



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Consideration of reports submitted by States parties under  
article 18 of the Convention on the Elimination of All  
Forms of Discrimination against Women**

**Combined fourth, fifth and sixth periodic reports of States parties**

**Iraq\*\*\***

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\* In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* Annexes can be consulted in the files of the Secretariat.

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## I. Introduction

1. Iraq ratified its accession to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by Act No. 66 (1986) on 28 June 1986. Its first report was submitted in 1989 and its second and third periodic reports were submitted in August 1998 and discussed in June 2000. This report covers the period from 1998 to the end of 2010, that is the period of the fourth, fifth and sixth reports of the Republic of Iraq. To prepare this synthesis report, a sectoral commission was formed with broad representation from the relevant ministries. The committee was chaired by the Ministry of Human Rights and membership was drawn from the Ministry of Foreign Affairs, Ministry of State for Women's Affairs, Ministry of Labour and Social Affairs, Ministry of Education, Ministry of Higher Education and Scientific Research, Ministry of Health, Ministry of Interior, Ministry of Finance and Ministry of Planning. Furthermore, the committee invited representatives from other institutions, whose views were sought for the report, alongside representatives from non-governmental organizations (NGOs). The committee and the NGO representatives received advance training in preparing the State report and shadow report on the Convention from the committee of the United Nations Development Fund for Women (UNIFEM), in coordination and collaboration with the National Council for Women of the Arab Republic of Egypt; the training took place from 25 to 30 June 2008. Furthermore, the National Institute for Human Rights (NIHR) implemented 45 training workshops on the Convention, targeting Government officials and staff in provincial and municipal councils across Iraq, including Kurdistan Region. While the committee was preparing the report, a large number of posters were put up in many public places in Baghdad and the provinces to raise awareness of and educate about the Convention. Agreement was reached between the Ministry of Human Rights and UNIFEM on the appointment of a national expert, Mme. Tamim Jalil al-Azawi, to work with the committee and assist it in preparing the report.

2. Once the committee had prepared the initial draft of the report, it was posted on the website of the Ministry of Human Rights and an announcement made in newspapers having wide circulation inside Iraq and abroad. The committee received a significant number of observations on the draft. Furthermore, the committee held a meeting with a number of NGOs active in the field of women's rights and reviewed their opinions and observations on the draft report; the meeting was attended by the Minister of Human Rights, Mme. Wijdan Salim. In addition, copies of the draft were sent to all ministries and other institutions, such as the Council of Representatives, Supreme Judicial Council and General Secretariat of the Council of Ministers. Most of these institutions sent their observations to the committee. The committee studied all of these observations and incorporated them in the second draft of the report, which was again posted on the website of the Ministry of Human Rights. The second draft was discussed by specialists and experts in the Ministry of Human Rights, who made additional observations on it. The committee took account of all the observations made by the committee of experts and by activists who sent their observations to the Ministry of Human Rights via the website and a third draft was prepared. This was forwarded to the Council of Ministers for discussion and adoption.

3. The CEDAW monitoring committee considered Iraq's second and third reports at its 468th and 469th sessions, held on 14 June 2000, and published its observations and recommendations thereon. Pursuant to committee recommendation 209 (A/55/38), we responded according to the following schedule:

<i>No.</i>	<i>Recommendation No.</i>	<i>Response</i>
1	179, 180, 181, 182	Dealt with in article 2, paragraphs 48-51 and 59-62, of the report.
2	183	Dealt with in article 2, paragraphs 48-51, of the report
3	184, 185	The Ministry of State for Women's Affairs is working on the formulation of a national strategy for the advancement of women.
4	187	Dealt with in article 2, paragraphs 48-51 and article 9 of the report
5	189	Indicated in paragraphs 16-20 of the report introduction and in article 2, paragraphs 59-63, of the report.
6	190	Dealt with in paragraphs 16-26 of the report.
7	191	Dealt with in article 5 of the report.
8	192, 193, 194	Dealt with in paragraphs 16-26 and 28-31 of the report introduction.
9	195, 196	Dealt with in article 7 of the report.
10	197, 198	Dealt with in article 10, paragraphs 145-147, of the report.
11	199, 200	Dealt with in article 11, paragraphs 149-151, of the report.
12	201, 202	Dealt with in article 13 of the report.
13	203, 204	Dealt with in article 12, paragraphs 163-175, of the report.
14	205, 206	Dealt with in article 14, paragraphs 190, 194 and 199-203, of the report.
15	207, 208	Dealt with in paragraphs 25 and 26 of the report introduction.
16	210	Dealt with in paragraphs 29-31 and 32(c) of the report introduction.

4. Despite the challenges since the second and third reports were submitted posed by the continuation of sanctions and regime change after 9 April 2003, the Government of Iraq has endeavoured to implement the recommendations of the CEDAW monitoring committee. This report will review what the Government has done, in line with the contexts applied by the committee, which include:

(a) The challenges faced by and still facing the Government and people of Iraq during the period covered by the report;

(b) The status and situation of women in the areas dealt with by the Convention;

(c) The policies adopted by the Government to address the challenges, such as working to formulate strategies to advance women, eliminate violence against women and fight corruption and, finally, the national plan for the promotion of human rights in general, including the human rights of women. This plan has been worked on by Government bodies within the judicial, legislative and executive branches, as well as by international organizations, civil society organizations concerned with human rights and media bodies. At a national conference that brought together all concerned bodies, it was announced that the plan is in the process of receiving the approval of the competent authorities;

(d) The efforts of the State to monitor the application of human rights in general and the rights of women under the Convention in particular, by means of:

- The three branches of State: the judiciary, the legislature and the executive;
- The creation of governmental institutions such as the Ministry of Human Rights, Ministry of State for Women's Affairs and Ministry of State for Civil Society;

- The creation of a high commission for human rights, which is currently being set up, to be responsible for reviewing the legislative system and working to eliminate discrimination against women;
- The participation of certain civil society organizations concerned with women's affairs in order to take account of their views on the form and content of the report, following publication of the draft on the Ministry of Human Rights website and, subsequently, the convening of a meeting chaired by the Minister of Human Rights that made joint recommendations taken into account when revising the draft report.

5. This report will review Iraq's commitment to apply the Convention in the period from 1998 to the end of 2010. As such, it will be a synthesis of the fourth, fifth and sixth reports.

6. The Republic of Iraq, which lies in the eastern part of the Arab homeland, is situated in the south-west of Asia. To the north, it has a 337 kilometre-long border with Turkey; to the east, the border with Iran extends for 1,300 kilometres. To the west, it is bordered by the Syrian Arab Republic and the Hashemite Kingdom of Jordan, while to the south-west, it is bordered by the Kingdom of Saudi Arabia. To the south, it shares a border with Kuwait. The border between Iraq and its western and southern neighbours extends for 1,785 kilometres. Iraq lies between latitudes 29.50° and 37.22° N, and longitudes 38.45° and 48.45° E and has an area of 435,052 square kilometres. According to official estimates, the population of the country was 29,682,081 in 2007.

7. Iraq is known as a land of nationalities, religions and sects. It was a founding member of the League of Arab States (LAS), to whose charter it is actively committed. Iraq is a part of the Islamic world.

8. Kurdistan Region is situated in the north of Iraq and includes the three governorates of Al-Sulaymaniyah, Arbil and Duhuk. It has an area of 38,650 square kilometres and a population of 3,941,529.

#### **System of governance in the Republic of Iraq**

9. Iraq is a democratic, parliamentary republic; it is a unitary, federal State with full sovereignty. This is noted in article 1 of the Iraqi Constitution of 2005.

10. The Iraqi State was founded in 1921 as a monarchy and became a republic on 14 July 1958. From 1979 until 2003, the regime took the form of a one-man dictatorship. This does not mean that between 1958 and 1979 the regime was democratic; rather it varied between liberal and dictatorial.

11. The dictatorial regime between 1979 and 2003 led the country into a series of ruinous wars, as follows:

- The Iran-Iraq War (1980-88);
- The war following the occupation of Kuwait (1991);
- The third Gulf War (2003), which brought about a change in the form of regime from a strongly centralized one-man dictatorship to democracy.

12. Following its occupation of Kuwait in August 1990, Iraq was subjected to a regime of economic sanctions. The Security Council imposed a brutal economic blockade, the profoundly destructive effects of which had a negative impact on the purchasing power of the individual Iraqi and his enjoyment of full economic rights, with a consequent impact on his social, civil and cultural rights at all levels. Political rights continued to be violated by the regime, which took a more oppressive and ruthless form. Violations took many forms, including

widespread arrests of the political opposition and summary executions ordered by special courts. Mass graves throughout the country stand as living testimony to the scale of the violations. The gross violations of human rights include the forced displacement of certain groups, the draining of the marshes and the use of chemical weapons in Kurdistan Region, leading the former United Nations Commission on Human Rights to appoint a special rapporteur on the human rights situation in Iraq, whose mandate lasted from the 1990s until 2005.

13. Following the 1991 Gulf War, Iraq was subjected to special treatment, with the adoption of Security Council resolution 688 on 5 April 1991 on the protection of civilians in northern and southern Iraq upon the withdrawal of the Iraqi army from the governorates of Kurdistan Region, and the imposition of a no-fly zone in its skies. Following general elections in Kurdistan Region, a regional government and parliament were formed, which operated semi-independently of the central Government. This had a positive impact on human rights in Kurdistan Region in comparison with the human rights situation in the rest of the country, which suffered continuing violations from Government authorities.

14. After the spring of 2003 and the fall of the dictatorship, a series of events occurred which left their mark on the human rights situation and had a direct impact on women. The key events of the period may be summarized as follows:

- The looting, pillaging and sabotage of most Government institutions;
- The issue of a number of orders by the Coalition Provisional Authority (CPA), which was responsible for administering the affairs of the country from April 2003 to the end of June 2004. The first and most significant of these orders was the dissolution of the military and security institutions, which contributed directly to weakening the authority of the law.

15. At the end of June 2004, sovereignty was transferred to the Iraqi people and a caretaker Government was formed, pursuant to a CPA regulation of 9 June 2004, to administer the country until the election of a national council, from which a second caretaker Government was formed. This had the principal task of drawing up and holding a referendum on a permanent Constitution for the country and, pursuant thereto, the holding of a general election for the Council of Representatives. The Constitution was put before the people in a referendum at the end of 2005 and a new, democratically elected Government was formed in the middle of 2006.

#### **Violence against and intimidation of women**

16. Iraqi women were exposed to many levels of intimidation between 2003 and 2010, the most significant of which are:

- (a) The absence of law enforcement because of the dissolution of the law enforcement bodies or their poor performance;
- (b) The presence of women within the sphere of armed operations resulting in violence against them, either by being targeted directly or by the targeting of family members, causing women to be constantly afraid;
- (c) Women were left to bear the heaviest burden in the wake of the retreat of Government institutions from the proper performance of their functions and the paucity of basic social services provided by these institutions. Iraq was classed as one of the most corrupt countries in the world;
- (d) Acts of armed violence, including control by certain groups over women's situation, making them a target of intimidation by these groups, which disseminated ideas and religious rulings (*fatwa*) incompatible with the teachings

of Islam and use of these to justify restricting the role of women and inflicting violence upon them. Families, including women, were either forced to leave their homes or be killed on the basis of identity. These acts continued until the middle of 2008 but declined thereafter following the start of implementation of a law enforcement plan – a wide-ranging plan adopted by the State to curb terrorist acts, pursue the perpetrators thereof and enforce the law;

(e) The lack of a general population census up to the present as a reliable information base for studies, research and reports.

### **Impact of violence on the status of women in Iraq after 9 April 2003**

17. The incidence of armed violence after the change of regime had a serious impact on women, who were targeted directly and killed in the hundreds by armed extremist groups using political justifications or *fatwas* delivered by religious fanatics. Under these pretexts, such acts have had a protracted impact on various groups of women, including Government employees, journalists, politicians, interpreters, media workers and professionals.

18. The *National Report on the Status of Human Development* (2008) draws attention to the fact that women made up 5 per cent of all professors and academic staff killed between 2003 and 2006 and 7 per cent of journalists killed in the same period. This is a very high proportion in comparison with the total numbers of women in these fields. The prevailing violence has had an impact on women's frame of mind: a study conducted in 2006 in Mosul (a city which has suffered and continues to suffer from armed violence) indicates that 51 per cent of the study sample showed signs of depression. This is a higher percentage than among men, for whom it was 27 per cent. Some 72 per cent of women in the study sample showed signs of anxiety, compared with 36 per cent of the men in the sample.

19. This led to an absence of women from the streets, after the streets became a dangerous environment in which a woman could not appear without being subjected to physical or mental abuse, obliging her to wear the veil because of the control exercised by armed and extremist groups which, in several areas, had taken the place of State institutions. Consequently, women were isolated and prevented from appearing in public. In 2004-2005, it reached a point where female university students were threatened with being blown up if they continued to study without being segregated from men. Some State institutions even allocated special elevators for men and for women. In some schools, young girls at primary level were obliged to wear the veil. It was thus the violence of the transition phase that had the most grievous impact on women and society and the issue that most required direct intervention from all Government parties, civil society and the legislative, judicial and executive institutions, regardless of whether the violence was direct or indirect. The State's abdication of its basic role of confronting violence and providing legal protection resulted in women withdrawing behind the umbrella of tribe and sect instead of having recourse to the protection of the civil State. Women, both urban and rural, working and housewives, from all age groups – children, young women and the elderly – and both married and widowed, became victims of traditional social practices without the protection or care of the machinery of the State (schedule 1).

20. There are no accurate statistics showing the number of women killed as a result of the terror facing the Iraqi street from 2003 until the start of the law enforcement plan in 2008. However, it is possible to point to certain indicators, including what happened in Basra in 2007, where 140 women were killed as a result of the extremism of armed groups and their religious rulings, as well as

eight women killed at the beginning of 2008. In Diyala governorate, some 150-200 women met their end that same year. In Kurdistan Region, women were being killed by family members in ways that made it appear to be suicide, such as being set on fire or thrown from the top of a building, or an accident, such as a car crash.

21. This subject is characterized by several phenomena, the most important of which are:

#### **Growing class of widows**

22. The wars Iraq embarked upon, the sanctions following the occupation of Kuwait in 1990 and the crimes of the arbitrary disappearance of political opponents carried out by the former regime have left large numbers of widows. These numbers increased after the occupation in 2003, due to violence and terror that took the lives of many, mostly men, and the result was the creation of a broad social group deprived of the enjoyment of the most basic human rights. This has led to five international organizations placing Iraq at the head of the list of countries with the largest number of widows in the world. There are no accurate statistics on the number of widows and those that exist are contradictory. However, they suggest that there were between 1 million and 1.5 million widows in 2008. Statistics from the Ministry of Labour and Social Affairs indicate that 83,000 widows each claim social benefits of 90 United States dollars per month from the social relief net, an amount that certainly does not meet their basic needs. This figure excludes widows claiming a pension.

#### **Forced displacement**

23. One of the most violent aspects of the period that began to rear its head in 2004 was the forced displacement of families because of sectarian extremism backed up by force of arms and terror. To save their lives, many families were driven to abandon their homes and neighbourhoods and forced to leave their property behind. This phenomenon worsened in 2006 and 2007 but began to decline at the beginning of 2008 with implementation of the law enforcement plan. Women were subjected to the most severe brutalization from this displacement, especially if it was accompanied by the killing of a husband or sons who were the family breadwinners, in which case the woman had to shoulder the responsibility of supporting herself and children, despite the psychological pain and without adequate support from the State. In most cases, displaced families live in tents all year round. However, once implementation of the law enforcement plan began, these families began returning to their homes (except for those who did not possess a house). The State offered a grant of \$800 to each returning family. In the first half of 2008, there were 100,000 returning families, according to statistics from the United Nations Assistance Mission for Iraq (UNAMI).

#### **Female suicide bombers**

24. With the worsening violence and terror, the phenomenon of female suicide bombers reached alarming proportions. These are women used by terrorist groups to carry out suicide operations by blowing themselves up in specific locations. These acts caused the death of many innocent victims. Terrorist groups often make use of mentally retarded women, such as happened on 1 February 2008 at a livestock market in al-Shurjah and, on the same day, at a market in Baghdad al-Jadidah. They exploit some women's isolation by forcing them into drug use. They exploit a woman's despair and loss of mental balance at losing someone close to her or at her poor material situation. They also use women recruited



entirely of their own volition. The reason for using women is that a woman can move around without drawing attention to herself, when male terrorists might suspect that they are being followed by the security forces. Female suicide bombers often come from areas that are totally controlled by terrorist groups, where these groups can exert their influence over them directly. According to statistics from the Ministry of National Security, female suicide bombers carried out 29 operations between 2007 and 2008: 9 in Baghdad, 10 in Diyala, 3 in al-Anbar and 4 in Mosul with 2 operations in Babil and 1 in al-Najaf. The 2008 statistics indicate that 1 woman was convicted of terrorism and another with violating national security, while 28 have been convicted of kidnapping, usually the first step on the path of terrorism, which ends in extortion and murder. Furthermore, there are 24 female detainees charged with terrorism and 31 charged with kidnapping. Iraqi authorities are anxious to study the causes of this phenomenon in order to curb it and for remedies to be offered by the Ministry of Defence and the chairperson of the women, children and the family committee of the Council of Representatives. A study on this matter has been prepared in coordination with the Office of the General Counsel of the Directorate General for Intelligence and Security.

#### **Violence directed at women by minorities**

25. Because of escalating violence and terror, minorities in Iraq in general and minority women and children in particular have been at risk since 2003. These problems seem greater for women from minorities because of religious rulings from extremist groups concerning violence which treat non-Muslims as religious and historic foes whose punishment or, more accurately, annihilation is a duty in religious law. Christians began to be targeted on the pretext that their religion is linked to the West (the occupier), that some Christians are engaged in the manufacture and sale of wine and that a number of them work for the multinational forces. Sabians and Yazidis were targeted on the pretext of being infidels. Nor was the Shabak sect exempt. The religious rulings of extremist groups justified assaulting non-Muslim women, based on a belief that the rape of non-Muslim women is tantamount to an act of purification. Many sources and interviews conducted with Christians confirm that forced marriage of Christian women to leaders of armed groups was widespread in the Durah area of Baghdad. The warden of a church in Baghdad confirmed three cases of rape of Christian women, two of whom were killed and the third forcibly married to the leader of an armed group.

26. The armed groups sought to control women's behaviour in various ways, such as compelling Muslim and non-Muslim women to wear the veil, prohibiting them from mixing with men and even prohibiting them from driving cars. Iraqi women from minorities suffered compound violence: on one hand, they were targeted as women and on the other hand, their religious identity was endangered by forcing them to renounce their faith and enter Islam. This created insecurity among women and fear became the major challenge faced by women from the minorities. The results of a 2007 UNAMI study of the status of women from minorities released at the beginning of 2009 showed that 76.8 per cent of the sample that responded from all minorities were living in a state of fear and intimidation. Proportions varied, with 91.2 per cent of Sabian Mandaean women afraid for their lives, followed by 88.3 per cent of Yazidi women. Religious rulings issued by extremist groups class these two minority groups as unbelievers and state that it is permissible to take their money and property, unless they declare their conversion to Islam.

