non-discrimination, and neither are their children.
23. Hundreds of Yazidi women survivors also face societal rejection of them and their children. They are not allowed to return to their families unless they agree to do so without their children born of ISIS fathers. The Supreme Yazidi Spiritual Council in Iraq refused to accept the children of survivors born of rape during the ISIS invasion of their regions in August 2014. A number of Yazidi women reportedly preferred to stay in al-Houl camp in Qamishli, Syria, with their children rather than return home.
24. Social and tribal norms and traditions contribute to the imposition of collective judgments and penalties for those whose family members have been proven or suspected of belonging to ISIS, by isolating them, preventing them from returning to their areas of origin, forcing them to pay levies, or subjecting them to confiscation of property.
25. Women survivors of sexual violence experience stigma, rejection by the family and community, or honour killings, as well as poverty, sexual exploitation and harassment. Most of these women remain in situations of violence and dependence, as they are afraid to report incidents or seek protection.

### **C. National Reconciliation and Peaceful Coexistence**

26. On 23 May, 2019, the Prime Minister directed the abolition of the National Reconciliation Oversight Committee of the Council of Ministers, the Higher Committee for Coexistence and Community Peace in the Secretariat of the Council of Ministers, and the formation of a new committee the Committee for Coexistence and Community Peace. No women sits on this committee, and its program and activities were also devoid of any role for women.

### **Our recommendations:**

- a) **Emphasize the need to adhere to the 2014 Concluding Observations 12 (a) (b) and (c) in the process of updating the National Plan of Action pertinent to Resolution 1325, and to ensure that mechanisms are in place for systematic assessment, quantitative and qualitative measurement of progress in their implementation, and the allocation of necessary financial and human resources.**
- b) **Accelerate the application of measures and procedures that promote transitional justice programs such as compensation and reparation, institutionalize psychological, health and social services, and reintegrate IDP women who were victimized by extremism and terrorism, women victims of rape and their children, and the families of the missing and the forcibly disappeared.**



- c) **Ensure the safe and voluntary return of displaced women, and involve women in the Higher Committee for Coexistence and Community Peace, as well as at the community level, and develop awareness-raising, educational and rehabilitation programs.**
- d) **Combat the manifestations of violence and discrimination against women in conflict areas, meet their humanitarian needs, ensure their right and their children to access their legal documents and provide basic services such as housing, healthcare, education and economic empowerment.**
- e) **Reinforce the rule of law, reform the judiciary and the security sector, taking into account a gender perspective.**
- f) **Develop training programs for judges and prosecutors on gender for law enforcement and specialized procedures for dealing with women, girls and children victims of sexual violence and facilitate their access to justice.**
- g) **Criminalize sexual violence in times of conflict by enacting special laws in line with the objectives of the Joint Communiqué with the UN of 23 September 2016 to reduce sexual violence in conflict.**

## **V. Gender-Based Violence**

27. Social and tribal norms, fear of stigma and further violence (particularly honour killings) deter women and girls from reporting violence. Law enforcement is weak and cases tend to be resolved by tribal hearings and family negotiations with no regard for the rights of victims.

### **A. Sexual Violence:**

28. ISIS used sexual violence in a systematic and widespread manner against women of all backgrounds, but especially Yazidis. ISIS also imposed severe restrictions on the freedom of dress and movement of women and girls, and isolated women from public life,<sup>11</sup> and murdered and abducted women who refused to marry ISIS fighters.<sup>12</sup>
29. Many IDPs, particularly those whose family members are suspected of belonging to ISIS, have been subjected to cases of sexual abuse, rape, sexual exploitation and harassment in displacement camps, and discrimination against them by bartering for food, water and basic needs.<sup>13</sup>
30. The results of investigations into the cases of survivors of ISIS, and those of ISIS-affiliated women, remain undisclosed, and their information and data on this is not easily accessible.

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<sup>11</sup> Iraq Report: Events of 2017, Human Rights Watch, link: <https://www.hrw.org/world-report/2018/country-chapters/313124>.

<sup>12</sup> Report on the Protection of Civilians in Armed Conflict in Iraq, link: [https://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport1May31October2015\\_EN.pdf](https://www.ohchr.org/Documents/Countries/IQ/UNAMIRreport1May31October2015_EN.pdf).

