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Iraqi Women: Lost Liberties

According to a UN report entitled "Iraq 2010 Humanitarian Action Plan" (2010), overall security in Iraq has begun to stabilize and the presence of humanitarian actors has had a positive impact on the observance of human rights in the country. There has been a significant decrease in violent and deadly attacks by armed militias and criminal gangs, however serious and systematic human rights violations persist and are even increasing, with women and visible minorities being its main victims. With regard specifically to Iraqi women, they once enjoyed unprecedented rights in the region, but following thirty years of war their freedom has been constrained by countless political, socioeconomic, and cultural factors. What are the effects of violence against women in Iraq? And what measures can be implemented by the government and women's organizations or NGOs, both local and international, to alleviate the harsh realities faced by the majority of Iraqi women?

This policy paper attempts to answer these questions in order to propose recommendations for improving the daily lives of the women of Iraq. If we wish to promote peace, it is of urgent importance to support— if not to realize— efforts to respect the fundamental human rights of Iraqi women.

Table of Contents

TABLE OF CONTENTS.....	1
WOMEN’S RIGHTS IN IRAQ	2
SADDAM HUSSEIN ERA	2
AMERICAN-BRITISH INVASION.....	3
RAPE AND OTHER FORMS OF SEXUAL VIOLENCE.....	5
HONOUR CRIMES: MURDER WITH EXTENUATING CIRCUMSTANCES	6
ABDUCTIONS	7
DOMESTIC VIOLENCE.....	7
TRAFFICKING AND PROSTITUTION.....	8
FEMALE CIRCUMCISION	9
TRIBALLY OR RELIGIOUSLY MOTIVATED VIOLENCE	9
VIOLENCE AGAINST FEMALE PRISONERS.....	10
ENDING VIOLENCE AGAINST IRAQI WOMEN	11
AMEND LAWS AND FIND MECHANISMS FOR THEIR ACTIVE APPLICATION.....	11
EDUCATE AND RAISE AWARENESS ABOUT WOMEN’S RIGHTS	13
ASSISTANCE.....	14
NGO AND WOMEN’S ORGANIZATIONS	14
DATA COLLECTION	15
<i>Appendix I: 2005 Constitution</i>	<i>16</i>
<i>Appendix II: International law.....</i>	<i>18</i>
<i>Appendix II: International law.....</i>	<i>22</i>
<i>Endnotes.....</i>	<i>26</i>

Women's rights in Iraq

Saddam Hussein Era

The development of women's rights in Iraq has a long and complex history. The revolution of 1958 (including political pressure from women's organizations such as the League of Iraqi Women- *Rabitat al-Mara 'al-'Iraqiya*), laid the foundation for a secular republic with a more progressive Code of Personal Status than those found in surrounding countries.¹ Gender equality was first proclaimed after Baath party seized power in July 1968. The party platform declared that "Tahrir", the liberation of women, was an integral part of the liberation of the Iraqi people and was therefore placed among the primary objectives of the socialist revolution.² Over these years, Iraqi women enjoyed considerable rights in marriage, inheritance, polygamy, child custody, education, and the right to vote (1980). Women also occupied a growing number of jobs in important sectors of society.³ However, as underlined by Iraqi writer Nadjie Sadig Al-Ali, "As in many other places, conservative and patriarchal values did not automatically change because women started working."⁴

In the 1970s, the Baath party established political hegemony throughout the country in all spheres of society. Opponents of the regime faced violent repression. Social organizations affiliated with other political movements, such as the General Federation of Students (*Ittihad al-Talib al-'Amm*) and the League of Iraqi Women, both of which had connections to the Iraqi Communist Party, were banned.⁵ Anxious not to alienate a large portion of the male population, which had always benefited from the traditional family power structure, or even to offend a very conservative clergy, the Baath party never established a veritable institutional structure to implement those laws protecting the rights of Iraqi women and capable of transforming gender relations.⁶ The only women's organization that was tolerated, albeit under strict control, was the General Federation of Iraqi Women (GFIW, created in 1968).⁷

Beginning with the war with Iran (1980-1988), the situation of women began to deteriorate rapidly; the personality cult of Saddam Hussein became more and more evident, revealing his unequivocally conservative views on society in general and women in particular.

In the early 90s, in a tense regional political context, "the patriarch" adopted laws and policies more in line with Islamic and tribal values, of which many had an adverse effect on women's freedoms. Indeed, the Revolutionary Command Council (RCC) violated key provisions of the 1970 constitution by adopting various discriminatory measures: provisions facilitating polygamy; mitigation of sentences in cases where a man has murdered a woman on behalf of family honour (according to Article 111 of the new Criminal Code, commonly called honour crimes); a restriction of the freedom of movement of women, and the deprivation of property rights of women in certain cases of marriage with a foreigner.⁸

The 1990-91 Iraqi invasion of Kuwait and ensuing Gulf War led to more than a decade of economic sanctions and political isolation. Iraqis— especially women— were deprived of their most basic needs.⁹ Moreover Saddam Hussein launched a "fidelity" campaign in which prostitutes were publicly beheaded and thousands of citizens who opposed Baathist policies were

accused of political dissent and became targets for harassment and repression, including rape, torture and public beheadings.¹⁰

American-British invasion

A year after the American and British armed forces had intervened in Iraq, George W. Bush declared: "the advance of freedom in the Middle East has given new rights and new hopes to women... the systematic use of rape by Saddam's former regime to dishonour families has ended."¹¹ It has been taken as self-evident that the American-British invasion has helped to improve the lives of Iraqi women...

This is simply not the case for the majority of women. In the post-war chaos of looting, attacks by Islamic or unidentified militias, and water and oil shortages, the efforts of Iraqi women to participate in the country's recovery and reconstruction process have been greatly hampered.¹² Moreover, some militias hold very conservative views on the role of women in society, leading certain women to become targets of armed attacks: political leaders, professionals, academics and students, and those who publicly defend the rights of women. Many women fear being raped or kidnapped if they leave their homes unaccompanied by a male relative.¹³

- According to the Iraqi Women's League, an organization that defends the rights of women, more than 400 women were "abducted, raped, and sometimes sold" between the end of the war in April 2003 and August 2003.

Human rights watchdog Amnesty International reports that during the first year of occupation Iraqi women's organizations asked the Director of the Coalition Provisional Authority, Paul Bremer, to support UN resolution 1325 which demanded that women be included at all levels of decisions in the context of peacemaking and post-war reconstruction, emphasizing that equality and non-discrimination were crucial for the eradication of violence against women. These requests were ignored.¹⁴

On 25 January 2004, Iraqi women took to the streets to protest against the adoption of resolution 137, presented by the Iraqi Governing Council (IGC) on 29 December 2003. It proposed to introduce Sharia Law in place of the Personal Status Code— which governs the rights of women— in addition to rescinding all laws that are inconsistent with this decision. Thus resolution 137 gave the clergy authority to not only ban the education of women, their right to work, to freedom of movement and travel, to inheritance and to custody of their children, but also to sanction the marriage of girls, polygamy, the wearing of religious clothing and spousal abuse. Faced with vehement opposition from Iraqi women's rights organizations, Bremer did not ratify the resolution, and in early February 2004 the CGI agreed to withdraw its controversial proposals.¹⁵

The subsequent adoption of the 2005 Constitution has not helped to clarify issues relating to the status of women and men in Iraq.¹⁶ Although it proclaims equality for all before the law (art. 14) and prohibits violence (art. 29), concerns about the legal rights of women remain. Indeed, the majority of discriminatory laws and decrees issued under the authority of Saddam Hussein have not been repealed and are still in place, in direct contradiction of Article 14 of the Constitution (see Appendix I).¹⁷

Although the constitutional requirement to accord women 25% of Parliamentary seats could represent a step forward and encourage a change in the practice and nature of Iraqi politics, following the first elections held in 2005 the women who have held seats have mainly been from Islamist party lists and are not renowned for their feminist activities. Independent and liberal Iraqi women have largely tended to be excluded from the party list system. In addition, several female politicians have been assassinated, including Akila al-Hashimi, a member of the Iraqi Governing Council, and National Assembly deputy Lamia Abed Khadouri.¹⁸

In June 2006, in response to the upsurge of violence against women in the name of Islam, 30 of the 275-member Iraqi Parliament signed a statement calling on legislators to clarify the rights of women. Recognizing that female citizens had to endure "humiliating practices," the declaration called on the Department of Justice to investigate complaints of inequality and the police to respect women's rights, as stipulated by the Constitution.¹⁹ But this movement was quickly countered by the reactionary political forces that dominate the national assembly.