**Government measures to improve the status of women in Iraq after 9 April 2009**

27. The federal Government has made exceptional efforts to curb and eliminate terrorist violence through the day-to-day and extraordinary actions of its judicial, executive and legislative agencies. To reduce the scale of violence against women on one hand, while strengthening the role of the agencies seeking to enforce the law on the other, and pursuant to general recommendation No. 19 of the CEDAW Committee, that considers gender-based violence to be a form of discrimination, and article 29, paragraph 4, of the Iraqi Constitution, that stipulates: "All forms of violence and abuse in the family, school and society shall be prohibited", the Iraqi Government has adopted numerous measures and policies at various levels to eliminate violence against women. The most significant of these are:

**Ministry of Human Rights**

28. This Ministry was created as a division of the Woman's Rights Observatory, monitoring abuses to which women in Iraq are subject. Its tasks include preparation of an annual report on the status of women's rights. Additionally, the Ministry is a member of many relevant committees and has approached concerned bodies in an attempt to have certain laws and legislation amended, as well as to propose new policies.

29. The National Institute for Human Rights (NIHR) was established to:

- Raise awareness of and provide training in human rights in general. As such, NIHR has implemented 45 specialized workshops to raise awareness of the Convention in Baghdad and all of the governorates, targeting 2,060 participants from various groups, including 1,166 women. Furthermore, NIHR has sought to raise awareness of domestic violence and violence against women, as well as to raise awareness of human trafficking, through workshops targeting various groups in most governorates.
- Raise awareness of the substance of the Convention as part of all the basic training courses implemented by NIHR; there have been 193 such courses, involving more than 3,600 male and female participants.

30. Ministry offices in all governorates have implemented numerous training courses containing a human rights component and providing information on the Convention. These have targeted a variety of institutions in provincial capitals and subsidiary districts and subdistricts.

31. Additionally, the Ministry has sought to:

(a) Address the issue of national reconciliation and raise awareness of its importance. The Ministry has been keen to ensure the active participation of women in all the workshops it has implemented; there have been approximately 90 such workshops, involving more than 2,000 male and female participants;

(b) Prepare a study on the project to establish a national centre for the protection of Iraqi women against violence.

**Ministry of State for Women's Affairs**

32. This Ministry has instituted a number of measures, including:

(a) A national campaign to combat violence against women that included holding legal seminars, initially for the Ministries of State, then widened to include the governorates. In partnership with relevant Ministries and NGOs, a

proposed bill on combating domestic violence was adopted and a campaign to combat domestic violence was launched, covering most Ministries of State;

(b) The design and implementation of a programme to raise awareness of the concept of gender, with programme follow-up conducted by female liaison officers from Ministries of State, State institutions and NGOs and fiscal policies formulated to put the concept into practice. In collaboration with concerned United Nations organizations, the programme also seeks to raise awareness of the relationship between the concept of gender and sustainable development. Additionally, the Ministry supervises surveys of women to discover the status of women in the workplace and in decision-making positions;

(c) The provision of training related to the Convention and the adoption of wide-ranging campaigns to eradicate legal illiteracy among Iraqi women and inform them of their full rights under the Constitution in accordance with international human rights standards by targeting male and female employees in training and educational workshops in all governorates.

#### **Department of Women's Welfare (attached to the Council of Ministers)**

33. This Department was formed on 22 July 2008 and began executive operations on 15 January 2009. The Department is concerned with matters pertaining to widows, divorced and unmarried women and the wives of missing persons and it has a social protection net that provides an allowance for women who have no male provider, handicapped women and unemployed women. Furthermore, it is concerned with education and training aimed at building women's capacities and empowering them. Another aspect of its work is creating employment opportunities that match the capacities of female academic and professional staff and achieving a proportion of female appointments in Government departments, a proportion of housing units and a proportion of microcredit.

#### **Sectoral commission of concerned ministries**

34. Pursuant to administrative order No. 80 (2009) issued by the General Secretariat of the Council of Ministers, a Commission chaired by the Ministry of State for Women's Affairs and with the participation of the Ministry of Interior, Ministry of Human Rights, Ministry of Labour and Social Affairs and Ministry of State for Civil Society Affairs, was formed with the task of reviewing the legislative system to ensure non-discrimination against women, the application of the paragraphs of the personal status act ensuring the rights of women, the establishment of family reconciliation offices, the creation of a special section for women in police stations and the specialized training of women police officers. The Commission submitted recommendations focusing on protecting women from domestic violence and ensuring their human rights. The most important of these recommendations concerned the creation of a family protection directorate to protect families from violence and offer the maximum level of protection to battered women. The Commission began its work in Baghdad governorate, from where it will be extended to all other governorates, following the success of the trial. The first centre was established in Karkh on 28 February 2010; the second was set up in Rusafah on 20 July 2010 but was the subject of a terrorist bombing on 26 August the same year. Furthermore, the sectoral Commission is responsible for formulating strategies to advance the status of women, in collaboration with the United Nations Development Programme (UNDP).

The Ministry of Human Rights submitted a proposal for the participation of the above Ministries in formulating a bill to combat domestic violence. The

Ministry also prepared a study on discrimination against women in the Penal Code, No. 111 (1969), as well as submitting a recommendation on review of the Personal Status Act, No. 188 (1959).

### **Ministry of Interior**

35. The Ministry of Interior created the Community Police Department in 2008 and operations began in 2009. This is a civil police service that acts as an intermediary between the security sector (police stations) and community institutions and leaders. Its task is to liaise and interact with the community in order to achieve the maximum level of genuine participation between the police and the community in shouldering security responsibilities, in line with the concept of comprehensive human security. Its responsibilities are:

- To liaise between police and community in line with the concept of comprehensive human security, to foster human rights in order to reduce the incidence of crime and violation of the law by providing mechanisms for early intervention, and to address social problems, particularly those pertaining to issues of sectarian and domestic violence;
- To provide psychological and social support for the victims of crime and serious terrorist incidents and to help treat the effects thereof, particularly among women and children;
- To deal with issues that may not make it to a police station (unrecorded crime). This includes crimes occurring within the family, such as molestation, particularly of children, and incest;
- To facilitate shelter for women and children who require temporary protection and community cohesion services in cases involving domestic dispute, domestic violence, neglect of children's education and issues of rape, sexual abuse and suicide.

### **Monitoring the trafficking of persons, pornography and drugs**

36. To carry out its function and achieve its goals, the Department has sought to hold consultative meetings on an ongoing basis with individual members of society and civil society organizations to identify and reach a close understanding of the major social problems and find solutions for these. The agency has 537 members across 17 stations in Baghdad governorate carrying out detailed analyses and assessments of public opinion vis-à-vis the Ministry of Interior via the media and by means of field surveys.

37. In 2009, 50 female officers passed from the police academy and were deployed in areas concerned with combating violence against women, ensuring that battered women seek refuge and feel sufficiently confident to talk about their problems without embarrassment. In the same year, a pilot women's police force was set up with 822 members in Karbala governorate and 630 in Al-Najaf governorate to provide protection for female visitors to the holy shrines.

38. Furthermore, the Ministry of Defence, concerned with the situation of its female employees, seeks to develop their capacities and skills by providing them with expertise in military and civilian work and in international standards of human rights.

### **The fight against corruption**

39. Iraq is concerned with fighting corruption and acceded to the United Nations Convention against Corruption in 2007. At the beginning of 2010, the

national anti-corruption strategy through 2014 was published, involving all relevant bodies in implementing this Convention and holding them responsible for the required performance. Given the link between corruption and human rights violations, a joint framework between the Ministry of Human Rights and the Integrity Commission was launched at the beginning of the second quarter of 2010, designed to implement joint visions and action plans for eradicating corruption in areas bearing upon human rights. Furthermore, the National Development Plan for 2010-2014 deals with fostering the principles of sound management, public sector reform and eradicating corruption, through serious measures in this area.

40. Pursuant to administrative order No. 96 of 28 April 2008, the General Secretariat of the Council of Ministers formed a committee made up of representatives of the Ministry of Labour and Social Affairs, Ministry of Health, Ministry of Human Rights (Women's Section), Ministry of Education, Ministry of Planning and Development Cooperation and Ministry of State for Civil Society Affairs to assume responsibility for developing a comprehensive strategy for the recipients of services provided by the Department of Special Needs Welfare (attached to the Ministry of Labour and Social Affairs), including widows and divorced, abandoned and handicapped women, as well as other social groups, including the old and disabled, orphans and destitute children of widows and divorced or abandoned women. There are at present 19 orphanages – 4 in Baghdad and 15 in the provinces. These accept the children of widows and divorced, abandoned or imprisoned women, as well as other children from birth up to the age of 18, in accordance with State orphanage regulations. Full educational, guidance, leisure, social and health services are provided, in addition to subsequent welfare services for those above the age of majority.

41. The Ministry of Labour and Social Affairs provides training and qualification to enable widows, divorcees and abandoned women who so wish to acquire a profession or to further their skills in a professional field in order to be able to enter the job market.

42. The country's first National Strategy for Poverty Reduction (2010-2014) was launched under an agreement between the Ministry of Planning and the Central Bank of Iraq. This strategy focuses on six fundamental themes, namely: higher income for the poor, improvement of the health status of the poor, dissemination and upgrading of education for the poor, providing a better living environment for the poor, reducing inequality between poor men and women and providing effective social protection for the poor. Furthermore, the Ministry of Planning has prepared a report analysing poverty in Iraq, which addresses the characteristics of poverty between regions and between urban and rural areas in order to provide full budget support for the plans and programmes of all Iraqi ministries and institutions not linked to a ministry.

#### **Violence against women in Kurdistan Region**

43. Although there has been a different political situation in Kurdistan Region since 1991, social customs and traditions have meant that manifestations of violence have not been lacking in the region. A report published by the Ministry of Human Rights in Kurdistan indicated that 333 women in 2008 and 414 women in 2009 set fire to themselves. The authorities in Al-Sulaymaniyah recorded the highest rates of immolation caused by psychological shock in November 2006. The report further indicated 13 cases of immolation and 24 cases of death from boiling water. These cases were recorded as suicides or accidents. Furthermore, the statistics indicate that there were 118 cases of

murder in 2008 and 85 women killed in 2009. The figures show that there were 48 cases of murder and 238 cases of immolation in the first six months of 2010.

44. Most of the women subjected to violence in the region are from rural areas and between 13 and 18 years of age. In urban areas, the ages are higher – typically 15 years and above. Women in Kurdistan Region are subject to multiple forms of violence, of which beating is the most common, followed by sexual assault, death threats, abduction, forced marriage etc.

#### **Government measures**

45. The Government of Kurdistan Region is concerned with this issue and has taken several measures, including:

(a) The creation, in 2007, of a directorate to monitor violence against women (“The General Directorate of Trace Violence against Women”); this Directorate works on cases of murder, immolation, torture and sexual assault;

(b) The conclusion of an agreement of cooperation with the International Rescue Committee (IRC) on implementing an action programme to combat violence against women and the development of staff trained in dealing with sexual violence;

(c) The development of staff trained in domestic violence and of a family protection unit, in collaboration with the European Union;

(d) The Ministry of Interior in Kurdistan Region has established a general directorate to monitor violence against women. The directorate has four offices in the governorates of the Region and seven in the districts. The directorate is working to:

- Formulate a national strategy plan to combat violence against women up to 2014, in collaboration with the United Nations Population Fund (UNFPA) and in partnership with the federal Ministry of State for Women’s Affairs and a group of civil society organizations;
- Formulate guidelines for the battered women shelters operating under the auspices of Ministry of Labour and Social Affairs in the region, in collaboration with UNDP;
- Strengthen relationships and partnerships with civil society organizations. The directorate is keen to publish statistics on violence against women. Furthermore, an advisory committee has been formed, consisting of ministries and relevant local and international organizations, to spread social, religious, cultural and legal awareness on the phenomenon of violence against women. It should be noted that Kurdistan Region has initiated amendments to provisions that enshrined discrimination and violence against women in the Penal Code, No. 111 (1969) and the Personal Status Act, No. 188 (1959). This will be dealt with later in the report;

(e) The preparation, in coordination with the Ministry of Health and Ministry of Endowments and Religious Affairs in the region, of studies showing that the phenomenon of female circumcision exists in certain remote, rural areas and that most girls there have been subjected to this practice. Current statistics, however, indicate that the practice is rare, particularly after the regional government announced that it would be treated as a crime under article 412 of the Iraqi Penal Code;

(f) The supervision of a British/Pakistani project on elimination of violence against women and extending it across the region; a monitoring committee has been set up for this purpose, consisting of the regional Ministry for Women's Affairs, Ministry of Education, Ministry of Endowments and Religious Affairs and the social affairs adviser of the Prime Minister of Kurdistan Region. As a result, three special directorates attached to the Ministry of Interior were created;

(g) The creation of a directorate for the monitoring of women's and children's affairs, in collaboration with relevant ministries; this directorate has addressed many issues;

(h) The formation of a committee to combat violence against women, consisting of relevant ministries under the supervision of the region's Prime Minister and Deputy Prime Minister; this committee meets regularly to follow up measures taken.

46. After becoming the Supreme Council for Women's Affairs, attached to the Council of Minister in Kurdistan Region, the region's Ministry for Women's Affairs took the following steps:

- The submission of a bill on combating domestic violence to the Government and Parliament in Kurdistan; several NGOs contributed proposals to this bill. Furthermore, female liaison officers from all ministries were trained in the concept of gender in State institutions and violence-related issues;
- The preparation of a comprehensive action programme on secure refuges, according greater weight to the legal, social and economic aspects thereof and the formulation of a law on refuges; the region has five refuges: three attached to the Ministry of Labour and Social Affairs, one to the Kurdistan Women Union and the fifth to an NGO, Asuda.

## **II. Information relating to articles 2 to 16 of the Convention on the Elimination of All Forms of Discrimination against Women**

### **Article 2**

47. As regards equality and with reference to issues critical to the inclusion of women in development contained in the Beijing Platform for Action (1995), which consists in the commitment of Governments to promoting equality through legislation and by putting in place governmental mechanisms to ensure implementation of the principle of equality of opportunity, we find that, after April 2003, the Iraqi Government adopted a series of institutional measures designed to provide the opportunity for the promulgation of a considerable amount of legislation to create the infrastructure for the exercise and enjoyment of rights and which represent a standard for measuring the extent of women's empowerment. National legislation contains no discrimination between the sexes. However, although laws ensuring fair rights for women remain in force, the options available for women to enjoy these rights are still modest and differ in many respects.

### **Fostering equality between men and women in the articles of the Constitution**

48. The Iraqi Constitution of 2005 contains references affirming that the Government's approach is based on principles of equality and participation. The

preamble to the Constitution states: “We, the people of Iraq ... have resolved with the determination of our men [and] women ... to respect the rule of law [and] to establish justice and equality” for all Iraqis. Furthermore, full economic, political, social and cultural rights are contained in many articles of the Constitution, as indicated below:

- Article 14 stipulates: “Iraqis are equal before the law without discrimination based on gender, race, ethnicity, origin, colour, religion, creed, belief or opinion, or economic and social status”.
- Article 18 (first) contains the right of a woman to grant her nationality to her children. Decree No. 434 (29 December 2009) of the Council of Ministers assents to a bill cancelling the reservation of the Republic of Iraq to article 9 of the Convention. The Decree was proposed by the Ministry of Human Rights and put before Parliament for approval of the lifting of the reservation in order to remove the legal effect of the reservation. Article 18 (second) of the Constitution and the Iraqi Nationality Act, No. 26 (2006) both grant women the same rights as men in respect of passing their nationality to their children, consistent with article 9 of the Convention.
- Article 20 of the Constitution states: “The citizens, men and women, have the right to participate in public affairs and to enjoy political rights ...”.
- Article 22 (first) affirms that work is a right for all Iraqis.
- Articles 31, 32 and 33 deal with the rights of Iraqis in respect of health and the provision of means of protection and treatment in a proper environment.
- Article 34 of the Constitution affirms that the State guarantees the right of education for all Iraqis.

49. Article 41 stipulates: “Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices. This shall be regulated by law.” This article aroused considerable controversy because it moved in the direction of repealing the Personal Status Act, No. 188 (1959), with the social impact that would have and many NGOs were moved to run campaigns, with the support of certain political forces and members of the Council of Representatives, to demand its annulment. This national effort was able to have the article treated as a disputed article of the Constitution and consideration of its substance carried over to the current parliamentary session. This article expresses the spirit of Decree No. 137 (29 December 2003), also calling for the repeal of the Personal Status Act, No. 188 (1959). The alliance of a large number of national political forces and Iraqi women’s movement NGOs was thus rendered ineffective.

50. The Iraqi Constitution permits the formation of regions and grants them the right to formulate their own constitutions to define the structure of regional authorities and the mechanisms whereby these authorities exercise their powers, providing there is no conflict with the federal Constitution (article 120 of the Constitution). Given that, pursuant to the Constitution, regional authorities are granted the power to exercise their right in respect of legislative authority, the regions have the power to promulgate laws amending the application of federal laws in the event of a conflict between federal law and the law of the region with regard to any issue, unless the exclusive powers of the federal authorities are infringed (article 121 (second) of the Iraqi federal Constitution). On this basis, Kurdistan Region promulgated Act No. 15 (2008), amending application of the Personal Status Act, No. 188 (1959).



51. Article 49, paragraph 4, of the Constitution makes reference to a quota for women of not less than one-quarter of the members of the Council of Representatives that must be included in the Council of Representatives election law.

#### **Strengthening equality between men and women under national legislation**

52. Election Act, No. 16 (2005) requires election lists to include 25 per cent women, when the closed list system is adopted. The election achieved a result of 27.3 per cent women of a total 275 parliamentary seats in 2005.

53. Election Act, No. 16 (2005) was amended and adopted by the Council of Representatives on 5 December 2009. It adopts a quota system pursuant to article 3 (third), which stipulates: "Seats shall be divided by rearranging candidate order based on the number of votes acquired by each candidate. The first winner shall be the candidate who gets the highest number of votes. The same applies to other candidates provided that the proportion of women is not less than one-quarter of the winners. In case of equal votes to candidates in the same list, drawing of lots shall be applied." Pursuant thereto, women made up 26 per cent of parliamentary seats.

54. Further to the provisions of article 49 of the permanent Constitution, the Governorate, District and Subdistrict Councils Election Act, No. 36 (2008), was adopted in September 2008 and applied in practice during the elections held on 31 January 2009. Article 13 (second), which determines the electoral entitlement of women, stipulates: "The seats shall be distributed to the candidates on the open list and the candidates shall be re-ranked based on the number of votes obtained by each. The candidate who secures the highest number of votes within the open list shall be deemed the winner and so on for the rest of candidates, with the proviso that there shall be a woman at the end of every three winners regardless of men winners."

The adoption and application of a quota system in the Governorate, District and Subdistrict Councils Election Act, No. 36 (2008) produced proportional results but contributed to widening the scope for choosing suitably capable women to occupy positions, particularly by following the open list system adopted in the Act. The number of women candidates on polling day was 3,912 out of a total of 14,400 candidates. The quota was achieved in 9 out of 14 governorates. The efforts that allowed women to obtain these opportunities were directed towards implementation of the law and achievement of the quota as a condition for the development of the electoral process. The Kurdistan Region election law contains a 30 per cent representation for women, putting it ahead of the central Government in this respect.

55. The Ministry of Labour and Social Affairs is working on promulgation of an alternative to the Social Welfare Act, No. 126 (1980), regulating activities of the social protection net, the instructions for which were issued in 2006.