<sup>13</sup> Amnesty International, Iraq Report 2017--18, link: <https://www.amnesty.org/countries/middle-east-and-north-africa/iraq/report-iraq>.

Furthermore, there is no national framework for documentation, poor coordination and procedures, and a lack of support for women and girls subjected to sexual violence.

31. Despite UN Security Council Resolution 2379 in September 2017, the formation of the Commission for International Justice and Accountability for ISIS members was delayed until February 2019. Its work has been slow, evidence has been damaged or lost. Women experienced lack of prosecution, inadequate enforcement of laws, poor legal and security protection for victims and witnesses, and widespread corruption and militia control.

#### **B. Domestic Violence:**

32. Data from the Ministry of Interior demonstrate that the number of cases of violence against women recorded during 2017 was 6,283 compared to 7,291 in 2016, while the courts documented 410 cases of domestic violence in 2016. This does not imply an improved security environment or protection mechanisms for women, rather that women are discouraged from reporting because of weak legal processes and social and tribal pressures.
33. In December 2018, the *Updated National Strategy to Combat Violence Against Women 2018-2030* was launched. This update did not rely on data and the indicators used to measure the progress of its previous strategy, nor did it allocate sufficient resources, or address the challenges encountered in the previous phase, such as weak health services, psychosocial counselling programs, or capacity building for those working with survivors. Moreover, shelter programs were not present except in the Kurdistan Region, and the referral system lacked an institutional methodology.
34. The Law on Combating Domestic Violence was not passed during the parliamentary session (2014-2018) and it has not been identified as a priority for the next ministerial program, despite advocacy campaigns by civil society org and efforts to work with the government and CoR, which produced a formula that met the need for protection and rehabilitation of victims, to reduce the domestic violence and prevent perpetrators from escaping accountability and punishment.
35. The services provided by the Directorate of Family Protection are still inadequate in light of the abolition by the Supreme Judicial Council of the Family Court in early 2017. Moreover, there are no designated locations for the Directorate and its 16 departments, and as they are annexed to police stations. This hinders victims' access to these services, along with the insufficient experience of its staff on how to deal with survivors of gender-based violence.

#### **C. Child marriage**

36. Marriage of girls under the age of 18 is currently a common phenomenon in Iraqi society, due to the deteriorating security, economic and social conditions, the school dropout rate and the spread of illiteracy, as well as the dominance of societal norms and traditions. In 2018, its prevalence across Iraq as a whole was 24.8%, with little discrepancy between rural and urban areas.
37. UNICEF estimates that around a quarter of young women get married before the age of

eighteen (including 5% married by age fifteen).<sup>14</sup> Civil society organization reports indicate that 80% of these marriages occur outside of court.

#### **D. Violence Due to Arms Proliferation and the Militarization of Society:**

38. So-called “honour” killings, rape and harassment have increased in the public and private spheres due to impunity.
39. Four women renowned in their fields of specialization and civic activity were either assassinated or died in unclear circumstances in Iraq within the space of several weeks at the end of 2018, while six other girls were killed by a fire at the homeless women’s shelter in Baghdad on January 4, 2019.

#### **E. Gender-Based Violence in Iraq’s Kurdistan Region:**

40. The Law Combating Violence against Women in the Kurdistan Region of Iraq No. 8 was adopted in 2008, and the Kurdistan Regional Government, along with civil society organizations, worked hard to reduce violence against women. However, a comparative study of the General Directorate of Combating Violence against Women in Kurdistan during the period 2008-2017 discovered that the rate of violence against women increased by 53.6%, and statistics for the years 2016-2017 showed significant increases by 60.7%. The study showed that cases and crimes of violence against women are still ongoing, with 56,799 cases of violence: 474 murders, 2,334 cases of burns, 1,245 cases of suicides by immolation, 51,213 reports of violence, and 1,209 cases of sexual violence.
41. The head of the General Directorate of Combating Violence against Women, Kurda Omar, has added that in the first ten months of 2018, violence against women increased in both the home and the workplace, especially sexual violence. “According to official statistics, [in the first nine months of 2018] 91 women were killed, or ‘committed suicide,’ in the Kurdistan Region; 203 women either ‘burned themselves’ or were burned; 87 cases of sexual assault were recorded; and 7,191 women complained of being subjected to violence.”<sup>15</sup>

#### **F. Female Genital Mutilation**

42. A law on FGM was passed in 2011. Statistics from the KRG’s Ministry of Interior for 2018 confirmed that the FGM rates reached 37% compared to 42% in 2011.