Research conducted by UNAMI in 2008 and 2009 indicates that a large majority of Iraqi women suffer from at least one form of domestic violence each day. Even very serious incidents are rarely reported to authorities by those families concerned.²⁰ In November 2008, the United Nations Special Rapporteur on Violence against Women said that since the US-British intervention, "Iraqi women have seen their rights eroded in all areas of life".²¹ To escape the cycle of violence, "many women turn to suicide, sending a clear message of despair to their society."²²

Kurdistan and women's rights: a cautious step forward

The northern autonomous region of Kurdistan is making steady progress towards the emancipation of women, asserting their independence and integration into public life. However many challenges are still present: the status of women in Kurdistan can seem progressive when compared to that of other Iraqi women, but it is still far behind Western countries and most Latin American, Sub-Saharan African, and Asian countries. The gains made by Kurdish women may be lost if Iraq falls under the influence of a theocratic dictatorship.

During the campaign for the 7 March 2010 elections women began to form a more tangible political class. For example, twelve women from outside the party list system formed their own party, Jenan Mubarak, with a platform based on women's rights and a jobs programme for the country's widows (according to International Red Cross estimates women head one to three million Iraqi households). Iraqi women have the highest poverty and unemployment rates, and the lowest educational attainment in their society.²³

Thus, much work remains to be done. Indeed, as pointed out by the journalist Zainab Salbi, in 2010, "While women have gained politically, in terms of their political representation in this election, in terms

of the citizenship equality the new constitution guarantees, in terms of their ability to travel outside the country without a male guardian, and in terms of having equal access to scholarship outside the country as their male counterparts, women are not rating as high in other factors."²⁴

The effects of violence against Iraqi women

When gender-based discrimination and violence are already manifest in a country, they can become exacerbated in times of armed conflict. This is particularly true in the case of Iraq. The majority of women who took part in two surveys conducted by human and women's rights organizations Oxfam International and Women for Women, through a network of Iraqi women's organizations in 2008 and 2009, reported that their security is a constant concern. 63.9% of respondents said that violence against women has generally increased since 2003.²⁵

Iraqi women are the victims of various forms of violence including murder, burning, privation, forced evictions from their homes by their husbands, gender-based discrimination, neglect, threats, abuse, slander, harassment and genital mutilation. These crimes are perpetrated by members of the armed Islamist groups, militias, Iraqi government forces, multinational forces, private military and security companies (mercenaries), or by the community or immediate family of the victim. Most of these offenses are committed with impunity.²⁶

In Kurdish Iraq alone the NGO Human Rights Data Bank counted, in the first 8 months of 2009, 363 incidents of physical violence against women, 295 reported threats, 40 murders and 32 sexual assaults. (*U.S. Department of State*, 11 March 2010)

Rape and other forms of sexual violence

As stipulated in the Penal Code, rape is a private offence, which means that the state cannot act without the consent of the complainant or legal guardian. The maximum sentence for a rape or sexual assault varies on the case, however they carry a minimum sentence of five years.²⁷

However, as noted in paragraph 398, an assailant accused of rape or sexual assault may be cleared of his crime if he marries the victim. In the absence of any contrary provision, this mechanism can even be implemented if the victim is a minor.

According to the American Bar Association and the Iraq Legal Development Project, defenders of this provision argue that it protects the interests of the victim because it allows honour to be restored by virtue of marriage, thus preventing the potential of an honour crime being carried out by the victim's family or community. But, in fact, the provision only serves to institutionalize the shame and stigma associated with rape, in addition to jeopardizing the life and safety of the victim: it requires the victim remain married to her assailant for a minimum of three years.²⁸

- It is extremely difficult to gather reliable data about the number of incidents of rape and sexual violence in Iraq given the fact that medical and judicial authorities do not keep track and refuse to even register claims. Victims do not go to medical centers or police stations for treatment or to press charges for fear of reprisal by their families. It is reasonable to assume that there are a substantial number of unreported cases. According to a study conducted by the Ministry of Women's Affairs in 2005, there were 400 documented cases of rape from the fall of the regime to the date of the report, and more than half of the victims were then victims of "honor killings".²⁹

Article 111 (398) of the Iraqi Penal Code (1969)

If the offender mentioned in this Section then lawfully marries the victim, any action becomes void and any investigation or other procedure is discontinued and, if a sentence has already been passed in respect of such action, then the sentence will be quashed. Legal proceedings will resume or the sentence will be reinstated, according to the circumstances if such marriage ends in divorce brought about by the husband without legal justification or in a divorce ordered by the court for wrongs committed by the husband or for his bad behavior within 3 years following the cessation of the proceedings. The public prosecutor, the accused, the victim or any person who has an interest in the proceedings may, according to the circumstances, make application for the proceedings, investigation, procedures or execution of the sentence to be stopped or for their resumption or for the reinstatement of the sentence.

Honour crimes: murder with extenuating circumstances

Honour crimes are acts of violence, usually murder, committed by a male against a female relative who is accused of having disgraced their family. An honour killing can be invoked for different reasons: adultery, refusal to marry a man chosen by the family, wanting to marry a man whom the family refuses, having premarital sex, being a victim of rape, or simply being suspected of having committed any such acts.³⁰ The punishment for crimes of honour is usually honour killing, but can also be a different form of violence such as mutilation.³¹

Under Article 111 of the Penal Code, the penalty for a crime of honour is attenuated on the grounds that it is a question of "family honour". Since a 2001 Revolutionary Command Council decree, the definition of what constitutes an honour crime has expanded and sentencing for such crimes has become more lenient. While committing an honour crime is prohibited under Article 19 of the Constitution, "there is no crime or punishment except by law" (Appendix I), the practice tends to be regarded as a form of extrajudicial punishment. As Amnesty International reports, the "exercise a legal right" to exemption from criminal liability is permitted for:

Disciplining a wife by her husband, the disciplining by parents and teachers of children under their authority within certain limits prescribed by Islamic law (Shari'a), by law or by custom.³²

With regard to Iraqi Kurdistan, the clause of "honorable motives" was amended in 2002 by Act 14.

Article 111 (409) of the Iraqi Penal Code (1969)

Any person who surprises his wife or close female relative in the act of adultery and kills them immediately or one of them or assaults one of them so that he or she dies or is left permanently disabled is punishable by a period of detention not exceeding 3 years. It is not permissible to exercise the right of legal defense against any person who uses this excuse nor do the rules of aggravating circumstance apply against him.

Abductions

Under Article 423 of the Iraqi Penal Code³³, the abduction of a woman is a crime punishable by up to 15 years imprisonment. Removal combined with a rape or attempted rape—considered an aggravating factor—is punishable by death or life imprisonment. However, the victims of abductions and sexual violence still face significant legal and social barriers to obtaining justice. The shame associated with the disappearance of a woman leads many families to not report abductions and, if she does escape, to no longer accept the victim as part of the family.³⁴

Article 111 (423) of the Iraqi Penal Code (1969)

Any person who himself or through another kidnaps a woman over the age of 18 with the use of force or deception is punishable by a term of imprisonment not exceeding 15 years. If the kidnapping is accompanied by any sexual intercourse with the victim or an attempt to have intercourse with her, the penalty will be death or life imprisonment.

In cases of abduction with rape or attempted rape, the state drops all charges if the kidnapper marries his victim.³⁵

Article 111 (427) of the Iraqi Penal Code (1969)

If the offender mentioned in this Section then lawfully marries the victim, any action becomes void and any investigation or other procedure is discontinued and, if a sentence has already been passed in respect of such action, the sentence will be quashed.