56. The Personal Status Act, No. 188 (1959, amended) was promulgated in accordance with the decrees of the dissolved Revolutionary Command Council. The achievement of Kurdistan Region in passing Act No. 13 and Act No. 15 in November 2008 represents an advance in the development of the legal articles of the Personal Status Act, No. 188 (1959), bringing it closer in line with international humanitarian trends by annulling several articles and amending others. However, justice and equality in respect of application of the law as between the region and the centre have not been achieved. Moreover, amendment of a national law without consensus or a federal Government decree results in legal gaps.

57. The Labour Act, No. 71 (1987, amended) devotes an entire section to the rights and protection of working women. The Ministry of Labour and Social Affairs has prepared a new bill on women working in the private sector, which will give them additional privileges.

58. The Minor's Welfare Act, No. 78 (1980, amended) deals with how to look after and manage the funds of minors. It allows the mother to manage the funds of her minor children or those of her missing spouse.

**Annulment of all national penal provisions which represent discrimination against women**

59. Although the legislative process is guaranteed by the Constitution and operative laws, the guarantee has not advanced to a level that actually enables women to enjoy equality. Women's entitlements remain dependent on many factors that sometimes thwart the capacity of the law to improve their status in society. This is the result of imperfect implementation of the law due to factors associated with the nature of the transition that Iraq has been going through since 2003. Accordingly, the Iraqi State has adopted ambitious strategies for implementing the law.

60. In partnership with civil society and on the basis of article 14, which stipulates: "Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, colour, religion, sect, belief or opinion, or economic or social status", the Ministry of Human Rights and Ministry of State for Women's Affairs have taken positive and effective measures to remove the discrimination against women enshrined in existing laws by submitting legal studies to relevant bodies on the repeal or amendment of such laws. This, however, has run up against custom, which cannot be repealed by legislation but requires considerable time and effort.

61. The articles proposed for repeal or amendment by the two said Ministries are articles 41, 377, 380, 398, 409 and 427 of the Penal Code, No. 111 (1969, amended) and the provisions thereof included in the annex (schedule 2). However, no decrees or acts have been promulgated to date by the central Government on repealing or amending the articles enshrining discrimination against women in the Penal Code.

62. As regards equality before the law, Iraqi women are subject to legal accountability if they have committed a breach of the law. A woman is subject to questioning by investigating and judicial authorities in accordance with the law. Judgement is delivered and implemented in accordance with due process. Women are subject to a fair trial. Groups in the Ministry of Human Rights monitor the situation of female prisoners in general to ensure that minimum standards of prisoner treatment are applied. In 2009, a great commotion was stirred up by several organizations which claimed that there were women facing execution who had not received a fair trial. Subsequently, monitoring groups from the said ministry attempted to get to the bottom of the matter. Investigation showed that there were 15 convicted women, all of whom had committed crimes punishable by death under the Penal Code, No. 111 (1969), including crimes of murder and kidnapping for which the penalty is the same for men and women. All had been subject to proper trial in accordance with the law and they had been allowed to make wills, which had been examined. They were allowed to meet with their families before sentence was carried out. The willingness of the family to attend determined whether or not there would be a meeting. One of the women met with her condemned husband, who was expected to be executed on the same day on the same charge. The monitoring groups observed that the

prison administration had exerted great care to provide all the required standards of prisoner treatment in the prison under observation and that the female prisoners received excellent care from the social worker.

63. The situation in Kurdistan Region is better and the women's affairs committee in the Kurdistan Parliament has been able to undertake the following:

(a) Amend application of the Personal Status Act, No. 188 (1959); the Act was promulgated in 2007 and contained strict legal provisions against polygamy in order to eradicate it, as well as other measures on divorce;

(b) Present a bill on combating domestic violence to the Government and Parliament for the required measures to be taken for promulgation;

(c) As regards penal legislation, the Government of Kurdistan Region promulgated a law holding honour killing to be a common crime that should be judged as such without mitigating circumstances, unlike the situation in the other governorates.

### **Article 3**

64. The measures taken to implement the human rights of women in the political, social, economic and cultural spheres before 2003 were effected by means of the laws in force and the institutions of justice which applied these laws, such as the courts attached to the Ministry of Justice, in their varying degrees of competence, and the executive departments responsible for implementing decisions of the courts and all ministries of State.

65. Following the change of regime in 2003, the situation became different for institutions concerned with enforcing the law, applying human rights and issuing decisions subject to compulsory enforcement. The Higher Judicial Council became the supreme, independent judicial authority, responsible for all Iraqi courts of whatever competence and level, alongside the Chief Public Prosecutor. Furthermore, all departments of the Ministry of Justice strive to implement decisions issued by the courts; performance is monitored by the competent courts. These State agencies and institutions all operate in accordance with the Iraqi Constitution and its guarantee of the principle of equality before the law. Once the way was open for women to enter the Judicial Institute in 2004, many female judges graduated and women now occupy 5 per cent of posts in the judiciary. They work in the courts of first instance, misdemeanour courts, youth courts and the administrative judiciary; there are no female judges among the members of the Iraqi Court of Cassation or Federal Supreme Court.

66. Following the change of regime, the Iraqi Government has endeavoured, with the help of civil society, to apply human rights generally through the following institutions and entities.

#### **Ministry of Human Rights**

67. This Ministry was formed in 2004 pursuant to Coalition Provisional Authority order No. 60. It draws up plans, policies, mechanisms and measures to ensure protection of human rights in general, monitoring human rights violations and disseminating the culture of human rights through coordination with other institutions. The Ministry has a women's affairs section, which exerts remarkable efforts in identifying violations of women's rights at all levels. Several studies and proposals to amend and repeal laws enshrining discrimination have been prepared but, according to decision makers in the

relevant bodies, some of these efforts have run up against prevailing customs and traditions, blocking the amendment of certain laws and legislation.

68. There are entities in the concerned ministries whose task is to coordinate with the Ministry of Human Rights to foster respect for and protect human rights within each ministry. These entities include the Human Rights Directorate in the Ministry of Interior, the Human Rights Section in the Ministry of Higher Education and the Human Rights Committee in the Ministry of Health.

#### **Ministry of State for Women's Affairs**

69. This Ministry was formed in 2004 pursuant to Coalition Provisional Authority regulation No. 9 of 9 June 2004, with responsibility for studying the status of women and formulating strategies for women's advancement. The Ministry has exerted efforts similar to those of its counterpart, the Ministry of Human Rights, and the drafts it has submitted on the amendment and repeal of laws enshrining discrimination against women have been rejected by the relevant bodies on the basis of customs and traditions. A law establishing a ministry of women has not been ratified despite numerous demands to transform the Ministry of State for Women's Affairs into a ministerial portfolio. A bill to create a ministry of women and the family was put forward by the parliamentary committee on women and the family and the General Secretariat of the Council of Ministers moved to adopt a bill to convert the Ministry of State for Women's Affairs into a ministerial portfolio at the beginning of 2010. The bill was submitted to the Council of Representatives for ratification but consideration was postponed until the new parliamentary session in 2010. The Ministry has sought to submit:

- A bill requiring that the debt of a wife and her children to the husband be claimed from the State; the bill has been debated by the State Consultative Council and final measures for promulgation are under way.
- A proposal to establish a fund in the Ministry of Labour to implement decisions pertaining to the marital rights of a wife on the part of her husband and the direct settlement of her rights from this fund by the act of depositing a court ruling with the enforcement directorate.
- A proposal to repeal Revolutionary Command Council Decree No. 690 (27 May 1981) preventing the appointment of a wife or her children outside Iraq, if the husband is outside Iraq. The repeal was approved by the Council of Representatives.
- A family reconciliation bill, with a full study thereon.

#### **Formation of the human rights committee of the Council of Representatives**

70. This committee is responsible for overseeing human rights implementation, monitoring subsequent violations, submitting recommendations and monitoring all matters that intersect with human rights.

#### **Formation of the women, children and the family committee in the Council of Representatives**

71. This committee oversees the application of policies and laws pertaining to women and proposes and submits relevant bills to the legislative bodies. It has submitted a number of drafts, including:

- (a) A bill on women who have no male provider;
- (b) A bill to set up a social protection net;

- (c) A bill to create a child welfare committee;
- (d) A project to create an orphans' welfare fund;
- (e) Establishment of the Independent High Commission for Human Rights.

This committee is currently in formation, pursuant to Act No. 53 (2009), and is meant to complement the existing human rights system in Iraq, which consists of the Ministry of Human Rights, the Integrity Commission and the human rights committee of the Council of Representatives.

#### **Article 4**

72. The promulgation of the Law of Administration of the State of Iraq for the Transitional Period, which was tantamount to an interim Constitution, represented a transformation in the way the status of women is looked at in the centres of decision-making. The law included a measure to speed up legislative empowerment, with article 30, paragraph (c) stipulating: "The National Assembly shall be elected in accordance with an electoral law and a political parties law. The electoral law shall aim to achieve the goal of having women constitute no less than one quarter of the members of the National Assembly and of having fair representation for all communities in Iraq, including the Turcomans, Chaldo-Assyrians, and others." This obliges the legislature to ensure that not less than 25 per cent of the members of the Council of Representatives are women. This was followed, in 2005, by the permanent Constitution of Iraq, article 49 (fourth) of which stipulates: "The elections law shall aim to achieve a percentage representation for women of not less than one quarter of the members of the Council of Representatives". The constitutional basis has thus been established for the legal rules to accelerate the political participation of women in Iraq, in the form of the Elections Act, No. 16 of 10 May 2005 and the Governorate Councils Election Act, No. 36 (2008).

73. The Iraqi State is reviewing all laws and legislation in force and debating them in the Council of Representatives prior to adoption in order to remove any incompatibility with the fundamental principles of human rights, of which the most important is the guarantee of non-discrimination, as long as there is no contradiction either with the Constitution or Islamic Shariah law, which represents a basic source for legislation in a State with a Muslim majority such as Iraq. Under no circumstances can we leap over the fundamentals of Islamic law.

74. The Ministry of Human Rights has made many attempts to amend article 128 of the Penal Code, pertaining to honour crimes (see schedule 3), but this requires the agreement of all other relevant bodies and it is an issue that clashes with custom and tradition, which are difficult to overcome at the stage in which Iraq currently finds itself. Kurdistan Region has suspended enforcement of this article, holding that so-called honour crimes are to be subject to ordinary legal articles and penalties and to be judged without leniency. However, this has given rise to women in the region being murdered under the guise of them setting fire to themselves. The result has thus been new types of abuse and modern variations on the problem of dealing with this issue.

#### **Article 5**

75. The constants of traditional Iraqi culture are the expression of a set of mechanisms embodied in the behaviour of women and inherited values and traditions, which hold that honour stands at the top of the pyramid. In the

traditional conception, honour is dependent on a woman's actions and behaviour.

76. Despite the reorientation of the State following the change of regime towards a concern with women's affairs, such that the State has striven to develop the relationship between men and women in all areas, from relations within the family and society up to positions of decision-making, the vortex of violence into which Iraq has fallen, together with the social legacy of violence against women, has led to a rise in the number of women suffering from gender-based discrimination. Moreover, new justifications have appeared to impede serious attempts to deal with women's issues. This is self-evident because women are highly likely to be marginalized by psychological and physical abuse in times of crisis and war.

### **The impact of social stereotypes on the level of empowerment of women**

77. Most social stereotypes and customs limit and restrict women's role in society because they view women's nature unjustly. Here the difficulty emerges. Women in politics come up against opposition and marginalization from male politicians – and it is male legislators and decision makers who influence the passing of laws, the issue of decrees and the running of institutions – if social stereotypes and traditions play a large part in their thinking. The democratic orientation of the country has prescribed gender equality and other principles that have helped women to secure certain rights. However, social customs and stereotypes predominate that are stronger than the law and exert a powerful influence on the minds of young people, especially those who lack extensive familiarity with the cultures of other peoples. Many believe that a woman's role should be confined to reproduction and child-rearing and do not expect a woman to complete her social and intellectual development to equip her to enter working life. The *National Youth and Adolescent Survey* (2009) was conducted by the Ministry of Youth and Sport together with the Central Organization for Statistics (COS) to investigate the extent to which the young are influenced by social stereotypes and the role of gender in their lives. To this end, a sample of young people from 10 to 30 years of age was asked specific questions. The following table shows these questions and the answers given by both sexes:

<i>Question</i>	<i>Males</i>	<i>Females</i>
	<i>(percentage)</i>	
In general, women are not inferior to men	63.3	74.8
A female must obtain the approval of her parent/guardian before taking up employment	92.1	92.3
The man and woman should share family decision-making	83.3	91.4
A husband has the right to beat his wife if she disobeys his orders	50.0	26.3
A girl must marry a relative, if her parent/guardian wishes	46.5	34.2
A woman cannot make decisions concerning her and her family because she is incapable	35.8	25.5
Politics is the exclusive province of men	34.0	26.5
Women have the ability to assume leadership roles in the State	66.0	77.1
The family must impose stricter rules on females than males	71.9	58.1

78. Social stereotypes enshrining violence against them play a significant part in continuing violence against women and practices based on violence and discrimination are normal and accepted. More than half of women between 15 and 49 years of age believe it is permissible for a husband to beat his wife, particularly if she leaves the house without his permission or neglects the children. Some 66 per cent of married female respondents found this acceptable;

acceptance fell to 52 per cent in the case of unmarried female respondents. Two thirds of rural women believed that a husband has the right to beat his wife if she leaves the house without his permission and 44 per cent of rural women, as compared with around one third of urban women, believed that he has the right to beat her if she refuses marital intimacy. Women's acceptance of violence was related to educational status: the more educated a woman, the less she will accept it. However, for every woman who has completed preparatory school three are illiterate. The data indicate that there are considerable differences between the regions of Iraq in the incidence of physical violence by the husband. Thus in Kurdistan Region, the number of women subjected to physical violence was half that in other regions. In rural regions, 23 per cent more women suffered than in urban regions.

### **Challenges facing the State in eradicating traditional customs**

79. Within the prevailing social structure, the threat of being killed to remove the stain of dishonour ("honour killing") is very real. It represents a preventive measure to stop a woman from damaging the reputation and honour of the family and tribe. It also constitutes a punishment for a woman whose persistent behaviour arouses suspicion. Custom permits her to be killed by someone younger in order to wash away the dishonour brought upon him by the woman. Statistics show that 87 women were victims of honour killing in 2008, with the number falling to 84 in 2009. The murder of a woman is a sensitive issue, being a serious crime that takes place for complex motives and reasons affecting the reputation of the victim. It is a crime that usually occurs in rural areas, in cases where a woman has married a person of her choosing, without the approval of her family or tribe. The probity of a woman's conduct is judged on the basis of how it measures up to prevailing social standards, linked to the cultural inheritance represented by custom. This legacy, which is common to all Iraqis, views women as inferior beings subordinate to men. This image of women has grown, despite changes in society and in the status of women. Women are still perceived as having inferior qualities that require them to be treated as not fully human. Honour killing has existed from pre-Christian times. The code of Hammurabi, the first legislative document in history, punishes an adulterous woman by drowning.

80. This stereotypic image continues to bedevil the status of women in Iraq. It is sustained by the State in legislation, as well as in religious and cultural terms of reference, for fear of becoming involved in a contest with society. Consequently, the stereotype that women hold of themselves is not so different from the one that men hold of them. It is an image passed through generations for want of any serious attempt to change inherited social and cultural stereotypes, thereby justifying the State's current inability to change legislation and decrees in favour of women. Moreover, it provides society with legal justification for segregating women for their own protection. Negative attitudes on the part of women themselves further entrench the prevailing stereotype in a traditional culture that supports this. Consequently, the family has often been a secure environment for nurturing and sustaining male violence and discrimination against women.

## **Article 6**

81. The course adopted by the former regime from the early 1980s produced policies that led to economic, social, moral, educational and cultural collapse. The Iran-Iraq War of 1980-1988 and the invasion of Kuwait on 2 August 1990,

which resulted in the imposition of economic sanctions on Iraq, were the embodiment of these policies. All of this led to a weakening of the social value system and the appearance of dangerous, negative forces threatening the present and future of Iraqi society. Among these was the phenomenon of trafficking in women. Accordingly, Act No. 8 (1988), on combating prostitution and vice, was promulgated, criminalizing prostitution and the vice trade. Pursuant to this Act, Regulation No. 4 (1991), on the reform of female detainees, was promulgated, specifying the manner of administering special homes for the reform of female prisoners charged with prostitution, allowing them to continue their education and instructing them in various professions to enable them to support themselves after the end of their prison terms. The regulation further deals with the type and quality of food provided to them and the clothes they need. The regulation requires that these women be paid a wage for work they do. Furthermore, the regulation on the reform of female detainees puts in place a mechanism for the reform of prisoner behaviour by means of continuous training in order to reintegrate them into Iraqi society at the end of their period of detention. These women are also subject to regular medical examination.

#### **Iraq's cooperation with international efforts**

82. On 28 May 1955, Iraq ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, approved by the General Assembly of the United Nations on 3 February 1949. All international charters relating to the trafficking of women and children were adopted within the decree ratifying this Convention. The ratification decree was published in the Iraqi *Official Gazette*, No. 3644, on 5 June 1955. Act No. 54, known as the Act on combating prostitution, was promulgated on 11 April 1958 and published in the *Official Gazette*, No. 71, on 11 October 1958. However, Iraq's concern with this area did not begin with ratification of the Convention or promulgation of Act No. 54 on 11 April 1958. Brothels were inspected and prostitution monitored and combated under Regulation No. 33, issued on 16 May 1943 pursuant to the Health Protection Act, No. 6 (1929), which sought to subject women who engage in prostitution to medical examination and to oblige them to place their children over the age of three in a State home instead of looking after them themselves.

83. The dissolved Revolutionary Command Council issued Decree No. 234 on 20 October 2001, stipulating that any person who commits the crime of sodomy with a male or female, commits incest, is proven to be a pimp or runs a house of prostitution shall be punished by execution. In 2001, dozens of women were beheaded by the sword by groups of "Fedayeen Saddam" loyal to the former regime because of involvement in prostitution, pimping or the white slave trade. They were not brought to trial because the former regime believed that that was the way to fight prostitution.

#### **Kidnapping of women and girls**

84. This phenomenon emerged after the change of regime in 2003 and by itself constitutes a serious danger to Iraqi women. The aim behind kidnapping is (a) a ransom demanded from the family or husband of the kidnapped women in exchange for her release or (b) the trafficking of women and turning them into a cheap sexual commodity.

85. Statistics from the Iraqi Ministry of Interior indicate an increase in the kidnapping of girls between 2003 and 2006, as shown in the following schedule.