#### **Our recommendations:**

- a) **Provide guarantees for the protection of women during conflict, and special measures to address the forms of discrimination faced by displaced women, survivors and returnees.**
- b) **Establish procedures and measures for the implementation of Security Council Resolution 2379/2017 on accountability of ISIS members, put in place transitional justice mechanisms**

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<sup>14</sup> UNICEF, *A Profile of Child Marriage in the Middle East and North Africa*, July 2018, <https://uni.cf/2MRSofB>, p. 4

<sup>15</sup> Al-Monitor, *Iraqi Kurdistan Struggles to End Violence Against Women*, 18 December 2018, <http://almon.co/35bq>.

**for reparations for survivors,**

- c) Develop legislation and procedures to facilitate registration of marriages and births in areas that were under ISIS control.**
- d) Take measures to protect the women and children of ISIS families from attacks and reprisals, and cease any practices of isolating them and denying them the right to return to their areas and the right to access basic services.**
- e) Ensure that the Domestic Violence Law is enacted.**
- f) Emphasize the implementation of your Concluding Observation No. 29 (b) (c) and (d) of 2014 on combating violence against women.**

## **VI. Trafficking of Women and Prostitution**

- 43. In light of continued conflicts, impunity for crimes, and the exacerbation of poverty and corruption, Iraq has become a source and destination for women, girls and children exposed to sexual exploitation and forced labour.<sup>16</sup>
- 44. Trafficked women are forced into begging, slavery and sexual exploitation, foremost in Baghdad, where under-age girls make up more than half of the victims, according to the Iraqi Observatory for Victims of Human Trafficking. Reports indicate that some members of the security forces in the Government of Iraq and the Kurdistan Regional Government have been complicit in the trafficking in men, women and children.<sup>17</sup>
- 45. There is no strategy or early warning system to prevent trafficking in women and girls.
- 46. Despite the enactment of the Law on Combating Trafficking in Persons No.28 of 2012, the Central Committee for Combating Trafficking in Persons has not ratified the law enforcement directives. Government action, law enforcement, prosecution and data-gathering are all ineffective.
- 47. The abolition of the Special Tribunal for Human Trafficking in early 2017 by the Supreme Judicial Council contributed to the poor visibility of these crimes. Victims are denied access to legal, health, psychological, and social protection services,<sup>18</sup> therefore are afraid to report.<sup>19</sup>
- 48. The safe house for women and child victims of trafficking reopened under the supervision of the Ministry of Labor and Social Affairs in 2017, after its closure in 2016 for security reasons.<sup>20</sup> The shelter does not have adequate funding, and lacks specialized programs and staff, and insufficient provision of healthcare, psychological and legal services.

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<sup>16</sup> U.S. State Department, 2015 Trafficking in Persons Report.

<sup>17</sup> U.S. State Department, Office to Monitor and Combat Trafficking in Persons, 2015 Trafficking in Persons Report, : <https://2009-2017.state.gov/j/tip/rls/tiprpt/countries/2015/243458.htm>.

<sup>18</sup> Article 3 of the Code of Criminal Procedure.

<sup>19</sup> U.S. State Department, 2018 Trafficking in Persons Report.

<sup>20</sup> U.S. State Department, 2018 Trafficking in Persons Report.

49. CSO reports indicate that more than half the women detained and prosecuted on prostitution charges face poor conditions due to overcrowding, lack of classification, and poor services including water, sanitation, ventilation and others, as well no provision of medical and social services suitable to their needs.
50. Syrian refugee women in the Kurdistan Region of Iraq, who represent the majority of the 250,000 displaced Syrians, face poor conditions, insecurity and lack of protection. CSO reports indicate that many of these women were subjected to sexual exploitation in and outside the camps, or trafficked for sexual purposes, particularly by camp protection personnel, and forced into prostitution in hotels in Baghdad and Basra in exchange for a promise to resettle them in the Region.<sup>21</sup>