Legal proceedings will resume or the sentence will be reinstated according to the circumstances if the marriage ends in a divorce brought about by the husband without legal justification or in a divorce ordered by the court for wrongs committed by the husband or for his bad behavior within 3 years following the cessation of the proceedings. The public prosecutor, the accused, the victim or any person who has an interest in the proceedings may, according to the circumstances, make application for the proceedings, investigation, procedures or execution of the sentence to be stopped or for their

Domestic violence

Article 41 of the Penal Code authorizes domestic violence by allowing husbands to "punish" their wives, "within certain limits prescribed by law or by custom". There are no specifics given as to what is meant by "certain limits" and "customs". Tradition is thus often used to justify violent acts against women that are meant to show them the path they must follow in life.³⁶

Historically, domestic violence (physical, sexual and psychological³⁷) has existed in many Iraqi communities, but it is very difficult to know its extent because such abuse is usually treated as a family affair and is rarely reported to the authorities.³⁸ The Iraqi Constitution also forbids entering homes except by judicial decision. Such a provision, which seeks to defend the right to privacy, also makes it harder for police to intervene in situations of domestic violence (Article 17 of the Constitution, see Appendix I).

- According to Thomson Reuters, the London-based news agency, the vast majority of Iraqis women are victims of domestic violence on a regular basis, leading many to suicide as an escape from their suffering ("Iraqi Women Suffer Regular Domestic Violence- UN", *Reuters*, 29 April 2009).

Article 111 (41) of the Iraqi Penal Code (1969)

There is no crime if the act is committed while exercising a legal right. The following are considered to be in exercise of a legal right:

1. The punishment of a wife by her husband, the disciplining by parents and teachers of children under their authority within certain limits prescribed by law or by custom.

Trafficking and prostitution

The Iraqi constitution prohibits the trafficking of women and children, and prostitution is a criminal offense.³⁹ A prostitute can be imprisoned for three or four months while pimps risk a more severe punishment, including the death penalty. They are often family members who have forced their daughters or wives into sex trafficking and prostitution to escape a desperate economic situation (for payment of debts) or to resolve a dispute between families. Women and young girls sold into prostitution have few if any recourse; if they do escape and try to find assistance from the police, they are often accused of crimes because they are in possession of forged passports or because they were forced by their captors to commit unlawful acts.⁴⁰

The little effort that the Iraqi government has recently expended in fighting against the skyrocketing cases of sex trafficking has caused a scandal. Despite submitting a bill in 2009 that provides for stiffer penalties to those accused of trafficking, the United States Department of State notes that the Iraqi government made no progress in eradicating this form of sexual exploitation: either by using existing laws to punish the guilty, or by identifying and protecting victims.⁴¹ In addition, because human trafficking is not seen as an established crime in Iraq, the government does not encourage victims to assist in investigations or prosecutions.

- In a United States Department of State report addressing worldwide Trafficking In Persons (TIP - 2010), it is revealed that tens of thousands of Iraqi women are sent to Yemen, Syria, Jordan, and in others countries of the Persian Gulf to be sold into sexual slavery. According to a study by the Organisation of Woman's Freedom in Iraq (2010), the chaos prevailing along Iraq's borders since the American intervention has greatly facilitated the trafficking of women in recent years. Small and Medium-sized brothels — which account for the majority of both the trafficking and prostituting of women and sometimes men— have sprung up throughout the residential districts of Baghdad. The Al Battaween district, containing a mixture of industry and slum housing, is the Iraqi capital of overcrowded and inhumane brothels.⁴²

Article 37 of the Constitution (2005)

First: (a) The liberty and dignity of man shall be protected. ...

Third: Forced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited.

Female Circumcision

Although female genital mutilation (or circumcision) is "assault" under Article 412 of the Penal Code, this provision does not appear to be invoked against such acts. There is no specific law criminalizing female circumcision and, despite the ministry of health forbidding doctors from performing such surgeries, there are no legal mechanisms to enforce this obligation. Neither is there data concerning the nature and extent of the practice of female circumcision in Iraq, but it is known that it is increasing, especially in Kurdistan.⁴³

- According to a study by WADI, the Association for Crisis Assistance and Development Cooperation, a Kurdish women's rights organization, between September 2007 and May 2008 of 1,408 Kurdish women aged 14 and older in the autonomous region of Kurdistan- excluding the governorate of Dohuk- 72.7% had suffered genital mutilation ("Majority of Kurdish Women in Iraq Victims of Genital Mutilation," WADI, 2010). The prevalence of genital mutilation in Kurdistan stems both from traditional and religious practices. In most cases it is exercised according to customary beliefs, but in many rural areas it is considered a requirement of Islamic law. Social pressures also play an important role. Women are considered impure if they are not circumcised. Some believe that food cooked by a non-circumcised woman is likewise impure and that a circumcised girl has more affection for her family. WADI workers report that one newly married woman was treated so badly by her in-laws that she performed the operation on herself.⁴⁴

Article 111 (412) of the Iraqi Penal Code 1969

1. Any person who willfully assaults a person by wounding or beating him or with the use of force or harmful substances or by committing another unlawful act with intent to cause permanent disability is punishable by a term of imprisonment not exceeding 15 years. There is permanent disability if the act results in the severance or amputation of a limb or part thereof or the loss or diminution of the benefit of such limb or madness or mental disability or permanent loss in whole or part of any of the senses or bodily disfigurement that is not expected to disappear or imminent danger to life.
2. The penalty will be a term of imprisonment not exceeding 7 years or detention if the offence results in permanent disability which the offender did not intend.

Tribally or religiously motivated violence

In the context of the prevailing sectarian tensions in Iraq, Sunni (the Mahdi Army of Moqtada al-Sadr) and Shia (Badr Brigades) extremist groups openly intimidate women, whether by verbal threats, pamphlets or graffiti, and order them to wear the hijab and avoid "immoral" and "anti-Islamic" behavior under pain of violent consequences.⁴⁵

In some regions these groups have announced rules for women to follow: driving, going out after noon, and walking with men are forbidden. If a woman breaks these rules, she will be shot.⁴⁶ There are families who have been fired upon or threatened with death because their girls play sports or do not wear hijabs.⁴⁷ Although none of the restrictions imposed by the militias are lawful, many women feel deprived of legal recourse because it is widely accepted that the police are either powerless or unwilling to act.

In other cases, women can be used as bargaining chips between tribes and are exchanged as compensation in disputes in rural areas. Forced marriage- a recognized form of violence against women that violates fundamental rights- is commonly practiced in these circumstances. Although illegal in Iraq under Article 9 (2) of the Code of Personal Status, the provision is not enforced.⁴⁸

- In Basra, 133 women were killed and mutilated by Islamic militias in 2007. Their bodies were dumped in landfills with notes warning others against "violating Islamic teachings." In a report on these incidents, Madre, a U.S. women's rights organization, states that the paramedics that had to collect the bodies confirmed what most people believe: the actual numbers are much higher than those reported.⁴⁹
- According to British newspaper The Independent, in Basra in 2008 the police admitted that on average 15 women were murdered each month for violating the Islamic dress code. And this, too, was a conservative estimate.⁵⁰

Violence against female prisoners

After the scandal of Abu Ghraib when the world suddenly awoke to the poor treatment of Iraqi prisoners, media and human rights organizations reported the mistreatment of female prisoners by coalition forces and Iraqi police. Cases of sexual abuse and rape were reported.⁵¹ According to a report by U.S. NGO Human Rights Watch, the silence around the conditions of detention of women was "as a result of collusion between the families and the occupying forces." Families are afraid to be publicly condemned and the Multi-National Forces in Iraq are apprehensive of Iraqi human rights groups and provoking anger amongst the population.⁵²

In the public imagination, all prisoners are victims of sexual abuse in Iraqi prisons. Thus, the "sexual purity" of each liberated woman is questioned, and shame falls on the honour of her family or tribe. This belief is sufficient to encourage even extended family members to kill freed prisoners and save family honour.

- Sections 19 and 37 of the Constitution prohibit arbitrary arrest, illegal detention and all forms of torture or inhumane acts. But Iraqis of both sexes have been illegally arrested and detained for months and even years in overcrowded jails without trial or right to counsel. According to a report by the US Department of State in 2008, the Kadhamiya Women's Prison in Baghdad was infiltrated by a Shiite militia, the Jaish al-Mahdi (JAM), and transformed into a brothel by night. On 22 August of the same year, the Department of Justice transferred the 174 women inmates and their 17 children to a new prison⁵³.