<i>Governorate</i>	<i>Adult women</i>				<i>Juvenile women</i>				<i>Total</i>
	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	
Nineveh	2	9	22	7	1	3	5	—	49
Salah al-Din	1	4	5	14	1	1	2	4	32
Kirkuk	—	4	2	23	—	2	3	16	50
Baghdad	5	29	64	93	2	16	8	23	240
Diyala	—	4	1	10	2	1	4	1	23
Babil	1	7	10	10	—	3	7	8	46
Wasit	—	9	10	8	—	5	3	7	42
Karbala	2	1	3	4	1	1	-	7	19
Al-Najaf	3	6	7	18	10	1	6	9	60
Al-Muthanna	—	7	2	—	—	—	4	—	13
Al-Diwaniyah	4	7	4	8	2	—	—	2	27
Dhi Qar	—	1	4	6	—	—	—	3	14
Maysan	—	1	4	2	—	—	—	6	13
Basrah	17	20	24	26	—	—	7	10	104
Al-Anbar	—	—	—	—	—	—	—	—	—
<b>Total</b>	<b>35</b>	<b>109</b>	<b>162</b>	<b>229</b>	<b>19</b>	<b>33</b>	<b>49</b>	<b>96</b>	<b>732</b>

86. The Ministry of Interior does not have accurate figures on the number of women kidnapped in 2007 and 2008.

87. The year 2009 witnessed the kidnapping of many women, indicating an increase in white slave trading, which contributed to a worsening of the security situation in the country. The figures show that 22 women were arrested and convicted for involvement in kidnapping operations. We include below statistics on the number of women kidnapped in all governorates, as received from the Iraqi Ministry of Interior.

#### **Kidnapping of women from 1 September to 31 December 2009**

<i>Governorate</i>	<i>Number of women kidnapped</i>			<i>Total cases of kidnapping (male and female)</i>	<i>Percentage</i>
	<i>Adult women</i>	<i>Juvenile women</i>	<i>Total</i>		
Baghdad	63	34	97	413	23.4
Salah al-Din	5	3	8	50	16.0
Kirkuk	11	10	21	104	20.2
Nineveh	15	5	20	90	22.2
Diyala	10	10	20	89	22.5
Babil	2	1	3	29	10.3
Al-Anbar	2	5	7	22	31.8
Wasit	11	9	20	49	40.8
Karbala	18	6	24	58	41.4
Al-Najaf	14	12	26	77	33.8
Al-Muthanna	1	1	2	12	16.7
Al-Diwaniyah	3	6	9	35	25.6
Dhi Qar	18	8	26	103	25.2

Governorate	Number of women kidnapped			Total cases of kidnapping (male and female)	Percentage
	Adult women	Juvenile women	Total		
Maysan	2	4	6	13	46.1
Basrah	22	16	38	139	27.3
<b>Total</b>	<b>197</b>	<b>128</b>	<b>325</b>	<b>1 289</b>	

88. The exodus of Iraqi families to neighbouring countries in search of safety and stability and the concomitant loss of basic needs produced despair, poverty and want, which aggravated this phenomenon. The combination of these factors led to exploitation of women and children by white slave traders, who pressed them into prostitution both inside Iraq and abroad. Official statistics for Iraqi prisons show that 25 women have been arrested and convicted under articles 3 and 4 of the aforementioned law on combating prostitution. These articles provide for the punishment of any woman engaged in the profession of prostitution and any woman or man who manages or engages in the business of vice.

#### **Influence of society on criminal behaviour of women**

89. The majority of women only resort to crime under great psychological and social pressure. This was the impression gained from the monitoring conducted at Rusafah women's prison. Women become involved in crime under pressure and intimidation from a criminal husband or commit crimes against husbands, fathers or brothers because they have been tortured psychologically and/or physically by them. To assess the criminal behaviour of women during 2009 and the extent to which it has improved or worsened, it is essential to study the figures from the Ministry of Interior and judicial bodies. The data show a rise in the number of women arrested and convicted of terrorist crimes in Baghdad governorate from 2006 to 2010 to 74, indicating the involvement of women in terrorist acts. This is not to say that there are no women in the country's other governorates involved in the same crimes but the available statistics are not sorted by charge (schedule 4).

90. Furthermore, the statistics suggest that no positive development has emerged to obviate the resort to honour killing. The stated figures may be incomplete, given the reality of custom and tradition, and thus only reflect what has been reported to the official bodies. This has encouraged demands for amendment of article 409 of the Penal Code on grounds of its incompatibility with the provisions of Islamic Shariah and international principles relating to women's human rights, such as the right to life and equality with men before the law, in line with the stipulation of article 14 of the current Iraqi Constitution that all Iraqis are equal before the law. Kurdistan Region has taken the initiative of issuing a decree to the effect that a person accused of the honour killing of a woman shall be treated as having committed the crime of murder and shall be tried for premeditated murder, without consideration of the mitigating circumstances stipulated in the Iraqi Penal Code, No. 111 (1969). Those who commit such crimes will not be able to plead mitigating circumstances. Furthermore, there has been an addition to article 408 of the Penal Code, dealing with inciting or assisting a person to commit suicide, to the effect that the provisions of the aforesaid article shall be considered to apply to anyone causing a suicide.

91. Comparing 2008 and 2009, there is no noteworthy decrease in these crimes. This is because deep-rooted customs and traditions are constant and unchanging and have remained unaffected by the openness in the country. On the contrary, openness has resulted in confusion, dragging behind it a trail of

woes and stories of attachment to custom and weak law enforcement, given the exceptional challenges of the current phase, as noted above. Some governorates report a decline in these crimes, while others report an increase. This is a function of the reporting of crimes of honour killing, for much that happens gets covered up does not find its way into official figures. The premeditated murder of women is a sensitive issue, being a serious crime that happens for complex motives and reasons that affect the reputation of the victim and leave a mark of embarrassment and shame on her family. According to available figures, these crimes have reached levels that are intolerable to Iraqi women. For comparison, note the increase in 2009, shown in the schedule below.

#### Ministry of Interior statistics on crimes to women (2003-2009)

No.	Year	Suicide	Rape	Honour killing	Kidnapping	Prostitution	Manslaughter		Wounding and beating
							Voluntary	Involuntary	
1	2003	3	12	12	64	18	181	45	287
2	2004	5	38	18	130	24	286	66	657
3	2005	12	71	29	193	40	358	47	999
4	2006	13	106	23	310	36	615	52	1 085
5	2007	18	107	23	301	33	731	93	1 264
6	2008	26	157	60	293	29	438	75	1 089
7	2009	66	224	68	292	100	334	69	2 699
<b>Total</b>		<b>143</b>	<b>715</b>	<b>233</b>	<b>1 583</b>	<b>280</b>	<b>2 943</b>	<b>447</b>	<b>8 080</b>

#### Law on the prevention of trafficking in persons

92. Iraq acceded to the United Nations Convention against Transnational Organized Crime and the Protocols thereto on 8 October 2007. One of the Protocols, namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), deals with trafficking in persons. Iraq has fulfilled its commitments under this Protocol, including the assurance given by the General Secretariat of the Council of Ministers that a bill prohibiting trafficking in persons and assisting the victims thereof is to be drawn up. This will contain the following elements: a definition of the crime of trafficking in persons; the formation of a higher committee to combat trafficking in persons in Iraq, to include representatives from all relevant bodies, and subcommittees (a higher committee and subcommittee in each governorate); the setting of severe penalties for those who commit this crime; and the provision of means to assist victims of trafficking. The Ministry of Human Rights put forward several ideas consistent with international human rights standards concerning this bill and pursuant thereto, a committee was formed that included representatives from the legal department of the General Secretariat of the Council of Ministers, the Ministry of Human Rights, the Ministry of Foreign Affairs and other relevant ministries. The bill was submitted to the State Consultative Council and discussed by the Council of Ministers; an amended version was then submitted to the Council of Representatives for enactment.

#### Article 7

93. Prior to 2003, there were no laws defining women's participation in politics. However, constitutionally, there was no discrimination against women,

with article 19 of the 1970 Constitution stipulating: “(a) Citizens are equal before the law, without discrimination because of sex, ethnicity, language, social origin, or religion; (b) Equal opportunities are guaranteed to all citizens, according to the law.”

94. Iraq’s election laws allowed women to exercise their right to participate in politics. A woman’s candidacy was dependent on her own capabilities and not on legal empowerment. Registration, however, was a political issue and no Iraqi woman could stand as a candidate unless she belonged to the ruling party. This in itself was a prerequisite for a woman’s participation in politics. On this basis, women were able to occupy only 27 of 250 seats in the then National Council.

#### **State achievements in the field of the human rights of women**

95. Following the change of regime in 2003, women obtained legislative empowerment in the form of a fast track promotion of their active participation in politics. This was achieved through promulgation of the Law of Administration of the State of Iraq for the Transitional Period (2004), article 30 (c) of which required the legislature to ensure that women obtain not less than 25 per cent of the seats in the Council of Representatives. On this basis, women comprised 87 of the 275-member National Assembly elected at the 1,000-person conference in 2004. One of the primary tasks of the Assembly was to draw up a permanent Constitution, for which a 55-member committee was formed, 8 of whom were women.

96. Article 49 (fourth) of the permanent Constitution of Iraq (2005) stipulates that: “The elections law shall aim to achieve a percentage of representation for women of not less than one quarter of the members of the Council of Representatives”. This constitutional stipulation enabled a female presence of 25 per cent in the Council of Representatives and governorate councils and made it possible for women to attain positions within the three branches of the Government.

#### **Council of Representatives**

97. The Council of Representatives was formed in the wake of a novel experiment in democracy and for that reason, its performance was not up to the level of the crisis facing the Iraqi people at that time. Women achieved a 26.5 per cent representation in the council, with 73 out of the 275 members, as a result of applying the quota system adopted pursuant to article 30 (c) of the Law of Administration of the State of Iraq for the Transitional Period (2004), which was translated in the 2005 Constitution as the above-mentioned article 49 (fourth). However, women did not have an effective role in the Council and did not leave a mark on any aspect of the lives of Iraqi women. There were a number of reasons for this, including women’s lack of political experience and sophistication at that time. Their representation by several political blocs filled a legal vacuum regarding the quota in Parliament due to adoption of the closed list system, which did not afford a choice on the basis of ability, but these blocs did not allow women to hold influential position inside the chamber or to play an effective role. This judgement cannot be applied to all female parliamentarians but it was prevalent. Moreover, the critical security situation in 2005-2008, which cast its shadow over the whole of society and Iraqi women most of all, inhibited the performance of women parliamentarians. Following implementation of the law enforcement plan in 2008, the security situation began to approach relative stability and this helped many women to enter the political arena.

98. In the Council of Representatives formed after the 2005 elections, women parliamentarians took over the chair of only 2 of 25 parliamentary standing committees. These were the women, children and the family committee and the

civil society organizations committee. There was no quota observed for women in the key parliamentary committees, indicating a lack of conviction within the Council of Representatives as to the capability and competence of female parliamentarians, who were thus marginalized. The most powerful and sensitive committees either have no or minimal female presence. This reflects the political orientation underlying this distribution, as indicated by the fact that women are confined to education, health, women's affairs, children and the family and excluded from committees which propose legislation in the security and political spheres and participate, with the executive, in the formulation and oversight of national development strategies. The schedule below illustrates this.

#### Women and men on parliamentary committees in the 2005 session

<i>No.</i>	<i>Committee</i>	<i>Total</i>	<i>Women</i>	<i>Men</i>
1.	Security and defence	16	0	16
2.	Finance	11	3	8
3.	Legal	11	1	10
4.	Oil, gas and natural resources	9	0	9
5.	External relations	15	2	13
6.	Economic, investment and reconstruction	12	2	10
7.	Health and the environment	9	4	5
8.	Education	15	8	7
9.	Women, children and the family	7	7	0
10.	Integrity	15	6	9
11.	Work and services	12	6	6
12.	Regions and governorates	10	3	7
13.	Human rights	14	7	7
14.	Culture, media and antiquities	7	1	6
15.	Endowments and religious affairs	10	2	8
16.	Displaced, migrants and expatriates	8	5	3
17.	Agriculture, water and the Marshes	11	0	11
18.	Accountability and justice	8	0	8
19.	Martyrs, victims and political prisoners	8	3	5
20.	Youth and sport	7	1	6
21.	Civil society organizations	7	2	5
22.	Members' affairs and parliamentary development	8	2	6
23.	Tribes	5	0	5
24.	Complaints	8	3	5
25.	Constitutional review (ad hoc)	30	2	28
26.	National reconciliation (ad hoc)	12	2	10

99. In 2008, women parliamentarians sought to form a 37-member parliamentary bloc to foster the role of women in political decision-making but the bloc did not succeed and women continue to be excluded from major strategic and policy decision-making. This bloc has been content to monitor the efforts of women parliamentarians and attempt to find solutions by proposing laws, as noted in the review of article 3, above.

100. The proportion of women in Parliament rose from 10.8 per cent in 1990 to 27.3 per cent in 2005, while in the elections of March 2010, women won 80 of 325 seats in the Council of Representatives and make up 25 per cent of all members of Parliament. Twenty female members from the current quota are former parliamentarians, while the other 60 are taking their seats for the first time. This indicates acceptance by the political elite of the participation of politically independent women possessing academic qualifications and leadership capabilities. In the current session, women chair four parliamentary committees, namely, health and the environment; services and reconstruction; women, children and the family; and members' affairs and parliamentary development. The following schedule shows the level of women's participation in parliamentary committees in the 2010 session.

#### Women and men on parliamentary committees in the 2010 session

<i>No.</i>	<i>Committee</i>	<i>Total</i>	<i>Women</i>	<i>Men</i>
1.	External relations	18	7	11
2.	Security and defence	17	0	17
3.	Legal	17	1	16
4.	Oil and energy	16	4	12
5.	Integrity	17	1	16
6.	Finance	14	2	12
7.	Economic and investment	14	3	11
8.	Education	17	8	9
9.	Health and the environment	15	4	11
10.	Services and reconstruction	16	8	8
11.	Regions and governorates	11	3	8
12.	Human rights	12	4	8
13.	Culture and media	7	2	5
14.	Endowments and religious affairs	8	1	7
15.	Displaced, migrants and expatriates	8	2	6
16.	Agriculture and water	15	2	13
17.	National reconciliation and accountability	11	1	10
18.	Martyrs, victims and political prisoners	8	3	5
19.	Women, children and the family	6	6	0
20.	Youth and sport	10	1	9
21.	Civil society organizations	7	3	4
22.	Members' affairs and parliamentary development	6	1	5
23.	Tribes	7	0	7
24.	Higher education	13	4	9
25.	Tourism and antiquities	8	1	7
26.	Labour and social affairs	9	2	7

#### Governorate councils

101. In the 2005 elections for governorate councils, held pursuant to the Elections Act, No. 16 (2005), women achieved representation of 25 per cent. To separate elections for the Council of Representatives from those for the

governorate, district and subdistrict councils, the Governorate, District and Subdistrict Councils Election Act, No. 36 (2008) was promulgated, article 13 of which deals with representation of women. Although it stipulates that there must be a woman at the end of every three winners regardless of men winners, there is no mechanism for ensuring this in the Act. Furthermore, the Independent High Electoral Commission (IHEC) has not formulated as part of its programme a mechanism for ensuring that at least one woman wins after every three men. Following numerous objections by women in Parliament and by civil society organizations, IHEC issued a decision as an annex to the elections act, guaranteeing women at least 25 per cent of the seats in governorate, district and subdistrict councils. However, this decision was overturned by the Presidency Council of Iraq on the grounds that it was tantamount to amending the election act, which would require a bill indicating the articles to be amended and the reasons for amending them. IHEC therefore formulated a mechanism to ensure that 25 per cent of all members of governorate councils are women, although this percentage was not achieved in all governorates due to an omission in the IHEC mechanism. However, it was achieved overall, with 25 per cent achieved in governorate councils in the 2009 elections, in which there was considerable female participation, especially in rural and slum areas, due to the impact of religious *fatwas*. This shows the strong influence of cultural heritage on behaviour in Iraq and the potential of the *fatwa* for making women's roles socially acceptable.

102. Continuing attempts by IHEC to formulate instructions and a regulation to ensure equitable distribution in women's representation throughout the country on the basis of the quota system have not met with a response due to limitations of time. Nevertheless, the results achieved after the elections have not been entirely negative, despite what was noted above. The quota was achieved or exceeded in 9 of 14 governorates, with a total of 110 female members of governorate councils out of 440 members in all. Accordingly, the proportion stipulated in law of 25 per cent of all members has been achieved, as shown in the table below (elections were not held in Al-Tamim governorate).

No.	Governorate	Seats	Women candidates	Women's share of seats	Women's representation (percentage)
1.	Baghdad	57	690	16	28
2.	Nineveh	37	108	11	30
3.	Wasit	28	325	9	32
4.	Karbala	27	331	8	30
5.	Diyala	29	176	8	28
6.	Babil	30	386	8	27
7.	Maysan	27	197	7	26
8.	Dhi Qar	31	290	8	26
9.	Al-Najaf	28	281	7	25
10.	Al-Anbar	29	142	7	24
11.	Basrah	35	349	7	20
12.	Al-Qadisiyah	28	235	6	21
13.	Al-Muthanna	26	240	4	15
14.	Salah al-Din	28	162	4	14

**Positions of authority and public leadership**

103. In 2002, one woman held the post of member of the Ba'ath party leadership, while another was deputy Minister of Education. Moreover, there were large numbers of women in the ranks of the then-ruling Ba'ath party, especially women employed in teaching, the media, military and security bodies, the intelligence apparatus, the Ministry of Interior, Ministry of Defence etc.

104. The situation changed following the change of regime to a democratic system based on equality before the law and five women were appointed to ministerial positions in the Ministry of Human Rights, Ministry of Housing, Ministry of the Environment, Ministry of State for Governorate Affairs and Ministry of State for Women's Affairs in the Government formed in 2006. While ministries of State are ministries without portfolio, 12 per cent of ministerial positions in a total of 36 such ministries are occupied by women. The Government formed in 2010 consisted of 46 ministries but only two women held the post of minister. In the Government of Kurdistan Region, a woman is in charge of the Ministry of Labour and Social Affairs, in addition to the Ministry of Women. Although no women received any of the sovereign portfolios, what transpired was nevertheless an indication of the positive measures taken by the State to involve women in the formulation of State public policy. Some 343 women hold decision-making positions in the Government sector, as directors-general, assistant directors-general, advisers and two thirds of experts; not more 2 per cent of these women hold the position of deputy minister.

**Women in judicial positions**

105. Prior to 2003, women were not permitted to enrol at the High Judicial Institute. Following the change of regime, the way was open for qualified women to be admitted to this Institute; the current director is a woman. Its graduates include many women judges working in the civil judiciary, although they are confined to misdemeanour and juvenile courts. The latter operate under the same laws as criminal courts but that sentences for juveniles are lighter. There are no women judges in the Shariah or criminal courts. This is due to inherited social custom, which still rejects the idea of women holding important positions, such as in the judiciary. The State is still transitioning towards democracy and more needs to be done in this area. The instructions and executive orders issued by the State have only succeeded in increasing the proportion of women in the judiciary to 5 per cent. This is a small number in comparison with the number of men in such positions, despite the presence of a considerable number of excellent female legal minds in Iraq. For both men and women, being married is a condition for assuming the position of judge. This condition has been abolished in Kurdistan Region.

106. Despite the important role of women in the development process, their participation in decision-making at senior management is minimal due to sectarianism, party politics and gender-based discrimination. As a result, women remain absent from the three presidency bodies (the Presidency Council, Presidency of the Council of Ministers and Presidency of the Council of Representatives), the Supreme Judicial Council and the higher courts (the Federal Supreme Court and the Federal Court of Cassation).

**Political representation of women in Kurdistan Region**

107. Article 23, paragraph 2, of the Constitution of Kurdistan Region contains the same principle as the Iraqi Constitution of 2005, namely that not less than 25 per cent of seats shall be allocated to women. In 2008, there were 29 women of



111 members of the region's Parliament. The Kurdistan Parliament election act was amended to increase participation of women from 25 per cent to 30 per cent, which is an advance on its counterparts in other regions. There is female participation in the Council of Ministers of Kurdistan Region, with a woman holding the position of Minister of Labour and Social Affairs.