### **Our recommendations:**

- a) **Amend the Law Combating Trafficking in Persons No. 28 of 2012 in line with international standards, and issue the directives thereto.**
- b) **Abide by Concluding Observation 32 of 2014 on the revision of the national legislation in force relating to prostitution: Prostitution Law No. 8 of 1988, Regulation No. 4 of 1991 and RCC Decree 234 of 2001.**
- c) **Integrate gender into the work of security forces involved in human trafficking issues at all levels, and train their staff in monitoring and early detection mechanisms to identify and protect victims, pursuant to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, to which Iraq became a party in 2009.**
- d) **Take the necessary measures to support the safe house and provide financial and human resources and services in order to rehabilitate survivors, and activate follow-up mechanisms for them after leaving the safe house.**

## **VII. Political Participation**

### **A. Participation in the Legislative Branch:**

51. Iraq ranks 67th in the world in terms of the proportion of women in the legislature.<sup>22</sup> Article 49/Fourth of the Constitution requires that women have 25% of the seats in the Council of Representatives. However, the number of parliamentary seats allocated to women remained constant at no more than 83, equivalent to only 25 percent. Despite 20 women winning the majority of votes during the third session (2014-2018); a number which rose to 22 women in the 2018-2022 session; their electoral victories were calculated within the total quota, in contravention of the text of the Constitution, which demonstrates the determination of the political will represented by blocs and influential political parties to reduce and marginalize the role of women in political life.
52. Several women's lists contested the general elections of 2014 and 2018. Moreover, 18

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<sup>21</sup> U.S. State Department, 2018 Trafficking in Persons Report.

<sup>22</sup> <http://archive.ipu.org/wmn-e/classif.htm/>

electoral lists were registered in 2018 which were led by women of various ideological and social affiliations, and in seven governorates, including women of traditional and conservative backgrounds. This demonstrates women's desire to participate in political life, and in turn society's confidence in these women.

53. During the 2018 election campaign, a number of female candidates were subjected to character assassinations and defamatory sex-related fabrications on social media,<sup>23</sup> apparently with the aim of spreading fear among women candidates. Due to the absence of support from their political parties, as well as inadequate legal protections for them, these women were forced to withdraw their nominations in order to preserve their reputation.
54. Women continue to be excluded from the Presidency Council of the Council of Representatives, as well as from the presidencies and membership of some parliamentary committees of a political or economic nature, which are divided according to sectarian and ethnic criteria. Women are still excluded from the Defense and Security Committee and the Tribal and National Reconciliation Committee. Women's participation in service and education committees remains high at more than 50%. Female deputies headed four of the 25 parliamentary committees: media and culture, civil society institutions, education, women, the family and children)in the 2018-2022 session.
55. No new legislation has been passed in favor of women, such as the Domestic Violence Law, and reforms of existing laws such as the Personal Status Law in particular, have failed.

#### **B. Provincial Councils:**

56. The provincial councils elected in 2013 extended their term until April 2020. The role of female councilors, who make up 25%, was often very limited, ineffective, and even influenced by the prevailing social realities and tribal norms. Moreover, the councils suffer the lack of interest by party leaders to provide capacity building for women.

#### **C. Women's Participation in the Executive Branch**

57. Women were not represented in the new cabinet of 2018-2022, and their representation in the cabinet of 2014-2018 was restricted to two ministers (Ministry of Health, Ministry of Housing) out of a total of 33 ministries.
58. The Ministry of Planning report of 2018 on gender balance in Iraq's ministries and state institutions points to gender disparities in the distribution of leadership positions in Iraqi ministries, although women in some ministries make up a higher proportion than male staff. However, they do not hold advanced leadership positions within them, as in the ministries of education, higher education, finance, immigration and the displaced.<sup>24</sup> It should also be noted that the quota on the representation of women does not include the executive power, contrary to what is stated in paragraph 199 of the government report.

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<sup>23</sup>UNAMI, <https://bit.ly/2EYGVMI>

<sup>24</sup> Implementation Report of the National Plan for UN Security Council Resolution 1325 on Women, Peace and Security for 2014 - 2018.