Ending violence against Iraqi women

The Iraqi women's movement has a long history of struggle for freedom and democracy. Iraqi women's organizations have often overcome the barriers of sectarianism, regionalism and the problems posed by ethnic and tribal issues as well as partisan affiliations. In this vein, there have been positive developments since the fall of Saddam Hussein: there has been a notable growth in the number of nongovernmental organizations (NGOs) and women's rights networks, in both Iraq and the diaspora, determined to get involved and participate in political and community decision-making. Women's organizations in Iraq are key levers for the transformation of the habits and customs of society.

However, the lack of security in Iraq and the resurgence of Islamic and generally conservative tribal forces do not bode well for women and their struggle.⁵⁴ As we saw in the previous section, violence against women is at an alarming level, and in these circumstances the challenges to countering the violation of women's rights are numerous and complex. Critical questions therefore arise before presenting recommendations to help overcome these obstacles:

- How do we promote women's rights in particular while taking into consideration the fact that the rights of all members of society are presently being violated in Iraq?
- How can we justify working for the promotion of gender equality while the people of Iraq are principally concerned about securing their basic needs?

From the outset, regardless of the title or functions of the actors involved, it is essential that both now and in the long term the creation of an environment that reflects the diverse realities of Iraqi society is encouraged, including: gender, ethnicity, religion, social class, location (urban or rural), political involvement, kinship, if one is a combatant or a victim, etc.

After consulting with various reports from Iraqi and international organizations working for women's rights, four recommendations can be considered fundamental:

1. Amend laws and find mechanisms for their active application;
 2. Educate and raise awareness amongst the public about women's rights;
 3. Provide services for victims;
 4. Systematically collect data on violent incidents experienced by Iraqi women.
- **Regional differences:** In Shiite areas in southern Iraq, there are far fewer NGOs working for the protection of women and the defense of their rights. This does not mean that problems are any less prevalent, on the contrary the needs of the women of the region are often more numerous and urgent, but there is no recent and reliable data on the subject.

Amend laws and find mechanisms for their active application

The greatest threat to women's rights is the lack of political will and government capacity to fulfill its obligations in the domain. Firstly, the Ministry of State for Women's Affairs (MSWA), established under the CPA (2003) and still in existence today, is hampered by an extremely small budget and lacks authority and a clear mandate.⁵⁵ The MSWA has to a certain extent isolated rather than integrated gender issues in the political arena: other departments abandon issues

related to women's concerns, stating that they are exclusively the concern of the MSWA.⁵⁶

Furthermore, although the department has called for legislative reforms by submitting a list of discriminatory laws, decrees and decisions to be repealed or amended, no new legislation has as of yet been adopted or amended in the face of stiff resistance from religious parties.

- While local and international organizations are doing important work to end violence against women, their efforts cannot achieve lasting results if they are not backed by a government that will, among other steps, amend laws. Although Iraq is a party to many international conventions on women's rights (see Appendix II), and the Iraqi constitution prohibits discrimination and guarantees the right to life, personal security, dignity and freedom, and more specifically prohibits "all forms of violence and abuse in the family", some sections of the Penal Code and Baath regime decrees have yet to be repealed and, consequently, conflict with the constitution and fail to meet international standards.
- Constitutional provisions are not, in themselves, sufficient to guarantee the rights of women. Legislative changes coupled with active enforcement mechanisms are needed for Iraq to be in full conformity with international instruments and to guarantee Iraqi women equal rights before the law. Many obstacles exist:
 - a. Lack of female staff in the police and in prisons;
 - b. Lack of sensitivity and awareness in law enforcement and medical personnel.⁵⁷
- **Protecting and prosecuting:** The government must adopt policies to protect the rights of women, prosecute the perpetrators of violence against women, punish offenders, and provide necessary services to victims of violence. For example, regarding the problems of sex trafficking in Iraq, amending laws is only part of the solution. Implementing the laws is another. Corruption is endemic in the security forces, thus allowing traffickers to operate with impunity. Young women who have tried to escape from prostitution are sometimes returned to their traffickers by the police.
- **New government measures – Kurdistan:** In May 2008, the commission on violence against women in the Kurdistan Regional Government created a monitoring committee to ensure that the courts respected and enforced existing laws in the region that protect women. The committee also recommended that "komalayati" - community centers run by village elders - no longer play a role in decisions of a legal nature. However, in late 2008 "komalayati" still occupied an important place in mediation processes. The Kurdistan Regional Government has also created four bodies to provide better support for victims of violence and monitor cases of violence against women. Although these bodies are relatively new, their establishment has promoted greater awareness of violence against women.

Educate and raise awareness about women's rights

The overall objective behind the campaigns is to transform beliefs, behavior, speech, and customs to give people alternatives to circumvent the conservative and stereotyped role of women that prevails in Iraq. A whole series of concepts can and should be instilled to convey the values necessary for the transformation of a society: citizenship, social coexistence, the rejection of sectarianism and extremism, dialogue, pluralism, tolerance, mutual understanding, promoting human, women's and children's rights, non-violent resolution of conflicts, peacebuilding and human security. To facilitate this process, various means of communication may be used: seminars in schools, discussions in community centers, short films, brochures, demonstrations, petitions, television series or radio programs, etc.

In Kurdistan, women's NGOs have their own radio station and broadcast campaigns on issues related to women. Radio is an appropriate tool, as it is in rural areas in particular— where populations are poorly educated— that there is a higher rate of violence against women, and this mode of communication can reach places that are inaccessible to other forms of media.

The women's rights organization Asuda for Combating Violence Against Women, based in Sulaymaniyah in Kurdistan, works in the fields of protection, education and research to eradicate violence against women; the organization promotes awareness of the negative aspects of violence and stresses the importance of changing and implementing laws to ensure effective protection of women. In this vein, Asuda conducts awareness campaigns about violence against women in rural areas, providing literacy, computer or sewing classes. Seminars on gender equality are also offered, and the organization produces radio programmes.

Other organizations fighting for the rights of women, such as the Kurdish Women's Rights Watch, are particularly interested in training men and women, including social workers and police, to help them become aware of issues related to gender as well as to encourage them to promote the empowerment of women. In training, participants are invited to frankly discuss the different issues presented. The mandate of the trainers consists of developing a critical consciousness regarding the use of violence against women.

The Iraq Democratic Future Network (IDFN) coordinated an awareness campaign to combat violence against women; a multi-faceted campaign initiated by the Iraqi Women's League with student and women's organizations in universities, it has subsequently developed in other media to reach a wider audience.⁵⁸ Workshops on The Convention On The Elimination of All Forms of Discrimination Against Women- CEDAW and Article 41 of the Constitution were held in Baghdad and other governorates. During its evolution, the campaign has taken many forms: conferences, making legal assistance available to women confronting violence, increasing awareness through meetings, advocacy, lobbying, petitions, posters, media, etc.

A positive effect of the campaign has been the creation of strong links between the Iraqi authorities, who are calling for new legislation to end violence against women, and the network. Many students are now more sensitive to various cases of harassment on campus, which they are now documenting and compiling as evidence, whether it is sexual harassment, abductions, or harassment of female students that do not cover their hair inside the campus.

As reported by the IDFN, a theater piece organized by the group Nenuarta, with the aim of raising awareness about the problem of violence against women, has been so well-received by civil society organizations and government bodies that the group has received numerous requests for performances. Parliament also asked Nenuarta to perform their piece at an official government conference (for more information, visit <http://www.iraq.alterinter.org>).

Assistance

In their efforts to assist women who were victims of violence, Iraqi women's organizations have been incorporating processes of mediation to help resolve conflicts. For centuries in the Middle East and Iraq mediation by tribal elders has been a widely used method to settle disputes between individuals, families and tribes. Traditionally, "komalayati" community centers, usually led by local tribal leaders, host mediation processes to resolve disputes. Regarding the issue of violence against women, the problem is that there is currently no protocol or standard practice for mediating these types of disputes.