**Participation in non-governmental organizations and associations concerned with public and political life**

108. Prior to the change of regime in 2003, Iraqis were forbidden from joining any political party other than the Ba'ath and many Iraqi women of different political and intellectual persuasions were thrown in prison and disappeared. At the end of 2002, the former regime cleaned out the prisons and detention centres, releasing all prisoners and detainees, including political ones.

109. A search of the records of the former regime has not turned up accurate figures on the number of female political prisoners, with the exception of 1,100 female prisoners and detainees who were able to register themselves with the Political Prisoners Foundation (after the change of regime in 2003). This was a transitional justice organization formed by the State under Act No. 4 (2006) and attached to the General Secretariat of the Council of Ministers to compensate victims of the former dictatorship. It began operating in mid-2007 and has 20 offices across the central and southern governorates and in Kurdistan Region. Under the Act, female political prisoners obtain the same privileges as are granted to male political prisoners, namely a monthly stipend of IQD 500,000, treatment inside Iraq and abroad, a one time travel grant and preferential treatment in obtaining access to undergraduate and postgraduate studies, as well as priority in respect of the pilgrimage.

110. The situation changed after 9 April 2003 and women were able to join political parties, declare their affiliations and engage in political activity openly. However, the worsening security situation and increasing violence made it difficult for women to move. In addition, the assassination and intimidation of women in the Governing Council and women deputies in the Council of Representatives, female lawyers, doctors, university professors and media figures induced many to withdraw and keep silent about their activities. The political parties had no women in their leadership structure.

111. Prior to the change of regime in 2003, there was no discriminatory law forbidding women from joining non-governmental organizations and associations, especially professional organizations such as the Bar Association, Doctors' Union, Engineers' Union and Teachers' Union. The General Federation of Iraqi Women was the NGO concerned with women but it was a front serving the policy of the ruling party, as women's activity was forbidden to any other organization in the country. The political transition saw large numbers of women joining a wide range of NGOs and an increase in the number of these organizations, prompting the Government to create the Ministry of State for Civil Society Affairs to register and regulate them. These organizations had a wide-ranging impact on Iraqi society. Article 39 (first) of the Constitution affirms "The freedom to form and join associations and political parties shall be guaranteed". Working in this field is thus permitted to both men and women.

112. Women have an extensive presence in professional unions and the laws governing these unions contain no discriminatory provisions regarding the admission of women and acquisition of membership or preventing women from standing as candidates in elections for the presidency of these unions.

113. Since its foundation, there have been 4,488 female members of the Pharmacists' Association, approximately 44 per cent of the membership. The number of women elected to the association's administrative body ranges from one to two each year. Since the Bar Association was founded in 1933, there have been 13,882 women lawyers but, even now, the administrative council has only two female members. There are 4,968 women out of a total of 8,910 dentists but only three women were nominated to the union council between 1998 and 2008; one female dentist currently occupies a seat on the eight-member council.

114. The Iraqi women's movement has played a prominent role in demanding rights for Iraqi women. The affirmation of the women's quota in the Law of Administration of the State of Iraq for the Transitional Period (2004) and, subsequently, the permanent Constitution of 2005 were the result of protests and campaigns to collect signatures, leading the political leadership to respond by confirming this right. The women's movement played a part in overturning Decree No. 137, issued on 29 December 2003 by the Interim Governing Council, which essentially rendered the Personal Status Act No. 188 (1959, amended) ineffective in the interests of the confessions and sects, and the subsequent inclusion in article 41 of the Constitution of the stipulation "Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law". This article embodies the substance of the said decree in the form of a constitutional provision with more binding force. Many organizations organized campaigns to abolish the decree and, through mobilization and pressure, were able to make article 41 of the Constitution a disputed article and have consideration of it referred to the 2010 parliamentary session.

115. Women's organizations have played a role in spreading awareness and educating women about the Constitution and voting in elections. Many women's organizations have taken the initiative of opening clinics offering legal and humanitarian advice and assistance to marginalized groups, such as widows, divorced women and battered women, and spreading the culture of opposition to violence and discrimination against women. Women's NGOs have experience in implementing projects for developing and upgrading women's capacities, as well as development and income-generating projects. These organizations work in collaboration and coordination with international organizations operating in Iraq and relevant ministries, such as the Ministry of Labour and Social Affairs, Ministry of Education, Ministry of Human Rights, Ministry of Health and Ministry of State for Women's Affairs.

**Legal enablement of the work of NGOs (non-governmental organizations act)**

116. In view of the increase in the number of NGOs in Iraq to around 4,000 and afraid that some may follow private sectarian or political agendas or seek unlawful material profit and gain or are fictitious organizations acting as fronts for prostitution, the vice trade and other base commerce or for terrorist groups to hide behind, and in order to ensure lawful registration of and affiliation to these organizations, which is a constitutionally guaranteed right, the General Secretariat of the Council of Ministers, through the Ministry of State for Civil Society Affairs, introduced the registration of Iraqi NGOs and branches of foreign NGOs by issuing instructions for implementation of the Non-Governmental Organizations Act, No. 12 (2010). This was the outcome of a joint effort on the part of the Ministry, the civil society committee of the Council of Representatives and a group of NGOs.

## Article 8

117. Since 2003, the Iraqi Government has sought women's participation at international gatherings and has been keen to achieve a gender balance in the delegations from ministries and agencies not attached to a ministry to international events and gatherings, such as conferences and training and development workshops. The participation of the Iraqi delegation when Iraq's combined periodic report on human rights was discussed in 2009 is a good indication of this. The Government delegation was led by Madame Minister of Human Rights, with three participating female members in the delegation, one from Kurdistan Region, one from Baghdad and the third, a judge. The delegation thus contained four women, one of whom headed it. Furthermore, Iraq's permanent missions overseas observe the gender balance and include numbers of women as well men. Iraqi women hold positions in all United Nations offices whose programmes concern Iraq, such as the United Nations Development Fund for Women (UNIFEM), United Nations Development Programme (UNDP), United Nations Office for Project Services (UNOPS), United Nations Population Fund (UNFPA), United Nations Educational, Scientific and Cultural Organization (UNESCO) and United Nations Assistance Mission for Iraq (UNAMI). Accurate statistics on the numbers of Iraqi women in these organizations are not available but they are allowed to be employed without restrictions on the part of the State to prevent Iraqi women from being involved in international work.

118. The year 2003 saw the entry of women into the diplomatic corps for the first time in Iraq at the level of ambassador, with the appointment to the United States of Iraq's first female ambassador. Her term ended in 2004. Then, in 2009, three female ambassadors were appointed. In addition, there are large numbers of women working at many levels in the diplomatic corps in Iraqi embassies, representative offices and consulates abroad, as counsellors, first secretaries, second secretaries and consuls.

## Article 9

119. Iraq's reservation to article 9 of the Convention was consistent with the Nationality Act, No. 43 (1961), which remained in force until promulgation of the Law of Administration of the State of Iraq for the Transitional Period (2004), which held that an Iraqi is one who is born to an Iraqi father or mother and obliged the legislature to promulgate a law to regulate the matter. Subsequently, the permanent Constitution (2005) focused on this principle, holding nationality to be a right of every Iraqi and treating men and women equally with respect to the granting of nationality to their children. Thus article 18 stipulates:

“First: Iraqi citizenship is a right for every Iraqi and is the basis of his nationality.

Second: Anyone who is born to an Iraqi father or to an Iraqi mother shall be considered an Iraqi. This shall be regulated by law.

Third: (a) An Iraqi citizen by birth may not have his citizenship withdrawn for any reason. Any person who had his citizenship withdrawn shall have the right to demand its reinstatement. This shall be regulated by law. [...]

Fourth: An Iraqi may have multiple citizenships. Everyone who assumes a senior, security or sovereign position must abandon any other acquired citizenship. This shall be regulated by law.”

120. Thus, the Constitution required the legislature to promulgate a law regulating conditions for the acquisition of Iraqi nationality and its retention in the event of multinationality. On this basis, the Nationality Act, No. 26 (2006) was promulgated and came into force. It contains legal underpinnings in support of this article of the Convention, ensuring the following:

- Each person who holds Iraqi nationality shall in general be considered Iraqi, in accordance with article 1, paragraph (b): “An Iraqi: a person who enjoys Iraqi nationality”.

121. The Nationality Act treats men and women equally in respect of the attribute of being Iraqi. According to article 3, paragraph (a): “A person shall be considered Iraqi if: a. he/she is born to an Iraqi father or an Iraqi mother”.

122. It sets forth conditions for the acquisition of Iraqi nationality, including those contained in article 6:

“I. The Minister may approve naturalization of non-Iraqis subject to the following conditions:

- (1) That the person concerned has come of age;
- (2) That the person concerned legitimately entered Iraq and is resident therein at the time of applying for naturalization, with the exception of those born in Iraq and resident therein who have obtained a civil status booklet but have not obtained a nationality certificate;
- (3) That the person concerned has been legitimately residing in Iraq for 10 consecutive years prior to applying for naturalization;
- (4) That the person concerned is of good conduct and reputation and has not been convicted of a felony or dishonourable misdemeanour;
- (5) That the person concerned has conspicuous means of livelihood; and
- (6) That the person concerned is free of communicable diseases.”

123. The non-Iraqi husband of an Iraqi woman is given the right to acquire Iraqi nationality on condition that he has resided in Iraq for not less than five years, with the stipulation that he continues to be married to the Iraqi woman, pursuant to article 7 of the act: “The Minister may approve naturalization of a non-Iraqi married to an Iraqi woman subject to the conditions set forth in article 6 hereof, provided the period of residence stipulated in article 6, item I, paragraph (c) hereof shall be not less than five years and on condition of continued wedlock”.

124. The same right is given to the foreign wife of an Iraqi man. As such, the Act treats equally the foreign husband of an Iraqi woman seeking naturalization and the foreign wife of an Iraqi man likewise seeking naturalization, pursuant to the provisions of article 11:

“A non-Iraqi woman married to an Iraqi shall have the right to acquire Iraqi nationality subject to the following conditions:

1. That she has submitted an application to the Minister;
2. That she has been resident in Iraq for five years; and

3. That the marital bond has lasted up to the date of application. Exempted from this condition shall be any divorced or widowed woman, who has a child from her divorced or deceased husband.”

125. The law is, likewise, anxious that an Iraqi woman should not lose her Iraqi nationality in the event that she acquires the nationality of her non-Iraqi husband, unless she declares her wish to do so by written application submitted to the Iraqi Minister of Interior, pursuant to article 12 of the act: “If an Iraqi woman marries a non-Iraqi man and acquires the nationality of her husband, she shall not lose her Iraqi nationality, unless she has declared in writing her renunciation of Iraqi nationality”.

126. The act reserves an Iraqi woman’s right to regain her Iraqi nationality in the event that she renounced it, if her non-Iraqi husband is granted Iraqi nationality or she marries a man enjoying Iraqi nationality after she renounced Iraqi nationality. Furthermore, she has the same right if her husband divorces her, passes away or annuls their marriage contract, in which case nationality shall be restored to her from the date she submits an application to that effect, on condition that she is resident in Iraq at the time of submitting the application, pursuant to the provisions of article 13 of the act, which stipulates:

“If an Iraqi woman renounces her Iraqi nationality in accordance with item (III) of article 10 hereof, she shall have the right to regain Iraqi nationality subject to the following conditions:

I. If her non-Iraqi husband is granted Iraqi nationality or she remarries a man enjoying Iraqi nationality, Iraqi nationality shall be restored to her with effect from the date she submits an application to that effect.

II. If her husband passes away, divorces her or annuls their marriage contract, she shall regain Iraqi nationality with effect from the date she submits an application to that effect, provided that she is resident in Iraq at the time of submitting the application.”

127. Thus Iraq, despite its reservation to article 9 of the Convention, nevertheless adopted a considered approach, taking both constitutional and legal form, that amounted to unambiguous application of the substance of this article of the Convention. Decree No. 434 of the Council of Ministers, issued on 20 December 2009, approved a bill cancelling Iraq’s reservation to article 9 of the Convention. The Decree was proposed by the Ministry of Human Rights and put before Parliament for approval. The purpose of the bill was to remove the legal effect of the said reservation, pursuant to article 18 (second) of the Constitution and the Nationality Act, No. 26 (2006), which accords women the same rights as men in respect of the granting of nationality to their children. This is consistent with article 9 of the Convention. The instrument lifting the reservation to the article in question was subsequently deposited with the Secretary-General of the United Nations.

## Article 10

128. Education is one of the main areas in which a disparity emerges between males and females. It is clear that enrolment of females in education in comparison with males declines from primary through secondary level. In 2006, net enrolment of girls in primary education was 80.4 per cent and the proportion of girls to boys enrolled was 88.8 per cent, while net enrolment of girls in secondary education fell to 34.3 per cent and the proportion of girls to boys was 75 per cent.

129. There is no instance in Iraqi legislation of discrimination between the sexes in education, from kindergarten to university postgraduate studies. Indeed, education for children of both sexes from 6 to 10 years is compulsory under the Compulsory Education Act, No. 118 (1976). The law leaves females free to give up school after age 10, as her parents/guardians decide. Furthermore, higher education (post-secondary) is open to both sexes and students are admitted on the basis of grades (i.e. in accordance with ability). This admissions policy extends to postgraduate studies and academic scholarships and fellowships. Education at all stages is a constitutionally-guaranteed right, with article 34 of the Constitution stipulating:

“First: Education is a fundamental factor for the progress of society and is a right guaranteed by the State. Primary education is mandatory and the State guarantees that it shall combat illiteracy.

Second: Free education at all stages is a right for all Iraqis.

Third: The State shall encourage scientific research for peaceful purposes that serve humanity and shall support excellence, creativity, invention, and all manifestation of genius.

Fourth: Private and public education shall be guaranteed, and this shall be regulated by law.”

130. The following figures show student enrolment by educational stage:

- Kindergarten, covering ages 4 to 5: in 1998, there were 35,865 males and 24,720 females enrolled; in 2007, there were 41,986 males and 39,550 females;
- Primary, covering ages 6 to 12: in 1998, girls made up 44.5 per cent and boys 55.5 per cent of pupils, with figures showing 1,392,892 females compared with 1,677,965 males; in 2007, girls made 44 per cent and boys 56 per cent, with figures showing 1,825,317 females compared with 2,325,623 males;
- Secondary, covering ages 12 to 18: in 1998, there were 631,842 male students and 406,461 female students; by 2007, numbers had increased to 882,969 male students and 608,964 female students.

131. In most governorates, mixing between the sexes is confined to primary and tertiary stages. In Kurdistan Region, coeducational schools are fostered at all stages, in coordination with international and local organizations.

132. Universities and institutes are for students aged 18 and above. In 1998, there were 27,062 female students and 53,278 male students. By 2007, numbers had increased to 40,960 female students and 58,735 male students in teacher training colleges and fine arts institutes. In 1998, there were 877 female lecturers and 569 male lecturers; by 2007, there were 2,558 female lecturers and 1,603 male lecturers.

133. We should draw attention to the rise between 1995/1996 and 2006/2007 in the numbers of female students enrolled in education. In primary education there was an increase of 3.1 per cent and in secondary education, of 3.7 per cent. However, the number of female students registered in education over the period witnessed negative growth, declining by 0.3 per cent annually. In 2006, the ratio of females to males in primary education was 88 per cent and in secondary education, 75 per cent. The enrolment of females in undergraduate and postgraduate education recorded a remarkable increase in 2006/2007 of 8.9 per cent in relation to the enrolment of males, compared with 1995/1996, when the

figure was 5.7 per cent. Studies indicate the absence of any discrimination in respect of grants and qualifications.

134. Students in all governorates study centralized curricula set by the Ministry of Education, Ministry of Higher Education and Scientific Research and Organization of Technical Institutes. There is no discrimination in this regard. After 2003, the central Government took the initiative of including human rights and democracy in the undergraduate curriculum. However, the family education is still studied only in girls' schools. There is a drive by the Ministry of Education in the central Government to rewrite this subject to make it suitable for teaching in schools of both genders. The Ministry of Human Rights in the central Government is endeavouring to include combating violence and discrimination against women in school curricula and human rights is studied as part of the curriculum in all faculties of humanities, faculties of science and institutes. In addition, concepts pertaining to the interchange of roles in the family are included in the gender studies curriculum in Kurdistan Region and both sexes are taught skills of dispute resolution by peaceful means through extracurricular activities.

135. The Government fully supports free and compulsory primary education. The 1970 Constitution of the Republic of Iraq stipulates:

“(a) The State undertakes to combat illiteracy and guarantees the right of education, free of charge, in its primary, secondary, and university stages, for all citizens.

(b) The State strives to make primary education compulsory ... in cities and rural areas and to encourage in particular night school, which enables the masses to combine learning and work.”

On this basis, the compulsory education act of 1972 and the literacy and adult education act were promulgated to guarantee primary education. Evening courses are available to widen the scope for students in employment to continue their education at the same time in secondary and vocational education and even in certain university colleges. Admission to such courses is open to all. An approximately 30 per cent increase in the number of primary schools is reflected in a rise in the number of girls from 35 per cent to 44 per cent of total student numbers. Meanwhile, the proportion of male teachers in boys' primary schools and girls' primary schools across Iraq has risen to 26 per cent and 27 per cent respectively.

136. Studies indicate that there were 60,740 male dropouts from school and 56,137 female dropouts in 2006 (see schedule 7). In order to re-engage them, new forms of teaching, known as non-formal teaching, have been created within the educational system and distributed across multiple stages, namely:

(1) Youth schools, which cover the primary stage (ages 10 to 15). The period of study is four years, after which a certificate equivalent to a primary school certificate is awarded. However, according to Ministry of Education statistics, there is a limited number of these schools and only 6,689 students passed through them in 2005/2006. This figure is low, compared with the total number of students in primary school. There are 69 of these schools, with many governorates having none.

(2) Accelerated education: In 2005, the Ministry of Education implemented an accelerated education scheme in partnership with the United Nations Children's Fund (UNICEF). This form of teaching targets adolescent school dropouts in the 12 to 18 age group in all governorates, including

Kurdistan Region. It seeks to teach the primary curriculum in three years, after which graduating students are awarded a certificate equivalent to the primary school certificate. There were 144 accelerated education schools in 2006/2007, 123 in urban areas and 21 in rural areas; 52 of these were for girls and 76 for boys. Girls made up 36.5 per cent of students, with 3,513 students out of a total of 9,633.

#### **Involvement of NGOs in education**

137. Many civil society organizations are interested in education, despite being recent arrivals on the scene. The Iraqi Al-Amal Association launched the Challenge Project to improve the level of health and social culture and provide vocational training. In 2006/2007, 26 classes were opened, in which 773 female and 20 male participants enrolled. The basic literacy phase of the project, which takes nine months, has been completed in four governorates and participants aged from 10 to 50 have been able to complete the initial primary grade curricula. In Salah al-Din governorate, the project enabled 67 young women to sit for the general intermediate and secondary examinations and nine passed, most of them entering university or an institute. The Culture for All Association, in collaboration with the Directorate of Education in the Rusafah district of Baghdad, employed a school in Sadr City to teach 70 pupils who had dropped out of school.