#### D. Independent Bodies:

59. The nine-member Independent High Electoral Commission (IHEC) was void of representation from women and minorities, in contrast to the Commission's amended Law No. 11 of 2007.<sup>25</sup>
60. Federal Court Decision No. 42 of 2012 which demanded that the Council of Representatives observe the text of the High Commission for Human Rights to make the representation of women no less than one third of its 14 members, according to Article 8/Fourth of the Commission's Law was not implemented. The same context took place in the appointment of the current session. A female member of the Board of Commissioners, who won a seat in the last Council of Representatives elections in 2018, was also replaced by a man.
61. It should be noted that the election of the current Iraqi High Commission of Human Rights IHCHR session did not observe the Paris Principles regarding the independence of the Commission, as partisan and political interests interfered in the selection of IHCHR members. This prompted CSO representatives and the High Judicial Council in the experts committee choosing members of the Commission to withdraw from the Committee and decline to sign the results of the selection process.<sup>26</sup>

#### E. Participation in the Judiciary:

62. Data from the Supreme Judicial Council for 2017 demonstrates that the participation rate of women in the judiciary reached 7%, which is a slight increase on 6% for the 2014 total of 1,090 judges. Women's representation was also restricted to the courts of first instance, inquiry and personal status, while the courts of cassation and the Federal Supreme Court have no female representation.<sup>27</sup>

#### Women's participation in the judiciary

	Men and women judges in 2014			Men and women judges in 2017		
	Men	Women	Percentage of women	Men	Women	Percentage of women
<b>Judges</b>	1059	31	2.9%	1178	47	3.9%
<b>Public Prosecution</b>	388	55	14%	363	67	18%
<b>Total</b>	1447	86		1541	114	

#### F. Women's Participation in Political Parties

63. The Political Parties Law No. 36 of 2015 did not include quotas for women in the formation of parties, or in their leadership. It sufficed with merely "taking into account women's representation" in contradiction with the Constitutional text and the Electoral Law, which affirmed the quota for women.
64. No statistics or data are available on the participation rate of women in political parties,

<sup>25</sup><http://arb.parliament.iq/archive/2017/10/23/%D9%85%D8%AD%D8%B6%D8%B1-%D8%AC%D9%84%D8%B3%D9%80%D8%A9-%D8%B1%D9%82%D9%80%D9%85-28-%D8%A7%D9%84%D8%A5%D8%AB%D9%86%D9%8A%D9%86-23102017-%D9%85>.

<sup>26</sup> CSO Statement on the Work of the Expert Group, 10 July 2017.

<sup>27</sup> CSO Monitoring Report on the Implementation of Resolution 1325 for 2014 - 2015.

indicating the parties' lack of commitment to increasing women's political participation.

### **G. Women's Political Participation in the Kurdistan Region of Iraq**

65. In September 2018, elections were held for the fifth session of the National Assembly in the Kurdistan Region of Iraq. Women made up 31% of the candidates, and a list headed by a woman was present.<sup>28</sup> The number of seats won by women reached 34 seats, or 30% of the seats in parliament, a rate which is reserved for women under the parliamentary election law in the Region.<sup>29</sup> The Presidency Council of the parliament was composed of the President and Deputy as well as the Rapporteur of the Council, belonging to four diverse political blocs, in addition to chairing five standing committees in parliament out of a total of 22 committees, namely: Committee for the Defense of Women's Rights, Peshmerga Committee, Social Affairs Committee, Health and Environment Affairs Committee and the Legal Affairs Committee.
66. In July 2019 was announced the formation of the Iraqi Kurdistan Cabinet, which included three women ministers: Labor and Social Affairs, Agriculture, and Parliamentary Affairs.
67. These positive measures are a first precedent in the history of modern Iraq, the result of years of struggle by the feminist movement in the Region.<sup>30</sup> It also demonstrates a political will that is supportive of enhancing the participation of women in decision-making positions and key positions affecting policy in the Region.

### **Our recommendations:**

- a) Adhere to General Recommendation 25 providing for the adoption of effective policies and measures aimed at promoting the full and equal participation of women in decision-making in all aspects of public life.**
- b) Take into account the CEDAW Committee's Concluding Observation 22 of 2014, and ensure the compliance of the Office of the High Commissioner for Human Rights with the Paris Principles, especially as regards the Commission's independence. Commit to the implementation of Federal Court Decision No. 42/2012, concerning the attainment of a women's quota in the Office of the High Commissioner for Human Rights.**
- c) Consider the winners of elections to be those with the highest number of votes, outside the women's quota set by the Iraqi Constitution.**
- d) Include women in decision-making positions in the executive branch at all levels.**
- e) Incorporate the concept of gender in the government program, and achieve equal opportunity for genders in political, economic, social, cultural and sporting life.**
- f) Amend the Political Parties Law No. 36 of 2015 to include a quota for women of at least 30% in the leadership and structure of the parties, taking gender into account in their**

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<sup>28</sup> Mona Kahveci headed an electoral list for the Turkmen Reform Party, which is composed of a four-party coalition, in the 2018 Kurdish National Council elections.