According to interviews held in Kurdistan by Maamoon Alsayid⁵⁹, these leaders usually deprive women of their rights by promoting the resolution of the conflict within the community by mediating between the family and the perpetrator rather than seeking a legal defense of the victim by holding a trial. In these circumstances, perpetrators of crimes of honor are being spared a trial and face only the judgment handed down by the community centre mediation process. Families usually accept such judgments out of court without questioning the rights of the woman who was killed. The government of Kurdistan has, however, prohibited these tribal organizations from interfering in disputes involving a woman.

Women's organizations wishing to manage such mediation processes face many challenges. Due to the high risk of harm to all parties involved, including victims and staff-members of the organizations, much care must be exercised in the conduct of the mediation to be able to ensure security, promote the welfare of shelter residents, and ultimately increase the chances of success with due consideration of all the risks and benefits of such a process. The production- or consulting- of guides and manuals containing the rules and basic procedures of a mediation process that focuses on violence against women while taking into account cultural and regional differences, could constitute a useful resource and training tool for social workers amongst others.

NGO and Women's organizations

Like the NGO Alternatives, Iraqi civil society organizations, social movements, unions, and community associations, religious or secular, local or national, have been developing in Iraq in recent years, some of which operate in a closed and exclusive manner, others in an open and democratic fashion.

But security concerns often force them to close their doors. In Basra, from 2003 to 2008, nine of the twelve voluntary agencies mandated to help women stopped their work.⁶⁰ Employees of women's organizations all over the country receive regular death threats. In Baghdad, one activist working in a women's organization had to hide when going to and from work and chain the door of her office shut to be safe.

On 2 March 2010 the Iraqi government ratified a new law for NGOs (around 600 in operation in 2008). A decrease in the number of bureaucratic hurdles faced by Iraqi civil society represents a significant victory. For example, they no longer have to produce four financial and activities reports a year, but one. Also, they no longer need to wait for government permission to receive foreign funding.

Data collection

According to the organization Madre, far from facilitating data collection, U.S. authorities have repeatedly ordered the Iraqi health ministry to stop publishing statistics on the types and numbers of Iraqi deaths. The government has duly withheld the statistics, and the lack of data in addition to a lack of information on the number, scope and type of violent acts against women, render the claims of women's organizations less accurate. Thus the actual number of women who are harassed, assaulted, abducted, raped and murdered by Islamic militias in particular, goes far beyond the available statistics. As previously stated, most crimes committed against women are not reported to police for fear of reprisals.⁶¹ Data on violence against women is not collected on a systematic basis and those figures that are available are reported on an ad hoc basis and does not cover all governorates.

Such a situation does not allow for an analysis of trends by location and period. It is therefore not possible to have a complete understanding of the nature and extent of the different forms of violence against women in Iraq. Given these circumstances, it is more difficult to provide adequate protection— legal, medical, social and community— for victims. Producing a survey of the activities and actions of various local and foreign organizations working to end violence against women in Iraq and Kurdistan would be a good source of information to better coordinate work, develop focused programs , and push for the adoption of adequate policies.

- Kurdish Women's Rights Watch monitors human rights violations of women through the media, courts, etc. The organization believes it is crucial to establish a database on violence, especially honor crimes, against women using Kurdish and non-Kurdish press reports. “As we have members who speak Kurdish (Sorani and Kurmanji), Arabic, Turkish, Persian and English, we are currently coordinating the compilation of reports available permanently on the Internet to provide information on women's rights in general, and violence based on honor in particular.”

Appendix I: 2005 Constitution

The Iraqi constitution, adopted by referendum in October 2005, guarantees gender equality before the law (art. 14), the right to life and personal security (Art. 15) and prohibits violence (art. 29). Article 16 establishes that "Equal opportunities are guaranteed for all Iraqis. The state guarantees the taking of the necessary measures to achieve such equal opportunities."

Taken together or separately, these principles ensure that the state will protect women from violence. The right to freedom and dignity (Article 37) reinforces this principle, while the prohibition of punishment, except where required by law (art. 19) further reinforces the illegality of "honor killings" under the constitution. Furthermore, Article 13 of the new constitution states that it is the "preeminent and supreme law in Iraq", which renders void any law that contradicts its provisions. This provision instructs all laws, without exception, to treat men and women equally.

However, Article 2 of the Constitution is problematic because it introduces undefined terms in the document. In fact, it establishes Islam as a fundamental source of legislation and affirms that:

- A. No law that contradicts the established provisions of Islam may be established.
- B. No law that contradicts the principles of democracy may be established.
- C. No law that contradicts the rights and basic freedoms stipulated in this constitution may be established.

Subsections A and B introduce uncertain parameters with the "provisions established by Islam" and "principles of democracy" and are therefore subject to interpretation. Subsection C is less problematic in that it refers to the initial provisions of the Constitution (Section 2). However, a complete reading of the Constitution, and Article 13 in particular, leads to the conclusion that no law can be enacted if it contradicts a provision of the constitution, not just those pertaining to rights and fundamental freedoms. This article may be used to void the rights of women granted elsewhere in the Constitution and sanction domestic violence and other human rights violations against women. Forced marriage and marital rape could, in this way, be condoned as "provisions established by Islam."

2005 Constitution (selected articles)

Article 13	First: This Constitution is the preeminent and supreme law in Iraq and shall be binding in all parts of Iraq without exception. Second: No law that contradicts this Constitution shall be enacted. Any text in any regional constitutions or any other legal text that contradicts this Constitution shall be considered void.
Article 14	Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.
Article 15	Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is prohibited except in accordance with the law and

	based on a decision issued by a competent judicial authority.
Article 16	Equal opportunities are guaranteed for all Iraqis. The state guarantees the taking of the necessary measures to achieve such equal opportunities.
Article 18	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 a law. B. Iraqi citizenship shall be withdrawn from naturalized citizens in cases 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. Fifth: Iraqi citizenship shall not be granted for the purposes of the policy of population settlement that disrupts the demographic composition of Iraq. Sixth: Citizenship provisions shall be regulated by law. The competent courts shall consider the suits arising from those provisions.
Article 19	(...) Second: There is no crime or punishment except by law. The punishment shall only be for an act that the law considers a crime when perpetrated. (...)
Article 29	Fourth: All forms of violence and abuse in the family, school and society shall be prohibited.
Article 37	First: (a) The liberty and dignity of man shall be protected. (...) (c) All forms of psychological and physical torture and inhumane treatment are prohibited.
Article 47	(...) Fourth: The elections law aims to achieve a percentage of women representation not less than one-quarter of the Council of Representatives members.
Article 130	Existing laws shall remain in force, unless annulled or amended in accordance with the provisions of this Constitution.

Appendix II: International law

Iraq has ratified such international treaties as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which oblige the authorities to take immediate steps to ensure that women are treated fairly and to protect the rights of women and girls in practice. Under these laws, the state is required to prevent attempts or acts of violence against women and girls, and in their event to initiate an investigation. Iraqi authorities must also ensure that women are treated equitably when a marriage is entered, during the marriage and after its dissolution. The texts also require the government to take positive and effective measures to ensure girls and women have equitable access to education and employment.⁶²

Universal Declaration of Human Rights (UDHR - 1948)

Article 3	Everyone has the right to life, liberty and the security of person.
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International Covenant on Civil and Political Rights (ICCPR - 1966)

Article 2	Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant. Each State Party to the present Covenant undertakes: - To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; - To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; - To ensure that the competent authorities shall enforce such remedies when granted.
Article 3	The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the

	present Covenant.
Article 9	Everyone has the right to liberty and security of person...
Article 26	All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW - 1979)

Article 2	States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: - To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; - To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; - To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; - To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; - To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; - To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; - To repeal all national penal provisions which constitute discrimination against women.
Article 5	States Parties shall take all appropriate measures: - To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women; - To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6	States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.
Article 15	States Parties shall take all appropriate measures: - To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women; - To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.
Article 16 (relevant provisions)	States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: - The same right to enter into marriage; - The same right freely to choose a spouse and to enter into marriage only with their free and full consent; - The same rights and responsibilities during marriage and at its dissolution; ... The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

CEDAW General recommendation n° 19, paragraphs 7, 9 and 11

Article 7	Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include: - The right to life; - The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; - The right to equal protection according to humanitarian norms in time of international or internal armed conflict; - The right to liberty and security of person; - The right to equal protection under the law; - The right to equality in the family; - The right to the highest standard attainable of physical and mental health; - The right to just and favorable conditions of work.
Article 9	It is emphasized, however, that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2 (e), 2 (f) and 5). For example, under article 2 (e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person,

	organization or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.
Article 11	Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to their low level of political participation and to their lower level of education, skills and work opportunities.