#### **Spreading alphabetic literacy**

138. There is still a large gap in literacy rates between women and men in Iraq, despite a widespread decline in the number of illiterate women. Although Iraq achieved a 41 per cent decline in illiteracy between 1997 and 2005, particularly among women, the gap between the sexes remains wide. It should be noted that in 1997, illiteracy rates were 60 per cent among women and 65 per cent among men, while by 2005 they had fallen to 19.5 per cent among women and 10.4 per cent among men. Illiteracy rates among both sexes were lower in urban areas than rural areas, where, in 1997, rates were double those in cities and towns. In 2005, these rates declined by 13.2 per cent in both urban and rural areas to settle at 11.2 per cent in the former and 35 per cent in the latter. However, even this decline has not helped to close the gap between the sexes in both the countryside and towns. At 21 per cent, illiteracy in rural areas is seven times greater than the gap in the illiteracy rates of the two sexes in urban areas.

#### **Challenges facing continuing education in particular for girls**

##### *Custom and tradition*

139. Custom and tradition may deny females education on principle, even if it is otherwise permitted. This tends to be confined to primary education but extends to secondary education in a few cases. Constraints are also imposed on the enrolment of women at university, which may be restricted to girls' colleges and institutes. The data show that the proportion of uneducated women to all women aged 15 and above is 51 per cent in the countryside compared with 29 per cent in towns and cities. Some 44 per cent of women in urban areas enrol in education but no more than 13 per cent in rural areas.

##### *Poverty and lack of interest*

140. Lack of interest and poverty are the main reasons for the failure of girls to enrol in school. Some 24 per cent do not enrol because of lack family interest, while 13 per cent do not enrol due to poverty. Comparing females with males,



surveys show that 31 per cent of females have not enrolled in education, compared with 13 per cent of males.

#### *Violence*

141. The escalation of violence has caused families to stop daughters from continuing their schooling. The difficulty of getting to school requires girls to be accompanied by a family member or to have means of transport available, which represents an additional expense for the family. The reduced presence of females compared with males in special homes and institutions attached to the department for the care of those with special needs may be due to the fear among many families that their handicapped daughters may be harmed or kidnapped. This, combined with certain traditional notions, causes families to stop daughters from continuing their schooling in order to avoid violence in the streets. Figures in the *National Report on the Status of Human Development* (2008) indicate that the number of girls leaving school after the primary stage rose from 39,266 in 2001/2002 to 76,795 in 2003/2004, while the number of female university students throughout the country who abandoned their studies was 12,723 (9,958 morning students and 2,795 evening students). Among female secondary school students, some 25,846 abandoned their studies.

#### *Exclusion from school*

142. Exclusion is described as failure to enrol an individual in the 6-12 age group in primary school or not completing the primary stage. There is an exclusion rate of 16 per cent in urban areas and 41 per cent in rural areas. This is due to issues including economic ability and facilities provided by the education system in urban areas, as well as the aspirations of the family and their awareness of the importance of education. These figures demonstrate a clear distinction between town and country that is perhaps attributable to attitudes towards girls' education. Some 64 per cent of mothers in rural areas in Iraq strongly agree that educating male children is more important than educating female children, compared with 42 per cent of mothers in urban areas. Furthermore, 34 per cent of mothers in rural areas do not wish their daughters to obtain a certificate higher than the primary certificate.

#### *Time to reach primary school*

143. The time it takes students to reach school, because of the long distance involved, is a factor. Poor families may be unable to afford transport costs or not want to send their daughters to school. This suggests that the higher level of enrolment of males than females may be due to social and cultural reasons that are discriminatory towards women.

#### **Sports**

144. All types of sporting activities are open to girls, in accordance with their inclination and ability. Inter-school tournaments and events are held to encourage competition. Sports clubs admit women and have special female staff to train them. There is a woman member of the Iraqi Olympic Committee, which regulates all sporting activities in the country. Given Iraq's concern with promoting sport, physical education is part of the curriculum at the kindergarten, primary and secondary stages, being taught more widely and with more specialization at the Physical Education College. So that women who wish to complete university studies in this field may do so, a Girls' Physical Education College has been opened that admits females only. The college is administered by women and the teaching staff consists of female specialists. Furthermore,

women with special needs take part in sporting competitions and many Iraqi women have won international and domestic championship medals.

#### **National Development Plan 2010-2014**

145. This plan is concerned with the advancement of education. Using statistics and a series of studies to identify reasons for the deterioration in education, the plan has set a number of strategic goals for the concerned bodies to work towards achieving, as follows:

- That the number of children in kindergarten will be 133,049, an average annual increase of 22,175 and there will be an increase of 4,417 in the number of teachers in the target year, an average annual increase of 750;
- At primary level, it is planned that student numbers will reach 989,099, with a need for 56,908 additional teachers and 2,615 additional schools;
- At secondary level, the number of students enrolled will increase to 1,847,112 in the target year. The need for additional teachers by the target year will be 17,191 at a growth rate of 2,865 teachers per year, requiring an additional 913 secondary schools by the target year, an annual average increase of 162;
- The number of students enrolled in vocational schools will increase to 72,188 by the target year. There will be a need for an additional 870 teachers and trainers and an additional 73 schools by the target year;
- The number of students enrolled in teacher training institutes by the target year will be 78,072, an annual increase of 13,162. There will be a need for an additional 471 teachers by the target year, an annual average increase of 78, and an additional 54 institutes, an annual average increase of 9;
- The number of students enrolled at universities by the target year will be 308,745, at technical institutes 42,958 and at technical colleges, 61,646, an annual average increase of 51,457 students at universities, 7,160 at technical institutes and 10,274 at technical colleges. There will be a need for 2,030 teachers at universities, an annual average of increase of 338, and a need for an additional 2,058 teachers in technical education, an annual average increase of 343 teachers;
- As regards eradicating illiteracy, there will be a need for an additional 90,000 teachers and an additional 60,000 special centres by the target year;
- As regards youth schools, there will be a need for an additional 207 teachers by the target year, an annual average increase of 34, and for 25 schools, an annual average increase of 4.

#### **Education in Kurdistan Region**

146. According to the *National Report on the Status of Human Development* (2008), Al-Sulaymaniyah governorate recorded gender equality in education, the ratio rising to 100 per cent in secondary schools through application of the compulsory primary education act for boys and girls, causing girls to engage with education, especially in rural areas where tribal practices hold sway and women form a large proportion of the unpaid workforce.

147. The achievements of the regional Ministry for Women's Affairs include:

- A field survey to study the reasons why females discontinue education in order to try to eliminate the phenomenon;

- Formulation of an educational policy that seeks to consolidate the principles of social equality and justice, focusing on involving women as partners in formulating and drafting educational policy and public policy at all educational stages;
- Application of the compulsory primary education act;
- Strengthening the presence of mixed schools, in coordination with and with the support of international and local organizations.

## Article 11

148. The Labour Act, No. 71 (1987) guarantees the rights of workers. It has not been repealed and remains in force. Among its key provisions, the act guarantees the right to work, worker's right to earn a wage which is adequate to meet his essential needs, in accordance with the type and amount of work. The Act observes the principle of equality with regard to work performed equally by both sexes and under identical circumstances. An entire section is devoted to protection of the rights of working women, obliging the employer to inform a female employee of her rights and duties by posting on a notice board at the workplace a copy of the provisions regarding the protection of women workers. It specifies the jobs in which it is forbidden to employ a female worker, including arduous work that is harmful to health and, for a pregnant woman, overtime and night work in order to protect her health and that of her unborn child. Women workers are entitled to a rest period of at least 11 consecutive hours each day, including 7 hours between 9 p.m. and 6 a.m. to ensure that they have adequate rest. A pregnant woman is entitled to a total of 72 days maternity leave before and after delivery with full pay. A working mother may enjoy special maternity leave of six months with full pay; this leave shall be considered a period of service for purposes of pension. In certain circumstances and on the basis of a report issued by the medical committee, this period may be extended to nine months. She has the right to maternity leave without pay for a period of not more than one year to look after her infant child under the age of one. A woman worker may not use her special maternity leave for any purpose other than that for which it was granted. Nursing mothers are permitted a nursing break of up to one hour during working hours. A woman with one or more children under the age of six may be absent from work without pay for a period of up to three days if one of her children is sick and needs her care. Each employer must provide female employees with rest facilities in accordance with the requirements of their work. A widowed female employee is entitled to a legal mourning period of 120 days with full pay. In Kurdistan Region, a woman is entitled to post-delivery leave of one year with full pay and allowances.

149. Persons applying for work are subject to the same tests and criteria, with preference being given to those achieving a higher assessment in the required qualifications, including certificates, experience and previous training. The role of institutional mechanisms and Government intervention remains fundamental and vital to fostering equality. Iraq has been a party to the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) since 15 June 1959. Prior to 2003, the State was the principal employer of women in Iraq, with some 46 per cent of working women employed in the Government sector.

150. The same criteria are applied to both sexes in determining wages and salaries, in accordance with instructions and regulations issued pursuant to the Civil Service Act, No. 24 (1960, amended) and the Labour Act, No. 71 (1987). Iraq acceded to the Equal Remuneration Convention, 1951 (No. 100) on 28 August 1963.

Marriage allowances can be paid to either spouse, subject to their agreement, but are usually paid to the husband. These allowances are stopped in the event of dissolution of the marriage, in accordance with article 43 of the Civil Service Act, No. 24 (1960, amended). In practice, however, there appears to be some discrimination in the private sector, where job applications may be restricted to men only in order to avoid having to grant female employees leave, such as maternity leave, as stipulated in the Labour Act.

151. There is nothing in Government policy to prevent a woman from choosing her profession or type of employment. Annual evaluation of all State employees is carried out in accordance with central indicators that exclude gender and rely on criteria of ability, years of service and efficiency. A woman is not required to take up employment against her will. Iraq is committed to the aforesaid acts and international conventions to which it has acceded, such as the International Labour Organization (ILO) Convention concerning the Abolition of Forced Labour, 1957 (No. 105), to which Iraq acceded on 15 June 1959, and the ILO Convention concerning Forced or Compulsory Labour, 1930 (No. 29), to which Iraq acceded on 27 October 1962.

152. After 2003, the Government adopted policies to develop and increase the capacities of its employees of both sexes. It is keen to establish gender balance and, with the direct cooperation and support of international and foreign organizations, to raise the performance level of employees in the instrumentalities of the State. The results of a survey on employment and unemployment showed an increase in the economic activity rate from 44.1 per cent in 2003 to 49.5 per cent in 2005 but a fall to 46.8 per cent in 2008. These figures are a reflection of the labour market in urban and rural areas and as between the sexes. The participation of women remains very low in comparison to that of men, despite women's increased involvement in economic activity from 14.2 per cent in 2003 to 18 per cent in 2008.

153. The Ministry of Labour and Social Affairs continues to train and increase the skills of workers of both sexes in order to improve their level of performance, professional competence and productivity. It has introduced courses to increase the capacities of working women by training them in dressmaking, hairdressing and the use of computers, by developing their academic and professional skills and by teaching Arabic and English.

154. The Ministry is keen to monitor the status of women in the workplace and, to this end, has appointed women inspectors, trained in the social and psychological aspects of women's lives, to make field visits to find out the extent to which the status of working women is consistent with national legislation, such as the Labour Act, and the relevant international conventions which Iraq has ratified.

155. The Workers' Pension and Social Insurance Act, No. 39 (1978), which is still in force, deals with cases of disability, old age and inability to work, as determined by designated medical bodies in accordance with medical procedure and examination on the basis of which the degrees of the aforesaid conditions are calculated, thereby forming the basis for the social security coverage of workers, both male and female. The Ministry of Labour and Social Affairs is responsible for the direct management of homes for the elderly, which accept old people (women aged 55 and above and men aged 60 and above) with no family to care for them. There are six of these homes, located in Baghdad, Nineveh, Karbala, Al-Najaf, Al-Diwaniyah and Basrah, providing a variety of services, including food and clothing, health, social and leisure services, as well

as pocket money of \$25 a month. Article 30 of the 2005 Constitution obliges the competent bodies to promulgate a law guaranteeing social and health insurance:

“First: The State shall guarantee to the individual and the family – especially women and children – social and health security, the basic requirements for living a free and decent life, and shall secure for them suitable income and appropriate housing.

Second: The State shall guarantee social and health security to Iraqis in cases of old age, sickness, employment disability, homelessness, becoming orphaned or unemployed. It shall work to protect them from ignorance, fear and poverty, and provide them housing and special programmes of care and rehabilitation. This shall be regulated by law.”

156. The Social Welfare Act, No. 126 (1980) affirms that a social welfare payment is to be granted to widows, divorced women, the disabled, the elderly and the unemployed, in accordance with the instructions and regulations. To develop the principles of this act in line with the demands of the current phase, including ensuring the needs of vulnerable groups (orphans, street children, the handicapped, the elderly, widows, divorced women, women heads of households, the homeless, forcibly displaced etc.), the Ministry of Labour and Social Affairs has drawn up a bill for the creation of a social protection net, which is currently before the competent bodies for study and approval.

157. The State endeavours to provide social support services to enable parents to combine family and child-raising with work. As such, the Ministries of State have set up crèches within their buildings and in several ministerial directorates and institutions for male and female children of staff. Sadly, some of these crèches have been destroyed and the children inside killed in terrorist explosions, such as one that targeted the Ministry of Finance and Ministry of Justice, killing a large number of children. There are many crèches run by NGOs and women with special needs.

## Article 12

158. Individual and family health has been a concern to Iraqi Governments that bears upon the application of the right to enjoy health as a human right. This right was legislated in the Public Health Act, No. 89 (1981), which is still in force. Its provisions provide guarantees for the welfare of motherhood and childhood and, likewise, family health. These rights are provided in the law for everyone, without discrimination and are enshrined in the Iraqi Constitution, article 31 of which stipulates:

“First: Every citizen has the right to health care. The State shall maintain public health and provide means of prevention and treatment by building different types of hospitals and health institutions.

Second: Individuals and entities have the right to build hospitals, clinics, or private health-care centres under the supervision of the State. This shall be regulated by law.”

Government spending on the health sector represented 6 per cent of total public spending in 2009. The sector has suffered from the wars, sanctions and occupation that have befallen Iraq, the destruction of infrastructure, the theft, looting and pillage following the fall of the regime in 2003 and the ensuing terrorism and administrative corruption.

159. The Ministry of Health is the governmental body in charge of providing health-related services and has hospitals distributed throughout all governorates, districts and subdistricts, as well as clinics and specialist health centres. In providing services, the Ministry relies on specialist physicians supported by nursing staff trained in a range of specializations. The Ministry provides them with training and increases their numbers as needed. In 1998, the medical and health staff consisted of 41,973 men and 26,181 women; these increased to 99,689 men and 47,161 women by 2008 (see schedule 9).

160. In 2008, there were 210 public (or Government) hospitals providing general and specialist medical services, including prenatal, delivery and post-natal services for women. These hospitals are concentrated in urban areas.

161. To provide greater medical and health-care coverage to citizens, the Ministry of Health has allowed private hospitals to be built, particularly maternity hospitals to which a woman may turn for natural or caesarean delivery because of the careful monitoring and cleanliness. However, given their limited capacity and the high price of treatment, this is not an option for all families. Government hospitals offer a private system service at subsidized prices.

162. Although there is still an acute shortage of medical staff in hospitals and health centres, particularly of women doctors needed in maternity and paediatric hospitals, there has been a marked improvement since 2008. In Basrah governorate, for example, there were 1,762 doctors in 2008, 612 of whom were women. By 2009, the number had risen to 2,517. This shortage of staff, which has a direct impact on citizens' enjoyment of their right to receive health care, is attributable to two factors:

(1) The scientific brain drain, including emigration of specialist physicians and experts at risk of being killed by terrorist groups, whose skills are used by international centres;

(2) The resort of some to employment in the private sector, given the higher earnings potential.

In Kurdistan Region, there were 21,443 Ministry of Health male staff and 13,828 female staff in 2009.

163. The Ministry of Health offers full health-care services for mother and child and all services relating to family health. The Ministry is responsible for conducting the primary medical examination of those applying to marry and issuing the declaration of fitness. It provides prenatal and delivery services and is responsible for inoculating children. All of its responsibilities are carried out at specialized medical centres.

164. The instability Iraq experienced from 1998 until after the change of regime in 2003 and the ensuing unrest and violence and burning of hospitals and Government buildings led to the loss of most of the relevant statistics. However, those which are available indicate:

(a) The under-five mortality rate for both sexes was 35 per 1,000 live births in 2007, rising to 36 per 1,000 in 2008; the infant mortality rate was 32 per 1,000 live births in the same year;

(b) Maternal mortality in 2006 and 2007 was 84 per 100,000 live births; in Kurdistan province in 2007, it was 47 per 100,000 live births;

(c) In 2008, 9.79 per cent of deliveries were carried out under the supervision of qualified Ministry of Health staff;

(d) Condom use accounted for 1.1 per cent of a total of 8.49 per cent who use contraceptives;

(e) Statistics from the Communicable Disease Control Centre on the spread of the HIV/AIDS virus show that the rate of infection was 0.01 per 1,000,000 females in 2004. There was one case of infection of a pregnant woman that year. No cases of infection were recorded in 2003, 2005, 2006, 2007, 2008 and 2009.

165. Immunization of children against tetanus, measles and typhoid begins in the first months after birth and continues thereafter. Available statistics indicate that, of 1-year-old children, 73 per cent were vaccinated against measles in 2001, 79 per cent in 2002, 66.8 per cent in 2003, 81.7 per cent in 2004, 75 per cent in 2005, 69.9 per cent in 2006, 63.8 per cent in 2007 and 80.24 per cent in 2008.

166. Clinical and laboratory tests are carried out on persons applying to be married to ascertain that they are free of contagious diseases and suitable for one another. The personal status act safeguards this process, holding it to be a fundamental measure prior to the signing of the marriage contract in court.

167. Births take place in private hospitals staffed with qualified medical and health personnel. In 2008, 9.79 per cent of births took place under the supervision of such personnel. The Ministry is keen to increase the expertise of personnel by having them participate in training courses, conferences and workshops held in various countries abroad. In partnership with the World Health Organization (WHO) and other bodies, some 2,078 staff were sent to England, India and elsewhere. In addition, training courses to develop workers' skills were held inside Iraq; these targeted 1,213 participants from a variety of specializations.