<sup>29</sup> Fourth Amendment to the Kurdistan National Assembly Election Law No. 2 of 2009.

<sup>30</sup> <http://www.kurdistan24.net/en/news>.



programs.

## VIII. Personal Status

68. Current judicial practice relating to Personal Status Law No. 188 of 1959 leads to violence and discrimination against women: marriage outside the court, child marriage, forced marriage, polygamy, arbitrary divorce, violation of women's right to inheritance, and the difficulty of implementing court decisions regarding access to alimony and matrimonial payments. Harmful practices persist, such as *fasliya* (forced marriage by immediate family member) and *nahwah* (obstruction of marriage by a cousin suitor). The absence of formal marriage contracts for an increasing number of women has resulted in a lack of access to official documents for themselves and their children, denying them access to justice and basic services.
69. Civil society organizations monitored the Personal Status Courts, and found a practice of dismissing all cases related to separation, or to consider them in a very restricted manner, such as cases of separation for abandonment, on the pretext of the high rate of divorce cases. Women are forced to accept mukhala' (repudiation divorce), which implies waiving their rights and exposing them to family pressures, as well as bargaining by the husband in exchange for divorce.
70. By observing and monitoring second marriage contract procedures, the refusal of the judge to give the permission mentioned in paragraph 6 of article 3 of the Personal Status Law in force does not preclude the registration of a second marriage, which is often carried out outside the court. The court instead suffices by annulment of the contract in case it does not grant permission for second marriage. The issuance of the amnesty law No. 27 of 2016 and its amendments enabled husbands to use false claims that the marriage was contracted before 2016, to render the act permissible.
71. Reports point to the role of Sharia offices in increasing divorce cases to expedite the procedures, in the absence of measures to protect women's rights.
72. Several lawsuits have been filed before the Federal Court challenging the constitutionality of articles within the Personal Status Law, such as appeals about compensation for arbitrary divorce,<sup>31</sup> dowry, divorce by proxy, as well as the constitutionality of article 57 concerning custody provisions. The Federal Court dismissed most of these cases due to their lack of a constitutional or legal basis.
73. Under popular pressure, in April 2019 the Supreme Judicial Council issued a directive about the illegality of Nahwa, an ancient tribal practice of preventing women from marrying outside the tribe, often through threats and intimidation. Nahwa is no longer confined to rural and nomadic areas, but has spread to many governorates of Iraq, particularly its central and southern regions. Courts were instructed consider it a crime under Article 2 of the Anti-Terrorism Law No. 13 of 2005.<sup>32</sup>

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<sup>31</sup> 134 Unified 135/Federal/2018.

<sup>32</sup> Article 2 of the Anti-Terrorism Law No. 13 of 2005 stipulates that "the threat aimed at spreading terror among people, whatever its motives, is a terrorist act."

**A. Application of the Personal Status Law No. 188 in the Kurdistan Region of Iraq:**

74. Civil society report second, third or fourth marriage contracts being made outside the Kurdistan Region's administrative boundaries, and then being ratified in the KRG courts, undermining the law against polygamy.
75. An amendment of the Personal Status Law, Article 8 deems that the mother to be the guardian if the father is deceased or absent and she is present.

**Our recommendations:**

- a) **Lift the reservation to article 16 and abide by general recommendation 29 on the economic impact of marriage and family relations and their dissolution, by not legislating personal status laws that perpetuate discrimination and which are based on sectarian identity.**
- b) **Take the necessary measures to address the gap between legislation and application of laws, and women's access to their rights and justice, by simplifying litigation procedures and expedite implementation.**
- c) **Affirm the government's commitment to concluding observation 53 of 2014, ensuring that legal exceptions are not granted to the minimum age of marriage except with the permission of the Court, and to take the necessary legislative measures to prevent polygamy, and to ensure that all marriages are registered in accordance with the Personal Status Law.**