U.N. Declaration on the Elimination of Violence against Women (UNDEVW - 1994)

Article 1	For the purposes of this Declaration, the term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.
Article 4	States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: - Consider, where they have not yet done so, ratifying or acceding to the Convention on the Elimination of All Forms of Discrimination against Women or withdrawing reservations to that Convention; - Refrain from engaging in violence against women; - Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons; - Develop penal, civil, labor and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms; - Consider the possibility of developing national plans of action to promote the protection of women against any form of violence, or to include provisions for that purpose in plans already existing, taking into account, as appropriate, such cooperation as can be provided by non-governmental organizations, particularly

Appendix II: International law

Iraq has ratified such international treaties as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which oblige the authorities to take immediate steps to ensure that women are treated fairly and to protect the rights of women and girls in practice. Under these laws, the state is required to prevent attempts or acts of violence against women and girls, and in their event to initiate an investigation. Iraqi authorities must also ensure that women are treated equitably when a marriage is entered, during the marriage and after its dissolution. The texts also require the government to take positive and effective measures to ensure girls and women have equitable access to education and employment.⁶³

Universal Declaration of Human Rights (UDHR - 1948)

Article 3	Everyone has the right to life, liberty and the security of person.
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International Covenant on Civil and Political Rights (ICCPR - 1966)

Article 2	Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant. Each State Party to the present Covenant undertakes: d. To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; e. To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; f. To ensure that the competent authorities shall enforce such remedies when granted.
Article 3	The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 9	Everyone has the right to liberty and security of person...
Article 26	All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW - 1979)

Article 2	States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: h. To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; i. To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; j. To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; k. To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; l. To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; m. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; n. To repeal all national penal provisions which constitute discrimination against women.
Article 5	States Parties shall take all appropriate measures: c. To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women; d. To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.
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Article 16 (relevant provisions)	States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: e. The same right to enter into marriage; f. The same right freely to choose a spouse and to enter into marriage only with their free and full consent; g. The same rights and responsibilities during marriage and at its dissolution; h. ... The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

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Article 9	It is emphasized, however, that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2 (e), 2 (f) and 5). For example, under article 2 (e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of

	violence, and for providing compensation.
Article 11	Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to their low level of political participation and to their lower level of education, skills and work opportunities.

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Article 4	States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: r. Consider, where they have not yet done so, ratifying or acceding to the Convention on the Elimination of All Forms of Discrimination against Women or withdrawing reservations to that Convention; s. Refrain from engaging in violence against women; t. Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons; u. Develop penal, civil, labor and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms; v. Consider the possibility of developing national plans of action to promote the protection of women against any form of violence, or to include provisions for that purpose in plans already existing, taking into account, as appropriate, such cooperation as can be provided by non-governmental organizations, particularly those concerned with the issue of violence against women; w. Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote

Endnotes

¹ For the first time in the history of the country, a woman, Dr Naziha Jawdet Ashgah al-Dulaimi, leader of the Iraqi Women's League, was named as a minister (municipalities minister from 1959 to 1960). She then became a state minister without portfolio in 1960. Women's organizations were already in existence at this time: the Women's Empowerment Society (Jameat al-Nahda al-Nisaeya – founded in 1924), the Kurdish Women's Foundation (founded in 1928), and the Iraqi Women's League (founded in 1951). For more information, see: "Republic of Iraq/ Al Jumhuriya al-'Iraqia", *Worldwide Guide to Women in Leadership*, consulted online 16 April 2010 at: www.guide2womenleaders.com/Iraq.htm.

² In 1970, Saddam Hussein's government adopted an interim constitution that declared the equality of all before the law, including a clause of equal protection. Article 19 of the Constitution of 1970: a) Citizens are equal before the law irrespective of sex, blood, language, social origin, or religion. b) In accordance with the law, equality of opportunity is guaranteed to every citizen. The same clause is also found in the amended Constitution of 1990. See: Lucy Brown and David Romano, "Women in Post-Saddam Iraq: One Step Forward or Two Steps Back ?", *McGill University*, consulted online 22 April 2010 at: <http://www.mcgill.ca/files/icames/womeninIraq.pdf>. See also "Background on Women's Status in Iraq Prior to the Fall of the Saddam Hussein Government", *Human Rights Watch*, November 2003, consulted online 16 April 2010 at: www.hrw.org/legacy/backgrounder/wrd/iraq-women.htm and "Irak - Feuilles d'information sur les pays", *UNHCR*, French only, last updated 1 July 2010, consulted online 1 July 2010 at: <http://www.unhcr.org/refworld/country,,SFOM,,IRQ,,466fdd2b2,0.html>.

³ The proportion of girls attending school increased from 34 to 95% between 1970 and 1980. The law on compulsory education (Law 118/1976) stipulated that education was compulsory and free for all children from six to ten years of age. Girls were free to leave school thereafter with the approval of their parents or guardians. In December 1979 the government passed new legislation demanding the eradication of illiteracy. See: "Second and Third Periodic Reports of State Parties: Republic of Iraq", *U.N. Committee on the Elimination of Discrimination Against Women*, CEDAW/C/IRQ/2-3, 19 October 1998, pp. 11-12, consulted online 16 April 2010 at: www.bayefsky.com/reports/iraq_cedaw_c_irq_2_3_1998.pdf. At the beginning of the 1980s, women constituted 46% of teachers, 29% of doctors, 46% of dentists, 70% of pharmacists, 15% of labourers and 16% of civil servants. During the war with Iran (1980-88), women assumed a more important role in the working population due to a shortage of manpower. Up to the 1990s, the number of women working outside of the home rose continuously. See: Saeid N. Neshat, "A Look into the Women's Movement in Iraq", *Farzaneh Journal* 54, vol. 6, n° 11, spring 2003, consulted online 10 May 2010 at: www.farzanehjournl.com/archive/Download/arti4n11.pdf. See also: "Background on Women's Status in Iraq Prior to the Fall of the Saddam Hussein Government", *Op. cit.* Iraqi women took part in parliamentary elections for the first time in 1980 and won 16 of 250 seats in the national assembly. In the second legislative elections, in 1985, women won 33 seats (13%). See: Saeid N. Neshat, *Op. cit.* and Frank Lattimore, « Freedom Lost », *The Guardian*, 13 December 2007, consulted online 14 April 2010 at: www.guardian.co.uk/world/2007/dec/13/gender.iraq.

⁴ Nadjé Sadig Al-Ali, « Iraqi Women », *Zed Books*, 2008 : 138.

⁵ *Ibid.*: 116 - 124.

⁶ Nadjé Sadig Al-Ali, *op. cit.*: 140.

⁷ In 1982 the federation had 200,000 members. The GFIW coordinated between community centres, provided education and professional training, and ran various other social programs. The GFIW was the

only officially accepted women's organization in Iraq. According to some sources, the GFIW was not, in fact, representative of the needs of the women of Iraq. Saeid Neshat asserts that the principal function of the GFIW was to mobilize Iraqi women against “imperialism, Zionism, reactionary tendencies, and backwardness.” See: Saeid Neshat, *op. cit.*

⁸ See: “Occasional Paper: Situation of Women in Iraq”, *U.N. Office of the Humanitarian Coordinator for Iraq* (UNOCHR), 28 May 2003, “U.N. Commission on Human Rights’ Report of the Special Rapporteur on Violence against Women”, E/CN.4/2002/83, 31 January 2002, consulted online 29 June 2010 at: [http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/42e7191fae543562c1256ba7004e963c/\\$FILE/G0210428.pdf](http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/42e7191fae543562c1256ba7004e963c/$FILE/G0210428.pdf). See also Lucy Brown and David Romano, *Op. cit.* and Sami Zubaida, “The Rise and Fall of Civil Society in Iraq”, 15 February 2003, consulted online 29 June 2010 at: www.opendemocracy.net/conflict-iraq/article_953.jsp.