#### **Achievements in family health**

168. The Ministry of Health adopts a health system that relies on primary health care – the first level of services offered to citizens – as the basis for providing health services consistent with quality standards, while ensuring that these services are integrated with the second level services (the public hospitals) and third level services (specialist centres) by application of a system of referrals based on precise conditions and guidelines. Furthermore, the system of family medicine applied in health centres to provide quality services has been expanded. The following have been achieved:

(a) Development of the modus operandi in primary health-care centres and application of the referral system in health organizations to ensure quality of service at all levels;

(b) In 2008, there were six medical centres which had adopted the family medicine system and by 2009, there were 8, with 17 in the pipeline. The system consists of opening a file on each family member and monitoring that person's situation on a continuous basis. Application is confined to a limited geographical area that may not be exceeded. It is a type of health service by which maternal and child health can be monitored. If the experiment is successful, it will be extended to all governorates;

(c) Creation of delivery rooms and emergency departments in many primary health-care centres in remote areas. There were 123 such centres in various governorates in 2009, compared with 23 in 2008;

(d) Development of blood transfusion services by modernization of the system of operation and the training and upgrading of staff;

(e) Banning smoking in Government buildings and public places, with special areas set aside for smokers and a fine imposed on offenders;

(f) Establishment of 41 centres for the control of non-communicable diseases (such as high blood pressure and diabetes), using monitoring and early detection systems;

(g) Adoption by primary health-care centres of a system for the early detection and diagnosis of malnutrition;

(h) Implementation of campaigns to control poliomyelitis, measles and tetanus in order to reduce infection rates and catch drop-outs from the expanded immunization programme;

(i) Preparation of contingency plans for the control of epidemics and communicable diseases by ensuring the availability of medicines, medical supplies and support equipment and by training medical and health staff in epidemic surveillance and disease transmission control. As a result, a decline in cases of laboratory confirmed cholera from 4,691 in 2007 to 926 in 2008 was recorded, while one case of domestic malaria and three of imported malaria were recorded in 2008, compared with three in 2007;

(j) Women receive free treatment at all three levels, just as men do. Furthermore, the Ministry of Health provides prenatal and delivery services and regular post-natal examinations, as well as running inoculation and awareness-raising campaigns, under the Health Act, No. 89 (1989). In 2009, there were 2,168 health centres, an increase of 179 over 2008. There are centres specializing in reproductive health, which provide family planning services and a full range of contraception services. In 2009, 742 women benefited from these services, which were provided at five health centres. Birth control remains linked to a woman's health awareness and the influence of social customs. However, large sections of women, particularly in the countryside and from the poorer strata of society, do not possess the necessary culture of health awareness;

(k) Implementation of the 10 hospitals project in order to achieve the goal of 105 beds per 1,000 population;

(l) Training of female nursing staff by opening nursing schools for women only and closing those for men in order to reduce the shortage of female nursing staff;

(m) Use of modern technology in the early detection of disease, introduction of a new system of cancer treatment and cancer recording and provision of high quality health services through consultancy clinics and specialist hospitals in Kurdistan Region; furthermore, the use of modern technology in the early detection of cancer in general and of breast cancer among women in particular. Official statistics show that there were 1,321 cases of breast cancer among women in 1998, rising to 2,081 in 2001, 2,292 in 2002 and 2,033 recorded cases in 2004, indicating a slight decrease. In 2009, a number of international organizations offered cooperation and support, in coordination with the Ministry of Planning, in conducting a comprehensive survey of women to enable them to address health problems on the basis of carefully studied scientific methods.

169. Recent statistics indicate that breast cancer represents 32 per cent of all cancers affecting women in Iraq, with an incidence of 20 cases per 100,000 women.

170. Some 227 cases of leukaemia were recorded among women in 1998, rising to 304 in 2000. The rise continued, with 341 cases recorded in 2003 and 596 in 2005. Studies show that there is an increased likelihood of women contracting



cancer. There were 164 recorded cases of ovarian cancer in 1998, 167 in 1999 and 275 in 2001, falling to 249 in 2002 and 241 in 2004.

171. Despite the fact that breast cancer typically affects women over the age of 50, it has recently begun to affect young and middle-aged women, as a result of poor diet and environmental conditions. Studies suggest that it is possible to save 95 per cent of women with the disease by early detection. On 18 February 2008, the higher committee for raising awareness of the early detection of cancer set up a framework bringing together the Ministry of Health, Ministry of State for Women's Affairs and Ministry of State for Civil Society Affairs which, with the support of WHO and UNIFEM, initiated a wide-ranging campaign in 2008 and 2009, implementing dozens of seminars and conferences. This campaign succeeded in increasing the numbers of women presenting at specialist medical bodies. Statistics show that 2,420 women presented in Basrah governorate in 2008 and 4,297 in 2009 (this number was set to reach 5,000).

172. Similarly, the Ministry of State for Women's Affairs, in collaboration with the Ministry of Health launched campaigns targeting all State ministries on:

(1) Raising awareness of impediments to reproductive health, contraception, safe childbirth, care for pregnant women, postmenopausal disorders and sexually transmitted diseases;

(2) Fighting breast cancer and the importance of self-examination and early detection, as well as of the substance of reports and field surveys. A strategic plan was formulated on a breast cancer awareness project, supported by statistics and including a discussion of the scientific component prepared by the Cancer Council, to raise awareness of the importance of early detection of the disease. The Ministry of Education was approached with a view to including the topic in the secondary school curriculum;

(3) Awareness-raising and education in the field of human rights and in combating violence against women. A higher steering committee, chaired by the administrative undersecretary of the Ministry and with a membership consisting of the concerned ministries, was formed to draw up the necessary plans.

173. A strategic plan for 2008 and 2009, based upon statistics, was formulated by the Ministry of State for Women's Affairs to combat breast cancer and a campaign was supported by the General Secretariat of the Council of Ministers. The campaign's website is: [www.scbc.gov.iq](http://www.scbc.gov.iq).

174. The Ministry of Health has formulated a five-year plan (2009-2013) that seeks to:

- Reduce disease and mortality rates;
- Control communicable diseases;
- Reduce rates of malnutrition-related diseases among children under five;
- Ensure healthy and safe food;
- Develop and increase the number of specialist medical centres;
- Create disaster response units;
- Provide medicines and medical supplies;
- Adopt a national medicines policy;
- Adopt an effective monitoring system based on the principles of impartiality and professional competence;

- Create health institutions with advanced, hotel-like amenities in Baghdad and the governorates and develop the infrastructure for these;
- Increase annual allocations in the national budget by 10 per cent;
- Ensure that administrative corruption in the health sector is eliminated by applying the national anti-corruption strategy;
- Create a higher committee to monitor health indicators associated with development goals, chaired by the administrative undersecretary of the Ministry and with membership consisting of concerned ministries; the committee's goals include improving maternal and child health and ensuring that women achieve equal rights with men in order to close the gender gap in health.

#### **National Development Plan 2010-2014**

175. The plan includes health among urgent concerns and a set of health goals has been formulated, as follows:

- Reducing patient/doctor ratio, increasing the number of beds in proportion to the size of the population, seeking justice in the distribution of health organizations between rural and urban areas, increasing the number of institutions performing specialized medical functions and providing them with necessary equipment and supplies;
- Expanding and developing current health organizations by 50 per cent;
- Establishing advanced health organizations in all provinces to increase the number of beds in health departments by 41 per cent;
- Expanding primary health-care services by increasing the number of health centres to cover the needs of health departments in Baghdad and other provinces by 20 per cent;
- Increasing the number of specialized health centres to cover the needs of provinces for specialized services (specialized surgeries – preventive diagnosis) by 50 per cent.

#### **Achievements of the Ministry of Health in Kurdistan Region**

176. The Ministry of Health in Kurdistan Region is concerned with the provision of medical and health services to citizens in general and with the special requirements of women's health in particular. The Ministry ensures the medical staff, hospitals, services and supplies necessary to preserve the lives of citizens and provide proper treatment. The figures on women's health reveal:

- 88.1 per cent of deliveries are carried out by specialist personnel and 67.8 per cent take place in hospital;
- The Ministry of Health supplies 81.3 per cent of contraceptives and provides continuous care for 80.2 per cent of pregnant women;
- Testing for symptoms and treatment of HIV/AIDS are offered and 0.5 per cent of women have been tested. Information is provided on special HIV/AIDS centres and 3.4 per cent of women know where these are.

177. The Ministry of Health in Kurdistan Region has taken measures designed to raise health awareness and preventive health awareness in general and among women in particular. The most significant of these are:

- Educational and guidance courses for mothers on how to deal with boys and girls of all ages, as well as courses for 12 to 17-year-olds of both sexes on adolescent health;
- Workshops on women' leadership role in society, held in coordination with the Women Empowerment Organization;
- Conferences held in coordination with UNICEF on early detection of breast cancer and breast self-examination to protect against the disease;
- Training courses on detecting diabetes during pregnancy, with the participation of qualified female doctors;
- Given the seriousness of female circumcision, the Ministry, in coordination with UNICEF and other relevant ministries, held a conference at which concerned parties came together to study the issue;
- Workshops on eliminating violence against women in the region, in coordination with the Ministry of the Interior, Ministry of State for Women's Affairs and UNICEF;
- Adoption of an action plan to combat HIV/AIDS, maternal and infant mortality, teenage pregnancy, the health effects on mother and unborn child of closely spaced pregnancies, and family planning.

#### **Health challenges facing Kurdistan Region**

178. The Region faces challenges that prevent the optimum provision of health care, including:

- Shortage of material resources;
- Widespread illiteracy (approximately 22 per cent) among women;
- Poverty;
- Lack of medical and health personnel to provide full coverage in remote areas;
- Poor administrative coordination.

179. The Ministry of Health plan for the future aims to:

- (1) Reduce rates of infant mortality under the age of one;
- (2) Reduce rates of under-five mortality;
- (3) Reduce rates of maternal mortality;
- (4) Improve primary health care for mother and child;
- (5) Promote the family planning programme;
- (6) Eliminate violence against women.

#### **Article 13**

180. Despite the guarantee of the principal of equality contained in article 14 of the Constitution, which states: "Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, colour, religion, sect, belief or opinion, or economic or social status", there are several areas where genuine equality is lacking. Article 23 (third) (a) of the Constitution stipulates that "All Iraqis shall have the right to own property" without discrimination on the basis of gender. However, this principle comes up against

deeply-rooted customs that restrict a woman's enjoyment of this right, especially in rural areas. Neither the Constitution nor the operative laws dealing with property ownership within the family have been able to adopt the principle of joint ownership, as the law requires that the principle of the financial independence of both sexes be safeguarded.

181. The guaranteed access of women to resources is one of the foundations of human development. In order to have access to, make use of and control resources, it is essential to be able to make decisions regarding them. Such resources include land, income, credit etc. In Iraq, women do not enjoy adequate and equal opportunities of access to basic resources and services. Generally in Iraq, women have less in the way of financial assets than men. Consequently, female-headed households are less well-off than male-headed households. Although we do not have accurate data on the extent to which women enjoy independent rights in respect of the ownership of land or houses or the management of property or business, the law does guarantee equality in these areas. The Ministry of Finance grants loans to State employees for the purchase of real estate and these loans are disbursed on the basis of pre-existing criteria, which the applicant for the loan must meet. Gender is not one of the required criteria. Accordingly, female employees may benefit from such loans on equal terms with men.

182. The phenomenon of female-headed households has been aggravated over the last 20 or more years by the economic sanctions, constant wars and armed conflicts which have taken the lives of fathers and sons. Women have suffered most from the consequences of these events. The occupation and ensuing spread of armed conflict and violence after 2003 and the escalating scale of violence led to a rise in the number of widows. The figures showing the extent of the situation are contradictory. However, the results of a survey conducted by the Central Organization for Statistics (COS) in 2004 indicate that 11 per cent of families are female-headed households and that 73 per cent of these are headed by widows. Furthermore, the survey shows that there is a difference between the income of female-headed households and male-headed households, with 40 per cent of the former unable to gather 100,000 dinars (about \$90) and thus they are forced to make up the shortfall from savings or from the assistance they receive during the week; this compares with 26 per cent of male-headed households. Moreover, the prevailing situation and domestic pressures, as well as a lack of adequate collateral, hinder women's access to microfinancing at a time when, on the one hand, these schemes are making an effective contribution to the expansion of economic capacity, and on the other hand, they offer a solution for women who are unable to have access to resources, such as women without education or training, which includes many rural women. Microfinancing schemes were launched in 2007 but, still in the initial stages, they have not yet been able to provide women with greater affluence.

183. The *Iraq Living Conditions Survey* (2004) indicates that 79 per cent of women work in agriculture, teaching, public sector administration and social and health administration and services. In the education sector, the participation of women is wider than that of men, with 292,000 women working in this field, compared with 197,000 men. Women make up one third of the workforce in rural areas.

184. Unemployment among women is higher than among men. In 2006, the unemployment level among women was 22.7 per cent, up from 14.1 per cent in 2005. At the same time, male unemployment fell to 16.2 per cent from 19.2 per cent in 2005. Given that Iraq is oriented toward a market economy, only limited measures have been taken to address the menace of unemployment. This in itself

represents a further challenge to women enjoying the job opportunities provided by the State, as women face a changing economic environment dominated by competition in access to jobs. In such circumstances, the private sector is an alternative, although there is no guarantee that it will provide jobs for women. There are a number of reasons for this, including the fact that a woman has a right to maternity leave and a right to nurse her children, or that she may be unable to meet an employer's numerous requirements (which bear the hallmark of discrimination and violence).

185. This, too, aggravates the severity of the competition for access to jobs. Given that men enjoy superior social advantages, necessity demands that education and training policies be formulated to increase women's performance capacity. Such policies should include increasing the numbers of morning and evening vocational schools and vocational training centres.

186. The conditions prevailing after 2003 were one reason for the low level of female employment in the private sector. Women represent between 32 per cent and 38 per cent of private sector employees, working in health, financial institutions, agriculture and other activities. However, women risk being laid off in the private sector and denied the benefits guaranteed by the workers' pension and social insurance act and the labour act, as employers seek to evade their responsibilities under these two acts. When the economy is in recession, women's jobs and employment are affected. Social stereotypes and stereotypic images of men and women play an important role in confining female labour to certain areas (such as dressmaking, food manufacturing etc.), particularly in the case of uneducated women or those with a low level of education. Iraqi women have faced this since economic sanctions began in 1990. Family income has been too low to meet basic needs, driving women, even those employed in the public sector, to leave their jobs and work at home in order to provide additional resources to meet the family's needs, even though such work does not provide economic, social or psychological stability for the woman or her family.

#### **National Development Plan 2010-2014**

187. In order to boost the economy and increase the level of employment, particularly among young people and women, the five-year plan adopted measures which seek to:

- Foster the role of the private sector in employment, leading to a reduction in the country's high unemployment rate of 15 per cent (including seasonal unemployment and underemployment) and in the social problems associated with long-term unemployment and the disregard or neglect of the economic, social and environmental aspects of the life of the population. Some 3 to 4.5 million jobs are expected to be generated by increasing awareness and acceptance of the principles of sustainable development and quality of life and the demands thereof in all economic sectors, as well as the inclusion of these principles in urban and rural planning as part of the plan.
- Provide sustainable employment and income, ensure basic services for the poor and ensure qualification and training in new fields of employment, particularly for vulnerable groups such as orphans, widows and persons with special needs. The plan is expected to reduce poverty levels by 30 per cent.

#### **Article 14**

188. Rural women combine duties in the home as mothers and wives with work outside the home in farming. Women are productive workers and make up one

third of all rural workers. In common with other sections of Iraqi society, the situation of women has worsened as a result of war, sanctions and crises and the ensuing political and sectarian violence, which was not confined to the cities but spread into the countryside. This has had a direct impact on the level of services, despite efforts of the Government health sector to continue providing health services in an orderly manner.

189. While there are schools throughout rural areas, their numbers have not increased since before 1988. Girls, like boys, have a right to education and schools admit both sexes to study the same centralized curriculum. However, girls' attendance at school differs for reasons relating to custom, family wishes and early marriage. The discussion on education (article 10 of the Convention) drew attention to this.

190. As recipients of services, including electricity and clean drinking water, the situation of rural women is the same as that of the entire rural population, who suffer from a severe shortage of these services.

191. Rural women are able to benefit from all laws without discrimination, including the Agricultural Reform Act, No. 117 (1970), which grants them the right to reclaim and cultivate land and obtain the necessary credit under the Agricultural Bank and Real Estate Bank regulations. The Agricultural Societies Act, No. 43 (1979) gives women the same right to participate in agricultural societies as men.

192. With the change in the political situation after 2003, civil society organizations were allowed to pursue their activities. Groups of NGOs sought to extend their cultural, social, health and economic activities into the countryside and rural women exercised their right to take part in electoral politics in their areas on an equal basis with men. The election laws require voters to vote in person and elections in the countryside witnessed the widespread participation of women.

#### **Rural women and the job market**

193. The participation of rural women in the job market has fluctuated but stabilized in 2008 at 24.5 per cent. Accordingly, there is one working woman for every three working men in the countryside. Despite the marked increase of women in the job market, the gender gap is still large, with the data showing it to be not less than 50 per cent in urban areas and 46.6 per cent in rural areas in 2005. Note that the gap was 60.6 per cent in urban areas and 57.6 per cent in rural areas in 2003, declining to 58.6 per cent and 53.5 per cent, respectively, in 2008. This shows that the gap between the sexes in respect of participation in the job market is wider in urban areas than it is in the countryside.

#### **Challenges facing the countryside**

##### *Drying up of surface water*

194. Iraq is currently facing an enormous and catastrophic challenge, namely, the drying up of surface water. By way of example, the River Euphrates is the principal source of water in Babil province. In 2009, the flow was 150 cubic metres per second, while 220 cubic metres per second was actually needed; this represents a shortfall of 70 cubic metres per second. This was due to:

- (1) A reduction in the volume of water flowing through the Tigris and Euphrates rivers from their headwaters in Turkey;
- (2) Sparse rainfall;

(3) A lack of solutions to put into practice.

195. Due to the age of the irrigation and agricultural schemes and electrical power outages, rural agriculture has witnessed a decline in general, resulting in:

- A decline in all types of agriculture;
- A reduction in the income of rural families;
- The migration of some rural families to the towns in search of work.

196. Women represent a substantial proportion of the workforce and the combination of the above factors has had a negative impact on them, especially in the Marshes (Al-Ahwar), a region known for its wetlands on which thousands of families in the countryside of southern Iraq depend for a living. This has led to a decline in the standard of living in rural areas to below the poverty line due to unemployment stemming from lack of jobs.

### **Service problems**

197. The Iraqi countryside suffers from poor provision of services. The most significant of these problems are:

- Paucity of specialist health centres and lack of qualified health personnel; this contributes to the reliance on traditional midwives and circumcisers, who are not a substitute for a male or female physician;
- The distance of schools from places where students live, causing an aversion to education, particularly among primary schoolchildren, who do not have the strength to walk long distances. Sometimes, schools are only found in subdistricts, obliging students to relocate where the school is and thus reducing the chances of completing intermediate school, particularly among girls. In the Kirkuk countryside, illiteracy stands at 20 per cent and there is an 18 per cent attendance at primary school, 6 per cent attendance at intermediate school and 15 per cent attendance at preparatory school.

### **State achievements in furthering the situation of rural women**

198. To develop the knowledge and skills of rural women and encourage them to adopt scientific farming methods to increase and improve the quality of production by the use of extension and development methods and programmes, the Ministry of Agriculture, pursuant to the directives of the sixth session of the Council of Ministers on 22 March 2005, charged one of its agencies (the General State Board of Agricultural Extension and Cooperation) with creating a rural women's section within the agricultural extension agencies in the provincial directorates of agriculture, to be called the section for the development of rural women and girls. This section consists of:

- Village agricultural projects;
- Home economics projects;
- Young rural women's development;
- Social environment guidance;
- Supervision and monitoring.