⁹ 1.5 million people, of whom 500,000 were children, lost their lives during this decade. Women experienced a rise in mortality rates; soaring illiteracy— while literacy had increased from 7% to 75% since the proclamation of the Republic, it had dropped to 25% by 2000; divorces and polygamy increased; marriage rates declined; there was a significant increase in malnutrition among women and children; a further burden was placed on the responsibility of women who had custody of children traumatized by the war with Iran; and access to professional care became more difficult. Voir : « A People Suffering Under Sanctions », Special Report, *BBC News*, 3 February 1998, consulted online 16 April 2010 at: news.bbc.co.uk/2/hi/events/crisis_in_the_gulf/road_to_the_brink/53003.stm, Lucy Brown and David Romano, *Op. cit.*, Nadjé Al-Ali, “Women, Gender Relations and Sanctions in Iraq”, *The Institute of Arab & Islamic Studies*, University of Exeter, UK, date not available, consulted online 16 April 2010 at: <http://www.acttogether.org/Womengender&sanctionsinIraq.ht>, and “The Human Cost of War in Iraq”, *Center for Economic and Social Rights*, 2003, consulted online 16 April 2010 at: <http://www.reliefweb.int/library/documents/2003/cesr-irq-07mar.pdf>.

¹⁰ “The Status of Women in Iraq: Update to the Assessment of Iraq’s De Jure and De Facto Compliance with International Legal Standards”, *Op. cit.*, see also: “La situation des femmes en IRAK” (The situation of women in Iraq), French only, *Amnesty International*, Belgique francophone, 7 March 2004, consulted online 29 March 2010 at: <http://www.amnestyinternational.be/doc/article3458.html> and “Irak: Les prisonniers politiques sont systématiquement torturés” (Iraq: Systematic torture of political prisoners), French only, *Amnesty International*, London, August 2001, consulted online 15 April 2010 at: <http://www.amnesty.org/en/library/asset/MDE14/008/2001/en/e3810aaf-d90d-11dd-ad8c-f3d4445c118e/mde140082001fr.html>.

¹¹ Frank Lattimore, *Op. cit.*

¹² “Climate of Fear: Sexual Violence And Abduction of Women And Girls in Baghdad”, *Human Rights Watch*, Vol. 15, no 7, July 2003, consulted online 19 April 2010 at: www.hrw.org/en/reports/2003/07/15/climate-fear-0.

¹³ *Ibid.*

¹⁴ Under the authority of Paul Bremer, several requests from Iraqi women's organizations were ignored: the creation of a Ministry of the condition of women, the participation of women in the provisional committee for drafting the interim constitution of Iraq, a guarantee that 40% of appointees to the interim government would be women, and the adoption of legislation codifying women's rights and criminalizing domestic violence. See: “Resolution 1325 (2000)”, *United Nations Security Council*, 31 October 2000,

consulted online 17 June 2010 at [http://www.un.org/womenwatch/ods/S-RES-1325\(2000\)-E.pdf](http://www.un.org/womenwatch/ods/S-RES-1325(2000)-E.pdf). See also: "Irak: Le rôle essentiel des droits humains durant la période de transition" (Iraq: The essential role of human rights during the transition period), *Op. cit.* and Yifat Susskind, "Promising Democracy, Imposing Theocracy – Gender-Based Violence and the US War on Iraq", *Madre*, March 2007, consulted online 8 June 2010 at: <http://issuu.com/madre/docs/iraqreport?mode=embed&documentId=081008022806-8a52f11650474c9abcda04a5c62eb20e&layout=white>.

¹⁵ The CPA had previously refused to endorse the council's decision because it would have deprived women of their rights. See: "Iraq: New family law on hold", *Irin*, 4 February 2004, consulted online 26 May 2010 at: www.irinnews.org/report.aspx?reportid=23381.

¹⁶ Ornella Sangiovanni, "Iraq: A Primer", *Observatorio Iraq*, March 2009, consulted online 30 June 2010 at: http://www.unponteper.it/documenti/iniziativa/ICSSI_Iraq2009_a_Primer.pdf.

¹⁷ "The Status of Women in Iraq: Update to the Assessment of Iraq's De Jure and De Facto Compliance with International Legal Standards", *Op. cit.*

¹⁸ Despite the quota system, since the December 2005 elections women have held few key positions within the Council of Representatives, make-up only three of the thirty-six cabinet ministers, and two of the eight ministers of state. As the country has traditionally been dominated by men, a pervasive macho culture has not encouraged opening-up the public sphere for women.

¹⁹ Shatha Al Awzy, "Iraq: Minister's Vow Lifts Veil on Iraqi Women's Rights", *The Miami Herald*, 31 July 2006.

²⁰ "Human Rights Report", *UNAMI*, par. 36, 1 July to 31 December 2008, consulted online 28 June 2010 at: http://uniraq.org/documents/UNAMI_Human_Rights_Report_July_December_2008_EN.pdf and "Human Rights Report", *UNAMI*, January – June 2009, consulted online 30 June 2010 at: http://www.uniraq.org/documents/UNAMI_Human_Rights_Report15_January_June_2009_EN.pdf.

²¹ Violence Against Iraqi Women Continues Unabated, *United Nations*, Press Release, 25 November 2008, consulted online 29 June 2010 at: <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/FB6D94EF5507000DC125750C002E3654?opendocument>.

²² According to research published by the UN's Information and Analysis Unit, 83.1% of female Iraqis "are victims of marital control behaviour"; 33.4% suffered from at least one form of emotional or psychological violence; 21.2% are victims of domestic violence. UNAMI notes that Iraqi women are regularly harassed regarding their dress. Access to education is also much more difficult: 26.8% of women are uneducated, compared to 14.6% of men. 86.79% of women do not work outside of their home. See: "Human Rights Report", 1 July to 31 December 2008, *Op. cit.*

²³ John Leland and Riyadh Mohammed, "The Female Factor. Iraqi Women Are Seeking Greater Political Influence", *The New York Times*, 16 February 2010, consulted online 29 June 2010 at: <http://www.nytimes.com/2010/02/17/world/middleeast/17iraqwomen.html?pagewanted=1>.

²⁴ Iraqi women can pass on their citizenship to their children of a non-Iraqi husband, something allowed in only two other Arab countries. Zainab Salbi, "Foreign Policy: Iraq's Forgotten Women", *NPR*, 15 mars 2010, consulted online 29 June 2010 at: <http://www.npr.org/templates/story/story.php?storyId=124687123>.

²⁵ See: “In Her Own Words: Iraqi women talk about their greatest concerns and challenges. A survey”, *Oxfam International*, 2009, consulted online 7 June 2010 at: http://www.oxfam.org.uk/resources/policy/conflict_disasters/downloads/iraqi_women_survey_inherownwords.pdf and “Stronger Women Stronger Nations. 2008 Iraq Report”, *Women For Women International*, 2009, consulted online 7 June 2010 at: <http://www.womenforwomen.org/news-women-for-women/files/IraqReport.03.03.08.pdf>.

²⁶ “Trapped by violence: Women in Iraq”, *Amnesty International*, March 2009, consulted online in French 7 June 2010 at: http://www.amnestyinternational.be/doc/IMG/pdf/rapport_irak.pdf. English at: <http://www.amnesty.org/en/library/info/MDE14/005/2009/en>

²⁷ Rape is punishable by a maximum sentence of 15 years (Article 393); intercourse with a minor between 15 and 18 years by a maximum sentence of 10 years (Article 394), sexual assault of an adult by a maximum sentence of 7 years (Article 396 (2)), and sexual assault of a minor by a maximum sentence of 10 years (Article 396 (1)).

²⁸ “The Status of Women in Iraq: Update to the Assessment of Iraq’s De Jure and De Facto Compliance with International Legal Standards”, American Bar Association and Iraq Legal Development Project, December 2006, consulted online 10 June 2010 at: http://www.abanet.org/rol/publications/iraq_status_of_women_update_2006.pdf.