199. The section carries out a number of duties, of which the most important are:

- Setting up family farm-level schemes for rural women in plant and animal husbandry;

- Developing the knowledge and skills of rural women to invest surplus agricultural yields in food industries and modern agricultural equipment;
  - Focusing on one-person industries, making use of the primary materials available at farms and implementing productivity schemes to raise the level of rural family income;
  - Educating rural women in areas that play a role in social and human development;
  - Developing the environmental and health awareness of rural families, developing concern with children's education and training rural women in how to treat and get rid of environmental pollution in the field;
  - Holding special extension forums on agriculture, health and the environment and making use of extension media, such as television, radio and the press (see schedule 6);
  - Preparing and implementing specialized training courses to raise the performance of rural woman, in coordination with the manpower development section in the same agency. The most important of these extension courses are those concerned with diseases that pass between humans and animals, such as swine flu, brucellosis, avian flu etc.
200. Training courses were prepared and implemented in the following areas:
- Teaching dressmaking and tailoring; developing the role of rural women in public life, in collaboration with PRT International;
  - Providing information on the danger of epidemics and ways of protecting against diseases like cholera and hydatidosis; providing information on first aid and treatment;
  - Providing advice on the importance of agricultural loans;
  - Teaching computer skills;
  - Writing and distributing letters and agricultural pamphlets on the above-mentioned areas.

#### **Rural women in Kurdistan Region**

201. Since 2006, the Ministry of Human Rights in Kurdistan Province has held a number of conferences across the region on women's issues and formed a number of field committees to study the issues of rural women in order to get to know their requirements first hand. The Ministry has further concerned itself with preparing studies in a number of areas, including women's issues and the political and legal rights of women. Many workshops have been held on guaranteeing human rights in various spheres.

#### **National Development Plan 2010-2014**

202. Aware that rural development in Iraq faces numerous challenges because of the modest performance of the agricultural sector in terms of productivity and job creation, as well as unsuitable housing and poor infrastructure in the countryside, the National Development Plan has adopted a number of goals to boost the situation in rural areas, including:

- Planned mitigation of the disparities between urban and rural areas by providing infrastructure and social services and creating new jobs to contain migration from the countryside to towns, which is causing pressure on existing services and infrastructure, particularly in the cities;



- The conversion of sewage water into water for irrigation and agriculture by employing modern methods of filtration and treatment to make it fit. This will boost rural areas and impact positively on the status of rural women;
- Increasing the size of the water store to 33 billion cubic metres by the construction of large dams during the term of the plan (2010-2014), including the Bakhmah dam, construction of which will continue for three years after the end of the plan. This dam will have a capacity of 14.4 billion cubic metres and generate 1,500 megawatts of electricity;
- Increasing the role of domestic agricultural production in achieving food security by providing essential agricultural equipment, making optimum use of human, natural and financial resources and providing incentives for private sector and foreign investment in the sector;
- Acquisition by Iraq of its water rights from the upstream nations, together with rationalized water use domestically;
- Increasing the contribution of agriculture to GDP, treating the agricultural sector as essential for diversifying the economic base of the country and addressing the issue of poverty concentrated in rural areas.

## Article 15

203. Article 19 of the 1970 constitution holds men and women to be equal before the law. This means that the acquisition of legal capacity is the same for men and women. The Constitution stipulates:

- “(a) Citizens are equal before the law, without discrimination because of sex, ethnicity social origin or religion.
- (b) Equal opportunities are guaranteed to all citizens, according to the law.”

204. This article was covered in Iraq’s previous report to the CEDAW Committee. Laws which have a bearing on this paragraph are:

- (a) The Civil Code, No. 40 (1951) does not discriminate between men and women. Article 46.1 states: “Every person who has attained the age of majority, enjoys his mental faculties, and has not been interdicted shall have full capacity to exercise his civil rights”;
- (b) The provisions of the Commerce Act, No. 30 (1984) on the pursuit of commerce apply to both sexes, on condition that legal capacity has been attained. This permits a woman to engage in business without requiring the agreement of her husband or father;
- (c) The Companies Act, No. 21 (1997) does not discriminate between men and women, whether as founders of individual enterprises or as shareholders in joint stock companies, or in respect of any company activities. It allows a woman, just as it does a man, to be a company director, authorized signatory, member of the board or chairman of the board. The amended Act (2004) allows these positions to be held by a non-Iraqi male or female;
- (d) Civil and Criminal Codes of Procedure grant the right to take the measures stipulated in these laws and to plead before courts and judicial bodies of all levels, degrees and jurisdictions, both civil and criminal.

205. All these laws remain in force under article 130 of the Iraqi Constitution of 2005, which stipulates “Existing laws shall remain in force, unless annulled or amended in accordance with the provisions of this Constitution”.

206. The basis for the granting of legal capacity is a constitutional and legal one that treats women and men equally. Moreover, Iraqi laws are unanimous in holding that any agreement that violates public order, by which is meant the general principles of law, is null and void and that any undertaking or breach of any undertaking made pursuant to any contract may be brought before the competent court to be ruled null and void, if in violation of public order. There is nothing in law that permits contracts or agreements that restrict the legal capacity of a woman and limit her possibilities of action in accordance with the laws in force to be valid.

207. Freedom of movement is guaranteed for all men and women equally under article 44 of the 2005 Constitution. However, rules adopted by the regime prior to 2003, augmented in 2004 and applied by the Ministry of Interior, stipulate that a new passport shall only be issued to a female between the ages of 12 and 40 in the presence of her legal guardian and with his agreement in writing that she may travel. Furthermore, paragraph 9 of these rules stipulates that a new passport shall only be issued to a wife with the agreement of her husband and his agreement in writing that she may travel. Paragraph 11 of the same rules stipulates that a new passport shall only be issued to a divorced woman in the presence of her legal guardian or his lawful representative; in the event of the absence of the legal guardian or his lawful representative, the agreement of the director of the passport office shall be obtained. These instructions, which do not allow a woman to travel by herself, remain in force. An exception is made for working women travelling abroad on official business. However, the Ministry of Human Rights has taken action to have this condition lifted, pursuant to article 14 of the 2005 Constitution which, as noted, guarantees Iraqis the right of equality before the law and article 44, which guarantees the right of freedom of movement and travel, stipulating “Each Iraqi has freedom of movement, travel, and residence inside and outside Iraq”. The ministry has submitted recommendations on lifting these travel restrictions on women and these are currently being considered by the competent bodies.

208. There is no law that obliges a woman who has achieved legal capacity to live where she does not want to. However, it is observed custom that a woman, even one who has reached the age of legal capacity, shall remain in the family home until she marries. Act No. 77 (1983) on a divorced wife's right to residence allows a divorced woman to remain in the marital home for three years after the divorce in order to make preparations to live elsewhere, away from the husband, thereafter. If the house is the property of the husband, she may live rent-free with her children. If it is rented, she must pay rent.

## **Article 16**

209. On the basis of its adherence to the principles of the Islamic Shariah, Iraq has made reservation to this article, which makes reference to family obligations that are determined by the Personal Status Act, No. 188 (1959). The legislative source of this and other laws is the Islamic Shariah, as a fundamental source for legislation. However, the Personal Status Act, No. 188 (1959, amended) approximates to the substance of this article of the Convention. It regulates the issues of personal status for all Iraqis, with the exception of non-Muslims, who are exempted by virtue of a special law, pursuant to article 2, on the grounds that

the laws of their sects regulate the terms of their marriage contracts and, likewise, of the dissolution of the marital relationship.

210. The courts with jurisdiction over cases relating to family matters are:

- For Muslims, the personal status courts in all governorates;
- For non-Muslims, the courts of first instance, where a judge is assigned to hear cases; this is called a court of personal affairs.

211. The law defines the contract of marriage as “a contract between a man and a woman who is lawfully permissible to him, the purpose of which is to establish a bond for a mutual life and to procreate children” (art. 3.1). This requires two conditions to be met:

- The offer: expressed either verbally or customarily by one of the two parties to the contract;
- The acceptance: namely the full consent of the other party to the contract.

212. In respect of the contract of marriage, full legal capacity is established if the legal terms and conditions are met, by which is meant being of sound mind and of legal majority (having reached the age of 18). The law does not require the consent of the guardian of an adult woman aged 18 or above in order to conclude the contract of marriage. For the marriage to be announced there must be witnesses to the marriage contract.

213. The law requires that both contracting parties (husband and wife) meet the condition of legal capacity. The proceedings of the marriage contract commence when both parties are given to hear and understand that the purpose thereof is the contract of marriage.

214. The law exempts a person who has reached the age of 15 from the condition of legal majority and the judge may permit him to marry if his eligibility to marry and physical ability are proven, after obtaining the approval of his legal guardian. Here, “guardian” means father or mother (trustee) if the father is not present. If the guardian fails to respond within a period determined by the judge or makes an objection during this period that is unworthy of consideration, the judge shall proceed to authorize the marriage. These provisions apply likewise to paragraph 2 of the article in question, regarding prohibition of the betrothal and marriage of a child, and the marriage of a mentally ill person. Thus a judge may exempt a mentally ill person from the condition of being of sound mind, if it is confirmed in a medical report that the marriage of such a person entails no harm to society and is in his personal interest, provided that the other person expressly accepts the marriage (art. 7.2).

215. The *National Report on the Status of Human Development* (2008) indicates that the average recorded age of marriage has been rising over the last three decades, from 25.5 years in 1977 to 28.3 years in 2004 for males and from 21 years in 1977 to 25.3 years in 2004 for females.

216. For many reasons, the most important of which are custom and tradition fortified with ignorance, poverty and a lack of legal and health awareness in many families, early marriage still exists. This despite efforts driven by legislation to limit marriage to the legal age, the health education campaigns conducted by Government institutions, such as the Ministry of Health and Ministry of State for Women’s Affairs, the efforts of NGOs to educate on the importance of marriage in lawful fashion and subject to medical examination, and the launch of campaigns to register marriages conducted outside the courts and the scope of the law. Despite all this and more, studies conducted by the

Ministry of Labour and Social Affairs, based in part on UNICEF statistics, indicate that, between 2000 and 2008, 16 per cent of all marriages were child marriages. The number of convicted juveniles married illegally in the Karkh district of Baghdad was 3 in 2006, 9 in 2007, 11 in 2008 and 19 in 2009. Most of these juveniles came from peasant families among whom a family's status is a reflection of its size; moreover, having a large number of members increases a family's labour force. Turning to the Rusafah district of Baghdad, the study finds court records showing that 344 cases of child marriage were registered from the beginning of January to the end of March 2010. The same court records register 149 cases of the divorce of spouses under the age of 18.

217. To reduce cases of forced marriage or cases where a man or woman is prevented from marrying, these acts have been criminalized by the personal status act and a forced marriage is considered null and void, if it has not been consummated. The law sets penalties for those who commit such crimes, as follows:

- (1) Imprisonment for a period of not more than three years and/or a fine, if the person who prevents or forces the marriage is a first degree relative;
- (2) Imprisonment for a period of not more than 10 years and not less than 3 years, if the offender is not a first degree relative;
- (3) The law requires the personal status court or personal affairs court to notify the investigative authorities so that they might take legal action against perpetrators. Furthermore, the victim of forced marriage or prevention of marriage has the right of direct referral to the investigative courts to register a complaint.

218. Upon marrying, a woman retains her full legal capacity in respect of entering into contracts and all legal actions pertaining to her movable and immovable property. Her finances are separate from those of her husband. Upon conclusion of the marriage contract, a woman has certain rights which are the responsibility of the husband, such as maintenance, a dowry, furnishing of the home and other requirements. Articles 19 to 33 of the Act deal with these.

219. There are three ways of terminating the marital bond between living spouses.

### **Divorce**

220. Article 34 of the Act defines divorce as "to sever the bond of marriage. It is done by the man, the woman, any authorized representative or the judge. The divorce must be performed according to the Shariah.". The law requires the divorcing man to be of full legal capacity:

"No divorce may occur with the following people:

- (1) The drunk, the insane, the mentally deranged, the compelled, and any person who has lost the capacity to make a sound judgement due to anger, a sudden disaster, age or illness.
- (2) Any person who has a fatal illness, or who is in a state that is likely to lead to death."

All of these cases are subject to assessment by the competent court on the basis of evidence and information brought before it. Furthermore, the courts do not accept a divorce that is "incomplete, conditional or under the form of an oath". The purpose of all this is to ascertain that the divorce is serious and not a product of whimsy or caprice (arts. 35 and 36).

A husband may utter three separate repudiations of his wife, whereupon the divorce is irrevocable. Divorce is of two types:

- The revocable divorce, which allows the husband to return to his wife during her subsequent three-month waiting period (*iddat*) without a new contract. The resumed marriage is registered with the court in the same way as the divorce.
- The irrevocable divorce, which is of two kinds:
  - § The minor irrevocable divorce, which allows the husband to marry the woman he divorced with a new contract, at the end of her waiting period;
  - § The major irrevocable divorce, which forbids the husband from marrying the woman he repudiated on three separate occasions and whose waiting period following the third repudiation has ended (arts. 37 and 38).

221. The law obliges anyone seeking a divorce to bring a suit before the competent court. If he is unable to do so or fails to attest a divorce that took place outside a court in the form of a repudiation uttered by the husband or wife, if she is so authorized or empowered, a suit must be brought before the court during the waiting period in order for the divorce to be attested (art. 39.1 and 2).

222. To curb cases of divorce, the law obliges a divorcing husband to pay compensation to the divorced wife for damage caused by the divorce. Furthermore, it obliges him to pay compensation to his wife if he divorces her arbitrarily, on condition that the divorced wife makes express application to the court and the compensation is consistent with the degree of the husband's arbitrariness and his financial situation; the amount of the compensation shall not exceed her alimony over a two-year period (art. 39.3).

#### **Legal separation**

223. Legal separation involves the dissolution of the marriage bond pursuant to the ruling of a competent court after a suit has been brought before it by one of the spouses. The court conducts an investigation following submission of evidence in support of the case. Both spouses have the right to request legal separation in the following cases:

- If either spouse has been damaged by the other in such a way as to make it impossible to continue married life. Addiction to alcohol or drugs, gambling in the marital home and the practice of sodomy in any form by the husband are considered to be types of damage;
- If the marriage contract was concluded before one of the spouses reached the age of 18, without a judge's approval;
- If the marriage was concluded outside a court by coercion and was consummated (art. 40.1, 2, 3 and 4).

If a suit for separation filed for the said reasons is dismissed, it may be filed a second time (art. 42).

224. The wife shall have exclusive right to file a suit for separation in the following cases:

- If the husband marries a second wife without the permission of the court (art. 40.5);
- If the husband is sentenced to incarceration for a term of three or more years, even if he can still provide for her financially;

- If the husband abandons his wife for two or more years without legitimate reason;
- If the husband has not asked his wife for the wedding ceremony within two years from the date of the contract, and the marriage has not been consummated;
- If the wife finds that the husband is impotent and unable to perform his conjugal duties;
- If the husband refuses to settle the court-appointed accumulated expenditure;
- If the husband is infertile;
- If the husband refuses to spend on his wife without a legitimate excuse;
- If the husband has been officially missing for four years (art. 43).

225. In all these cases, the court will make efforts to investigate the reasons for the damage and the discord, after having sought the assistance of experts and social workers to resolve the dispute and convince the two parties to return to married life. If it is established that the continuation of married life is infeasible, the court will issue a decree for separation.

#### **Voluntary separation (khula)**

226. Khula is the removal of the marriage bond by pronouncing the formula of khula or words of the same meaning. It is carried out before a judge by means of offer and acceptance. It is a condition of khula that the husband has legal capacity and that he divorce his wife by means of khula in exchange for compensation which may be greater or less than her dowry (art. 46). With khula divorce, both the husband and wife agree to dissolve the marriage bond; it is not done unilaterally.

227. The law prescribes matters relating to children in the event of the dissolution of the marriage bond, taking into account the best interests of the child. Thus the law requires the mother to breastfeed and care for her infant child, unless she suffers an illness that prevents her from so doing, either to protect her own health or the health of her child. The law prescribes payment for breastfeeding an infant, whether the breastfeeding is done by the mother or another person (arts. 55 and 56).

228. While the marriage is still valid and even after separation, it is a mother's right to nurse and care for her infant child, unless the child would be harmed as a result, as long as the mother meets the conditions of eligibility, which include being of sound mind, having reached the age of majority and being trustworthy. The remarriage of a divorced woman shall not result in her forfeiting the right to raise her children. The court decides whether the mother or father has the better claim to raise the child, in the light of the child's best interests (art. 57).

229. Maternal welfare centres are distributed across Iraq, providing regular medical check-ups and proper treatment. As such, women have direct access to information that helps them to exercise their right to space their pregnancies and to be examined, on the advice of qualified physicians.

230. While he is alive, the father is the legal guardian. In the event of his death, the mother becomes the guardian of her minor children and manages their affairs in accordance with the provisions of the Minors Welfare Act, No. 78 (1978). In the event of the death of the father or his loss of legal capacity, the wife shall be responsible for him and his minor children at the same time.

231. Iraq has no system of adoption as such, because Islamic Shariah does not recognize adoption. However, the Juveniles Welfare Act, No. 76 (1983, amended), provides a system of fostering, which permits both spouses to apply to the juvenile court to foster a young orphan or child of unknown parentage. However, if one of the spouses changes his mind during the trial period, the court will annul the fostering ruling, as the law treats both spouses equally.

232. Nothing in any Iraqi law or custom obliges a wife to change her name after getting married. The wife continues to bear her family name, just as she continues to retain her independent legal personality, although her marriage is noted in her civil identity card. Marriage is not an obstacle to her choosing a profession. There is no legal restriction imposed on her in this regard. As she continues to enjoy her independent legal personality, it is legally possible for her to own property, act independently and engage in all types of lawful civil and commercial acts.

233. The betrothal of a child produces no legal effect because the law has set the age of legal capacity for marriage. Health bodies establish the well-being of both spouses, while civil status departments confirm the status of the spouses prior to marriage and their ages. Once the marriage procedures have been completed by the court, an official document is issued that is accepted as legally valid by the civil status department, the body responsible for the registration of families and family members and any changes occurring thereto, such as births, deaths and divorces.

#### **Personal status in Kurdistan Region**

234. Several amendments have been made to the application of the personal status act in Kurdistan Region. The promulgation of Act No. 15 (2008) was the fruit of a 17-year-long struggle on the part of Kurdistan women following the uprising of March 1991, with help from certain quarters and judges both inside Kurdistan and beyond. The amended Act addresses concerns of the Kurdistan and Iraqi street and is held to be a qualitative leap forward, despite gaps.

235. The amended personal status Act contains a series of provisions, starting with a definition of the contract of marriage as based on the mutual consent of a man and a woman with the object of forming a family on the basis of love, compassion and mutual responsibility; it sets the age of marriage at 16 years. The Act stipulated that a girl must be married in the presence of her guardian, namely the father or an uncle taking the father's place. However, the new amendment allows the mother to act as guardian in respect of giving a daughter in marriage. It places restrictions on polygyny, making it a condition that the husband obtain the wife's consent before obtaining the permission of the court to marry a second wife. It allows the first wife to file for separation if her husband marries a second wife. It obliges the husband, if he divorces arbitrarily, to pay alimony for a period of three years and not more than five years. It contains a new definition of the violation of marital duties as the overbearing behaviour of one of the spouses towards the other and specifies a number of cases. The amendment further includes a commitment by the Government of the region to care for divorced women who have no monthly income by allocating to them a monthly sum from the social welfare fund until they find work or remarry. The amendment does not require the husband's consent to a khula divorce, if it is clear to the arbitrating judge that the wife is unable to live with the husband. The amendment deals with other issues where the legislature has attempted to achieve fairness and justice for women in personal status issues.

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