²⁹ Ziad Khalaf Al Ajely, “Killing for Honour”, *Institute for War and Peace Reporting*, 18 May 2005.

³⁰ Lucy Brown and David Romano, “Women in Post-Saddam Iraq: One Step Forward or Two Steps Back?”, McGill University, consulted online 22 April 2010 at: <http://www.mcgill.ca/files/icames/womeninIraq.pdf>.

³¹ “Iraq: Decades of Suffering, Now Women Deserve Better”, *Amnesty International*, MDE 14/001/2005, 22 February 2005, consulted online 29 June 2010 at: <http://www.amnesty.org/en/library/asset/MDE14/001/2005/en/6f025a30-d539-11dd-8a23-d58a49c0d652/mde140012005en.pdf>.

³² See: “Trapped by violence: Women in Iraq”, *Op. cit.*

³³ In line with Order no³ in 2004, Article 423 is one of a number of articles to reintroduce the death penalty.

³⁴ Brian Bennett, “Stolen Away”, *Time Magazine*, 23 April 2006, consulted online 21 June 2010 at: <http://www.time.com/time/magazine/article/0,9171,1186558,00.html>.

³⁵ “The Status of Women in Iraq: Update to the Assessment of Iraq’s De Jure and De Facto Compliance with International Legal Standards”, *Op. cit.*

³⁶ See: “Iraq: Decades of Suffering, Now Women Deserve Better”, *Op. cit.*

³⁷ United Nations General Assembly resolution 48 (104) defines domestic violence against women to include: Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

³⁸ “Human Rights Report”, *UNAMI*, 1 January– 30 June 2009, consulted online 14 April 2010 at: [http://www.ncciraq.org/images/stories/NCCI DB/Humanitarian Space/Human Rights/UNAMI_Human_Rights_Report15_January_June_2009_EN.pdf](http://www.ncciraq.org/images/stories/NCCI%20DB/Humanitarian%20Space/Human%20Rights/UNAMI_Human_Rights_Report15_January_June_2009_EN.pdf).

³⁹ “The Status of Women in Iraq: Update to the Assessment of Iraq’s De Jure and De Facto Compliance with International Legal Standards”, *Op. cit.*

⁴⁰ Brian Bennett, *Op. cit.*

⁴¹ “Trafficking in Persons Report 2010 – Iraq”, *United States Department of State, Département des États des États-Unis*, 14 June 2010, consulted online 27 June 2010 at: <http://www.unhcr.org/refworld/docid/4c1883ebc.html>.

⁴² *Prostitution and Trafficking of Women and Girls in Iraq*, OWFI, March 2010

⁴³ “Iraq: Decades of Suffering, Now Women Deserve Better”, *Op. cit.*

⁴⁴ “Iraqi Civil Society Advocates Against Harmful Practices, USAID, February 2006 and Nicholas Birch, “Female Circumcision Surfaces in Iraq”, *The Christian Science Monitor*, August 10, 2005.

⁴⁵ “Human Rights Report”, *UNAMI*, 2006, *Op. cit.* and “The Status of Women in Iraq: Update to the Assessment of Iraq’s De Jure and De Facto Compliance with International Legal Standards”, *Op. cit.*

⁴⁶ Marie Colvin and Widiiane Moussa, “Men in Black Terrorize Iraq’s Women”, *The Sunday Times*, 4 June 2006, consulted online 30 June 2010 at: <http://www.timesonline.co.uk/tol/news/world/article671477.ece>.

⁴⁷ Journalist Natasha Walter reports on an interview with an Iraqi woman, whose name is unidentified, who produced a film reflecting the situation of women in Iraq. For more information, see: Natasha Walter, “No One Knows What We Are Going Through”, *The Guardian*, 8 May 2006, consulted online 30 June 2010 at: <http://www.guardian.co.uk/world/2006/may/08/iraq.gender>.

⁴⁸ “The Status of Women in Iraq: Update to the Assessment of Iraq’s De Jure and De Facto Compliance with International Legal Standards”, *Op. cit.*

⁴⁹ “Who is Killing the Women of Basra,” *Madre*, January 9, 2008 and “IRAQ: Extremists fuel anti-women violence in Basra”, *IRIN*, 20 November 2007.

⁵⁰ Terri Judd, “Barbaric ‘Honour Killings’ become the weapon to subjugate Women in Iraq”, *The Independent*, 28 April 2008.

⁵¹ « Irak : Le rôle essentiel des droits humains durant la période de transition », *Amnesty International*, Londres, juin 2004, consulté en lignes le 20 mai 2010 à l’adresse suivante : www.amnesty.org/en/library/asset/MDE14/030/2004/en/614483a8-d5c0-11dd-bb24-1fb85fe8fa05/mde140302004fr.html.

⁵² « Climate of Fear: Sexual Violence And Abduction of Women And Girls in Baghdad », *Human Rights Watch*, Volume 15, numéro 7, juillet 2003, consulté en lignes le 19 avril 2010 à l'adresse suivante : www.hrw.org/en/reports/2003/07/15/climate-fear-0.

⁵³ U.S. Department of State, February 25, 2009.

⁵⁴ "Iraq Country Report on Human Rights Practices 2009", *U.S. Department of State*, 11 March 2010, consulted online 21 June 2010 at: <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136069.htm#>.

⁵⁵ Huda Ahmed, Women's Rights in the Middle East and North Africa 2010 – Iraq, UNHCR, 2010, consulted online 5 November 2010 at: <http://www.unhcr.org/refworld/docid/4b990123c.html>.

⁵⁶ "The Status of Women in Iraq: Update to the Assessment of Iraq's De Jure and De Facto Compliance with International Legal Standards", American Bar Association and Iraq Legal Development Project, December 2006, consulted online 10 June 2010 at: http://www.abanet.org/rol/publications/iraq_status_of_women_update_2006.pdf.

⁵⁷ Survivors of crimes or violence face many difficulties in accessing necessary treatment; reports confirm that some women have no access to hospitals or health clinics for treatment because they are ill-equipped or refuse to treat survivors. "Climate of Fear: Sexual Violence And Abduction of Women And Girls in Baghdad" *Human Rights Watch*, Vol. 15, n° 7, July 2003, consulted online 19 April 2010 at: www.hrw.org/en/reports/2003/07/15/climate-fear-0.

⁵⁸ "Stop Violence Against Iraqi Women... Let Us Work Together for Justice, Equality and the Right to Life", consulted online 5 November 2010 at: <http://www.ahewar.org/camp/i.asp?id=111>.

⁵⁹ Maamoon Alsayid, "Combating Physical Violence Against Women in Iraqi Kurdistan", Center for Peace Studies, University of Tromsø, Norway, 2007-2009, consulted online 27 May 2010 at: www.ub.uit.no/munin/bitstream/10037/2054/4/thesis.pdf.

⁶⁰ Afif Sarhan, "Hitmen Charge \$100 a Victim as Basra honour killings rise", *The Guardian*, 30 November 2008, consulted online 30 June 2010 at: <http://www.guardian.co.uk/world/2008/nov/30/iraq-honor-killings-women>.

⁶¹ Yifat Susskind, "Promising Democracy, Imposing Theocracy – Gender-Based Violence and the US War on Iraq", *Madre*, March 2007, consulted online 8 June 2010 at: <http://issuu.com/madre/docs/iraqreport?mode=embed&documentId=081008022806-8a52f11650474c9abcda04a5c62eb20e&layout=white>.

⁶² "Trapped by violence: Women in Iraq", *Amnesty International*, March 2009, consulted online in French 7 June 2010 at: http://www.amnestyinternational.be/doc/IMG/pdf/rapport_irak.pdf. English at: <http://www.amnesty.org/en/library/info/MDE14/005/2009/en>.

⁶³ "Trapped by violence: Women in Iraq", *Amnesty International*, March 2009, consulted online in French 7 June 2010 at: http://www.amnestyinternational.be/doc/IMG/pdf/rapport_irak.pdf. English at: <http://www.amnesty.org/en/library/info/MDE14/005/2009/en>.
